

NOVEMBER 15, 1989

OLYMPIA, WASHINGTON

ISSUE 89-22



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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 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 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).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of November 1989 pursuant to RCW 19.52.020 is twelve point three six percent (12.36%).

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

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

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is fourteen point two five percent (14.25%) for the fourth calendar quarter of 1989.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is fourteen point two five percent (14.25%) for the fourth calendar quarter of 1989.

WASHINGTON STATE REGISTER

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.05 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 34.05.395 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 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 normally 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 or advanced and such an 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 unless a later date is provided by the agency. They remain effective for a maximum of one-hundred-twenty days from the date of filing.
- (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.

1989 – 1990

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing on or after
89-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
89-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
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89-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
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89-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
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89-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
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
90-01	Nov 22	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 23
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90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
90-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 2, 1991

¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. 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.

³At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 89-22-001
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 89-127—Filed October 19, 1989, 3:11 p.m.]

Date of Adoption: October 19, 1989.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-47-519.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The opening in Area 6D provides opportunity to harvest the non-Indian allocation of Strait origin coho, and is necessary to prevent wastage. Restrictions in Area 6D are necessary to ensure an orderly fishery. The opening in Area 7B provides opportunity to harvest non-Indian allocation of Nooksack-Samish origin coho, per permanent regulations. Openings in Areas 8A and 8D provide opportunity to harvest the non-Indian allocation of Stillaguamish-Snohomish origin coho. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: 12:01 a.m., October 20, 1989.

October 19, 1989

R. Kahler Martinson
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-47-520 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. *Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 AM Friday October 20th, until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and restrictions:*

- * Area 6D - Gillnets using 5-inch minimum mesh and fishing with no more than 900 feet of net, and purse seines using the 5-inch strip, may fish from 12:00 noon Sunday October 15th through 6:00 PM Friday October 20th.
- * Area 7B - Gillnets using 5-inch minimum mesh may fish continuously through 4:00 PM Friday October 27 and purse seines may fish continuously through 4:00 PM Friday October 27.
- * Areas 8A and 8D - Gill nets using 5-inch minimum mesh may fish from 6:00 AM to 10:00 AM Friday October 20th, and purse seines using the 5-inch strip may fish from 12:00 noon to 4:00 PM Friday October 20th.
- * Areas 4B, 5, 6, 6A, 6B, 6C, 7, 7A, 7C, 7D, 7E, 8, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G,

11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 AM Friday October 20th:

WAC 220-47-519 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY (89-126)

WSR 89-22-002

NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—October 19, 1989]

MEETING NOTICE FOR
 NOVEMBER AND DECEMBER 1989
 TRANSPORTATION IMPROVEMENT BOARD
 TRANSPORTATION BUILDING
 OLYMPIA, WASHINGTON 98504

Work session, 2:00 p.m. - 6:00 p.m., Wednesday, November 8, 1989, in Olympia, at the Transportation Building, Room 3F22.

TIB meeting, 9:00 a.m., Thursday, November 9, 1989, in Olympia, at the Transportation Building, Commission Board Room.

Work session, 9:30 a.m. - 5:00 p.m., Thursday, December 14, 1989, in Olympia, at the Transportation Building, Room 1A19.

TIB meeting, 9:00 a.m., Friday, December 15, 1989, in Olympia, at the Transportation Building, Commission Board Room.

WSR 89-22-003

EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 89-128—Filed October 20, 1989, 3:32 p.m.]

Date of Adoption: October 20, 1989.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-47-520.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The opening in Area 6D provides opportunity to harvest the non-Indian allocation of Strait origin coho, and is necessary to prevent wastage. Restrictions in Area 6D are necessary to ensure an orderly fishery. The opening in Area 7B provides opportunity to harvest non-Indian allocation of Nooksack-

Samish origin coho, per permanent regulations, and is necessary to reduce wastage. Openings in Area 8A provide opportunity to harvest the non-Indian allocation of Stillaguamish-Snohomish origin chum, and openings in Area 8D provide opportunity to harvest Tulalip Bay Hatchery origin coho in order to balance treaty/non-treaty allocation shares and reduce wastage of surplus hatchery stocks. Openings in Areas 10 and 11 provide opportunity to harvest the non-Indian allocation of South Sound origin chum stocks. The restriction in Area 10 is necessary to reduce harvest impacts on local chum stocks. Openings in Areas 12 and 12B provide opportunity to harvest the non-Indian allocation of Hood Canal origin chum stocks, per permanent regulations. The restriction in Area 12B is necessary to reduce interactions between commercial and sport fisheries, and prevent overharvest of local 12B/12C salmon stocks. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: 6:00 p.m., October 20, 1989.

October 20, 1989
Judith Merchant
Deputy Director
for Joseph R. Blum
Director

NEW SECTION

WAC 220-47-521 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. *Notwithstanding the provisions of Chapter 220-47 WAC, effective 6:00 PM Friday October 20th, until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and restrictions:*

- * Area 6D - Gillnets using 5-inch minimum mesh and fishing with no more than 900 feet of net, and purse seines using the 5-inch strip, may fish from 12:00 noon Sunday October 15th through 6:00 PM Saturday October 28th.
- * Area 7B - Gillnets using 5-inch minimum mesh may fish continuously through 6:00 PM Saturday October 28th, and purse seines may fish continuously through 6:00 PM Saturday October 28th.
- * Areas 8A, 8D, 10, 11, 12, and 12B - Purse seines using the 5-inch strip may fish from 5:00 AM to 9:00 PM Monday October 23rd, and Gill nets using 6-inch minimum mesh may fish from 5:00 PM Monday October 23rd to 9:00 AM Tuesday October 24th. This opening excludes those waters of Area 10 in Port Madison west of a line projected 178 degrees from the light at the end of the Indianola Dock to the landfall on the south shore of Port Madison, and those waters of Area 12B south and west of a line projected from Hood Point to Quatsap Point.
- * Areas 4B, 5, 6, 6A, 6B, 6C, 7, 7A, 7C, 7D, 7E, 8, 9, 9A, 10A, 10C, 10D, 10E, 10F, 10G, 11A,

12A, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 PM Friday October 20th:

WAC 220-47-520 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY (89-127)

WSR 89-22-004

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 17—Filed October 20, 1989, 3:41 p.m.]

Date of Adoption: September 8, 1989.

Purpose: To set forth policies and procedures for a teacher assistance program, chapter 392-196 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 392-196-011, 392-196-015, 392-196-020, 392-196-025, 392-196-030, 392-196-035, 392-196-040, 392-196-045, 392-196-050, 392-196-055, 392-196-060, 392-196-070, 392-196-075, 392-196-080, 392-196-085 and 392-196-090.

Statutory Authority for Adoption: RCW 28A.67.240.

Pursuant to notice filed as WSR 89-16-013 on July 21, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 20, 1989
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 87-13, filed 11/5/87)

WAC 392-196-011 DEFINITION—TEACHER((=~~DEFINITION~~)). As used in this chapter the term "teacher" means any school employee possessing any one of the certificates issued by the superintendent of public instruction under RCW 28A.70.005: PROVIDED, That such employees who hold administrator credentials and are employed as administrators shall not be included for purposes of this chapter.

AMENDATORY SECTION (Amending Order 85-12, filed 10/15/85)

WAC 392-196-015 DEFINITION—MENTOR TEACHER((=~~DEFINITION~~)). As used in this chapter, the term "mentor teacher" shall mean a classroom teacher who has been selected by a school district to provide continuing and sustained support to a beginning teacher, both in and outside the classroom.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

WAC 392-196-020 DEFINITION—MENTOR TEACHER STIPEND((=~~DEFINITION~~)). As used in

this chapter, the term "mentor teacher stipend" shall mean an amount paid by a school district to a mentor teacher for services as a mentor teacher including three days attendance at the ~~((superintendent of public instruction sponsored beginner-mentor teacher))~~ required workshops or training sessions. Such stipend, including the amount and conditions applicable, shall be set forth in a supplemental contract in accordance with and subject to the provisions of RCW 28A.67.074.

AMENDATORY SECTION (Amending Order 85-12, filed 10/15/85)

WAC 392-196-025 ~~((MENTOR TEACHER STIPEND—MINIMUM AMOUNT))~~ DEFINITION—BEGINNING TEACHER. ~~((The minimum amount per school year of the mentor teacher stipend shall be nine hundred fifty dollars.))~~ As used in this chapter, the term "beginning teacher" shall mean a teacher with fewer than ninety consecutive school days of certificated teaching experience in either a public or private school in any grade, preschool through twelve, and who is employed by the district for ninety consecutive school days or more.

AMENDATORY SECTION (Amending Order 87-13, filed 11/5/87)

WAC 392-196-030 ~~((MENTOR TEACHER—QUALIFICATIONS FOR NOMINATION))~~ DEFINITION—BEGINNING TEACHER/EXPERIENCED TEACHER STIPEND. ~~((In order to be nominated to serve as a mentor teacher pursuant to WAC 392-196-035, the teacher shall meet the following minimum qualifications:~~

- (1) Be employed full time primarily as a teacher.
 - (2) Have been employed primarily as a teacher for one school year within the district and two additional school years within any public or private school in any grade, preschool through twelve.
 - (3) Hold a valid continuing certificate issued pursuant to chapter 180-79 WAC or be eligible for conversion to such certificate pursuant to WAC 180-79-045.)
- As used in this chapter, the term "beginning teacher stipend" shall mean an amount paid by a school district to a beginning teacher/experienced teacher for three days of attendance at the required workshops or training sessions. Such stipend, including the amount and conditions applicable, shall be set forth in a supplemental contract in accordance with and subject to the provisions of RCW 28A.67.074.

AMENDATORY SECTION (Amending Order 85-12, filed 10/15/85)

WAC 392-196-035 ~~((MENTOR TEACHER—SELECTION PROCESS))~~ DEFINITION—EXPERIENCED TEACHER. ~~((Mentor teachers shall be selected by the district. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process.))~~ As used

in this chapter, the term "experienced teacher" means a teacher not included in the "beginning teacher" population, as defined in WAC 392-196-025.

AMENDATORY SECTION (Amending Order 87-13, filed 11/5/87)

WAC 392-196-040 ~~((BEGINNING TEACHER—))~~ DEFINITION—EDUCATIONAL SERVICE DISTRICT SPONSORED WORKSHOP. As used in this chapter, the term ~~(("~~beginning teacher" shall mean a teacher with fewer than ninety consecutive school days of certificated teaching experience in either a public or private school in any grade, preschool through twelve, and who is employed by the district for ninety consecutive school days or more)) "educational service district sponsored workshop" shall mean an in-service training program sponsored by the educational service district for the purpose of providing professional training for beginning/experienced teachers and mentors with particular emphasis upon improving communications skills and developing support teams. Such workshops shall be no more than one day in length and shall not be held during school hours.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

WAC 392-196-045 ~~((BEGINNING TEACHER STIPEND—))~~ DEFINITION—SCHOOL DISTRICT WORKSHOPS. As used in this chapter, the term ~~(("~~beginning teacher stipend" shall mean an amount paid by a school district to a beginning teacher for two days of attendance at the superintendent of public instruction sponsored beginner-mentor teacher workshops. Such stipend, including the amount and conditions applicable, shall be set forth in a supplemental contract in accordance with and subject to the provisions of RCW 28A.67.074)) "school district workshops" shall mean an in-service training program sponsored or approved by the school district for the purpose of providing professional training for the mentors and the beginning or participating experienced teachers in one or more of the following:

- (1) Communication skills;
- (2) Teacher effectiveness; and/or
- (3) School district policies and procedures.

Such workshops shall be no longer than two days in length, but need not be consecutive days, and shall not be held during school hours. School districts will be provided fifty dollars per team, per workshop to support the costs associated with providing two days of training.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

WAC 392-196-050 ~~((BEGINNING))~~ MENTOR TEACHER STIPEND—MINIMUM AMOUNT. The minimum amount per school year of the ~~((beginning))~~ mentor teacher stipend shall be ~~((one))~~ nine hundred ~~((sixty))~~ fifty dollars.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

~~WAC 392-196-055 ((SPI SPONSORED BEGINNING AND MENTOR TEACHER WORKSHOP—DEFINITION))~~ MENTOR TEACHER—QUALIFICATIONS FOR NOMINATION. ((As used in this chapter, the term "superintendent of public instruction sponsored beginning and mentor teacher workshop" shall mean an in-service training program sponsored by the superintendent of public instruction for the purpose of providing professional training for mentor and beginning teachers in the methods and procedures for performing such roles with particular emphasis upon providing continuing and sustained support by the mentor teacher to a beginning teacher. Such workshops shall be no more than three days in length for the mentor and two days in length for the beginner, but need not be consecutive days, and shall not be held during school hours.)) In order to be nominated to serve as a mentor teacher pursuant to WAC 392-196-035, the teacher shall meet the following minimum qualifications:

- (1) Be employed full time primarily as a teacher.
- (2) Have been employed primarily as a teacher for one school year within the district and two additional school years within any public or private school in any grade, preschool through twelve.
- (3) Hold a valid continuing certificate issued pursuant to chapter 180-79 WAC or be eligible for conversion to such certificate pursuant to WAC 180-79-045.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

~~WAC 392-196-060 ((SCHOOL DISTRICT APPLICATION TO SPI FOR PARTICIPATION IN THE TEACHER ASSISTANCE PROGRAM))~~ MENTOR TEACHER—SELECTION PROCESS. ((Any district may apply to the superintendent of public instruction for participation in the teacher assistance program. The application shall require the superintendent of the district to provide the following assurances:

- (1) The board of directors of the district has reviewed the requirements of this chapter and has agreed to the conditions therein.
- (2) The mentor teacher shall be paid a mentor teacher stipend.
- (3) The beginning teacher shall be paid a beginning teacher stipend.
- (4) The mentor and beginning teacher shall be required to attend and shall be reimbursed by the district for travel expenses for attendance at the superintendent of public instruction sponsored beginner-mentor teacher workshops.
- (5) The mentor teacher, the beginning teacher, and the experienced teacher shall be released from teaching responsibilities in order to jointly or separately observe each other or observe colleagues in teaching situations.
- (6) The total released time from classroom teaching as required by subsection (5) of this section shall be at

~~least twenty-four scheduled instructional hours per school year but no more than twenty-four scheduled instructional hours shall be paid for with funds made available under this chapter.~~

(7) ~~Mentor teachers shall not be involved in evaluations of their beginning or experienced teachers conducted pursuant to RCW 28A.67.065.~~

(8) ~~The mentor teacher, beginning teacher, and experienced teacher shall be required to complete and forward to the superintendent of public instruction such evaluation reports of the teacher assistance program as requested by the superintendent of public instruction.~~

(9) ~~Mentor teachers shall periodically inform their principals respecting the contents of training sessions and other program activities.~~

(10) ~~The superintendent of the district shall supply the superintendent of public instruction, at times specified by the superintendent of public instruction, such information as requested regarding the teacher assistance program.))~~ Mentor teachers shall be selected by the district. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process.

NEW SECTION

WAC 392-196-066 BEGINNING TEACHER/EXPERIENCED TEACHER STIPEND—MINIMUM AMOUNT. The minimum amount of the beginning teacher/experienced teacher stipend shall be two hundred forty dollars.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

~~WAC 392-196-070 ((SCHOOL DISTRICT SELECTION PROCESS AND STATE PRIORITIES))~~ EXPERIENCED TEACHER PARTICIPATION. ((The selection process and priorities shall be as follows for the 1988-89 school year:

(1) ~~Beginning teacher and mentor teams will be selected on the following basis:~~

(a) ~~Beginning teacher and mentor assigned to the same building and teaching in the same endorsement area:~~

(b) ~~Beginning teacher and mentor assigned to the same building and teaching in a related endorsement area (e.g., social studies-English or mathematics-science):~~

(c) ~~Beginning teacher and mentor assigned to different buildings, but teaching in the same endorsement area:~~

(2) ~~The process used to select beginner and mentor teacher teams shall be as follows:~~

(a) ~~Applications received between July 15 and August 15 that meet the priority criteria set forth in subsection (1)(a) and (b) of this section will be accepted in accordance with the priority and the date the application is received in the office of the superintendent of public instruction subject to availability of funds.~~

(b) If funds are still available after the initial application period, a second application period will be established from August 15 to September 25. Selection priorities will remain the same as set forth herein.) "Experienced teachers" shall not be required to participate in this program.

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

~~WAC 392-196-075 ((ANNUAL AMOUNT FOR DISTRIBUTION TO PARTICIPATING SCHOOL DISTRICTS)) EXPERIENCED TEACHER-SELECTION CRITERIA. ((The superintendent of public instruction annually shall establish a dollar amount per beginning teacher-mentor teacher team for distribution to districts for support of the teacher assistance program. Such distribution shall be used by the district exclusively for the following:~~

- ~~(1) Mentor teacher stipends.~~
- ~~(2) Travel expenses of the mentor and beginning teachers for attendance at the superintendent of public instruction beginner-mentor teacher workshops.~~
- ~~(3) Substitute teacher salaries for released time for mentor, beginner, and experienced teachers.~~
- ~~(4) Beginning teacher stipends.~~
- ~~(5) Appropriate fringe benefits associated with mentor and beginning teacher stipends.) "Experienced" teachers who meet one of the following criteria may be nominated for participation in the teacher assistance program:~~

- ~~(1) Teachers assigned to a different subject area or grade level from previous assignment(s).~~
- ~~(2) Teachers reentering the teaching profession.~~
- ~~(3) Teachers who have substitute taught ninety consecutive days or more, but have not had a regular contract.~~
- ~~(4) Teachers newly hired by the school district.~~

AMENDATORY SECTION (Amending Order 88-20, filed 8/31/88)

~~WAC 392-196-080 ((DISTRIBUTION OF STATE MONEYS FOR)) SCHOOL DISTRICT APPLICATION TO SPI FOR PARTICIPATION IN THE TEACHER ASSISTANCE PROGRAM. ((The superintendent of public instruction shall issue grant awards for the 1988-89 school year for a maximum of one thousand six hundred dollars per mentor-beginning teacher team.) Any district may apply to the superintendent of public instruction for participation in the teacher assistance program. The application shall require the superintendent of the district to provide the following assurances:~~

- ~~(1) The board of directors of the district has reviewed the requirements of this chapter and has agreed to the conditions therein.~~
- ~~(2) The mentor teacher shall be paid a mentor teacher stipend.~~
- ~~(3) The beginning/experienced teacher shall be paid a beginning/experienced teacher stipend.~~
- ~~(4) The beginning/experienced teacher and mentor shall be required to attend and shall be reimbursed by~~

~~the district for travel expenses for attendance at the educational service district sponsored workshops or training sessions.~~

~~(5) The mentor teacher, the beginning teacher, and the experienced teacher shall be released from teaching responsibilities in order to jointly or separately observe each other or observe colleagues in teaching situations.~~

~~(6) The district shall provide for or approve two days of workshops as training sessions as defined in WAC 392-196-045. The mentor and beginning or participating experienced teacher shall be required to attend together and shall be reimbursed by the district for expenses for attendance at the two school district sponsored or approved workshops or training sessions.~~

~~(7) The total released time from classroom teaching as required by subsection (5) of this section shall be at least twenty-four scheduled instructional hours per school year but no more than twenty-four scheduled instructional hours shall be paid for with funds made available under this chapter.~~

~~(8) Mentor teachers shall not be involved in evaluations of their beginning or experienced teachers conducted pursuant to RCW 28A.67.065.~~

~~(9) The mentor teacher, beginning teacher, and experienced teacher shall be required to complete and forward to the superintendent of public instruction such evaluation reports of the teacher assistance program as requested by the superintendent of public instruction.~~

~~(10) Mentor teachers shall periodically inform their principals respecting the contents of training sessions and other program activities.~~

~~(11) The superintendent of the district shall supply the superintendent of public instruction, at times specified by the superintendent of public instruction, such information as requested regarding the teacher assistance program, including agendas and evaluation material from each district sponsored or approved workshop or training session.~~

AMENDATORY SECTION (Amending Order 87-13, filed 11/5/87)

~~WAC 392-196-085 ((CARRYOVER PROHIBITION)) SELECTION PROCESS. ((State moneys distributed to districts for the teacher assistance program shall be subject to the carryover prohibition of WAC 392-122-900.) Nominations for the teacher assistance program must be received by the office of the superintendent of public instruction by 5:00 p.m. September 15, 1989.~~

~~A maximum of nine hundred beginning teacher and mentor teams and a maximum of one hundred experienced teacher and mentor teams will be selected. Applications will be accepted based upon date of receipt at the office of the superintendent of public instruction until funding is depleted.~~

AMENDATORY SECTION (Amending Order 87-13, filed 11/5/87)

~~WAC 392-196-090 ((MAXIMUM CONTROL FACTOR PRORATION)) SUPERINTENDENT OF PUBLIC INSTRUCTION CONSULTATION.~~

~~((State moneys distributed to districts for the teacher assistance program shall be subject to the proration provision of WAC 392-122-905 if the current appropriation to the superintendent of public instruction for the beginning teacher assistance program is adversely affected by action of the legislature after the commencement of the ensuing school year.))~~ The superintendent of public instruction hereby establishes a teacher assistance task force of no more than twelve members representing teachers, educational staff associates, administrators, educational service districts, colleges and universities, and school directors. The superintendent shall:

(1) Appoint task force members from nominations submitted by the professional groups eligible to be represented on the task force;

(2) Consult with the task force for the purpose of obtaining their advice about teacher assistance program policies, operations, and evaluations;

(3) Convene the task force at least once annually.

NEW SECTION

WAC 392-196-095 ANNUAL AMOUNT FOR DISTRIBUTION TO PARTICIPATING SCHOOL DISTRICTS. The superintendent of public instruction annually shall establish a dollar amount per beginning teacher-mentor teacher team for distribution to districts for support of the teacher assistance program. Such distribution shall be used by the district exclusively for the following:

(1) Mentor teacher stipends.

(2) Travel expenses of the beginning/experienced teachers and mentors for attendance at the educational service district workshops or training sessions.

(3) Two days of school district sponsored or approved training workshops for the mentor and beginning and experienced teachers and expenses for the workshops.

(4) Substitute teacher salaries for released time for mentor, beginner, and experienced teachers.

(5) Beginning teacher stipends.

(6) Appropriate fringe benefits associated with mentor and beginning teacher stipends.

NEW SECTION

WAC 392-196-100 DISTRIBUTION OF STATE MONEYS FOR THE TEACHER ASSISTANCE PROGRAM. The superintendent of public instruction shall issue grant awards for the 1989-90 school year for a maximum of one thousand seven hundred thirty dollars per mentor-beginning teacher team.

NEW SECTION

WAC 392-196-105 CARRYOVER PROHIBITION. State moneys distributed to districts for the teacher assistance program shall be subject to the carryover prohibition of WAC 392-122-900.

NEW SECTION

WAC 392-196-110 MAXIMUM CONTROL FACTOR-PRORATION. State moneys distributed to districts for the teacher assistance program shall be subject to the proration provision of WAC 392-122-905 if the current appropriation to the superintendent of public instruction for the beginning teacher assistance program is adversely affected by action of the legislature after the commencement of the ensuing school year.

WSR 89-22-005

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed October 20, 1989, 3:43 p.m.]

Date of Adoption: September 29, 1989.

Purpose: To set forth definitions for the classification of a school district as either a high school or a nonhigh district.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 180-24-205.

Statutory Authority for Adoption: RCW 28A.04.130.

Other Authority: RCW 28A.04.120(9).

Pursuant to notice filed as WSR 89-17-100 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 18, 1989

Monica Schmidt

Secretary

NEW SECTION

WAC 180-24-205 CLASSIFICATION SYSTEM OF SCHOOL DISTRICTS. (1) Authority. The authority for this section is RCW 28A.04.130 which authorizes the state board of education to establish the classification system for school districts.

(2) Purpose. The purpose of this section is to set forth the definitions for the classification of a school district as either a high school or a nonhigh school district.

(3) High school district. A high school district is one which conducts a ninth through twelfth grade program for district residents eligible to enroll therein which:

(a) Has been approved by the state board of education as may be required by RCW 28A.04.120(7); and

(b) Meets the basic education program requirements set forth in chapter 180-16 WAC.

(4) Nonhigh school district. A nonhigh school district is one that is not classified as a high school district under subsection (3) of this section.

(5) Applicability. The classifications of school districts established in subsections (3) and (4) of this section shall apply for the purposes of chapter 28A.44 RCW, RCW 84.52.0531, and the application of other laws under which a district's classification as either a high school or nonhigh school district is material.

WSR 89-22-006
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed October 20, 1989, 3:44 p.m.]

Date of Adoption: September 29, 1989.

Purpose: Provide a limited authority for districts to proceed with construction projects subject to future eligibility standards.

Citation of Existing Rules Affected by this Order: Amending WAC 180-25-300.

Statutory Authority for Adoption: RCW 28A.47.830.

Other Authority: RCW 28A.47.060 and 28A.47.802.

Pursuant to notice filed as WSR 89-17-102 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 18, 1989

Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 7-89, filed 4/5/89)

WAC 180-25-300 **PROJECT APPROVAL MORATORIUM.** (1) 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.

(2) Notwithstanding subsection (1) of this section, a school district may elect to proceed in compliance with the procedural requirements of chapters 180-25 through 180-33 WAC with a project for which a completed request for state board approval was filed with the superintendent of public instruction during the period January 1 through March 30, 1989, at the district's expense and risk; and, the project may be approved for state assistance purposes by the board subsequent to the termination of this moratorium subject to the terms and conditions of chapters 180-25 through 180-33 WAC, as hereafter revised and in effect at the time of approval.

WSR 89-22-007
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed October 20, 1989, 3:45 p.m.]

Date of Adoption: September 29, 1989.

Purpose: Provide a limited authority for districts to proceed with construction projects subject to future eligibility standards.

Citation of Existing Rules Affected by this Order: Amending WAC 180-27-057.

Statutory Authority for Adoption: RCW 28A.47.830.

Other Authority: RCW 28A.47.060 and 28A.47.802.

Pursuant to notice filed as WSR 89-17-101 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 18, 1989

Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 11-83, filed 10/17/83)

WAC 180-27-057 **STATE ASSISTANCE—DEFERRED PAYMENT.** (1) In the event state moneys are not sufficient for a school district project, a school district may proceed at its own financial risk. At such time state moneys become available, reimbursement may be made for the project provided the provisions of chapter 180-29 WAC have been complied with.

(2) Notwithstanding subsection (1) of this section, and the moratorium upon approval imposed by WAC 180-25-300, a school district may elect to proceed in compliance with the procedural requirements of chapters 180-25 through 180-33 WAC with a project for which a completed request for state board approval was filed with the superintendent of public instruction during the period January 1 through March 30, 1989, at the district's expense and risk; and, the project may be approved for state assistance purposes by the board subsequent to the termination of this moratorium subject to the terms and conditions of chapters 180-25 through 180-33 WAC, as hereafter revised and in effect at the time of approval.

WSR 89-22-008
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed October 20, 1989, 3:46 p.m.]

Date of Adoption: September 29, 1989.

Purpose: Provide a limited timeline extension for re-design and rebid of a construction project in the event of a high bid over estimates.

Citation of Existing Rules Affected by this Order: Amending WAC 180-29-108.

Statutory Authority for Adoption: RCW 28A.47.830.

Pursuant to notice filed as WSR 89-17-104 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 18, 1989

Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-29-108 **CONDITION PRECEDENT TO APPROVAL TO BID.** Any project for which the superintendent of public instruction authorizes a district to open bids pursuant to WAC 180-29-107 shall request an authorization for contract award pursuant to WAC 180-29-110 within ninety calendar days of receipt of approval pursuant to WAC 180-29-107 ((or)): PROVIDED, That the ninety-day period shall be automatically extended for an additional ninety calendar days if:

(1) The lowest legally acceptable base bid, exclusive of alternates, received by a district exceeds the cost estimate submitted to the superintendent of public instruction pursuant to WAC 180-29-085 by ten percent or more; and

(2) Prior to the expiration on or after June 15, 1989, of the initial ninety-day period the district has rejected, or hereafter rejects, all bids in order to solicit new bids.

A district which fails to request an authorization for contract award pursuant to WAC 180-29-110 within the time period allowed by this section shall have its authority to proceed withdrawn. Districts with such projects withdrawn may ((reapply)) reinitiate an application for state assistance by first reapplying for ((a school district)) project approval pursuant to WAC 180-25-040.

WSR 89-22-009
PERMANENT RULES
STATE BOARD OF EDUCATION
[Filed October 20, 1989, 3:47 p.m.]

Date of Adoption: September 29, 1989.

Purpose: Provide a limited authority for districts to proceed with construction projects subject to future eligibility standards.

Citation of Existing Rules Affected by this Order: Amending WAC 180-29-300.

Statutory Authority for Adoption: RCW 28A.47.830.

Other Authority: RCW 28A.47.060 and 28A.47.802.

Pursuant to notice filed as WSR 89-17-103 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.
October 18, 1989
Monica Schmidt
Secretary

AMENDATORY SECTION (Amending Order 8-89, filed 4/5/89)

WAC 180-29-300 PROJECT APPROVAL MORATORIUM. (1) 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.

(2) Notwithstanding subsection (1) of this section, a school district may elect to proceed in compliance with the procedural requirements of chapters 180-25 through 180-33 WAC with a project for which a completed request for state board approval was filed with the superintendent of public instruction during the period January 1 through March 30, 1989, at the district's expense and risk; and, the project may be approved for state assistance purposes by the board subsequent to the termination of this moratorium subject to the terms and conditions of chapters 180-25 through 180-33 WAC, as hereafter revised and in effect at the time of approval.

WSR 89-22-010
PERMANENT RULES
STATE BOARD OF EDUCATION
[Filed October 20, 1989, 3:48 p.m.]

Date of Adoption: September 29, 1989.

Purpose: To comply with new APA requirements.

Citation of Existing Rules Affected by this Order: Readopting chapters 180-08 and 180-75 WAC.

Statutory Authority for Adoption: Readoption under RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250.

Pursuant to notice filed as WSR 89-17-107 on August 22, 1989.

Changes Other than Editing from Proposed to Adopted Version: Replaced old RCW numbers with new numbers from APA.

Effective Date of Rule: Thirty-one days after filing.
October 18, 1989
Monica Schmidt
Secretary

AMENDATORY SECTION (Amending Order 8-83, filed 10/17/83)

WAC 180-08-003 AUTHORITY. The authority for this chapter is RCW ((34.04.020)) 34.05.220 which authorizes the state board of education to adopt rules governing the formal and informal procedures prescribed or authorized by chapter ((34.04)) 34.05 RCW.

AMENDATORY SECTION (Amending Order 8-83, filed 10/17/83)

WAC 180-08-005 ADMINISTRATIVE PRACTICES REGARDING HEARINGS AND RULE PROCEEDINGS. The state board of education is governed by the state Administrative Procedure Act, chapter ((34.04)) 34.05 RCW, the Washington State Register Act, chapter 34.08 RCW, and the state office of Administrative Hearings Act, chapter 34.12 RCW. These acts govern the conduct of ((("rule"-making proceedings)) "agency action" and the conduct of ((("contested case"-hearings)) "adjudicative proceedings" as these terms are defined in RCW ((34.04.010 (2) and (3))) 34.05.010. Appearances in representative capacities before the state board of education; the procedures and conditions governing petitions for declaratory rulings or the adoption, amendment, or repeal of a rule; and, the standards, procedures and conditions governing the conduct of contested case hearings and proceedings by or before the state board of education shall be as set forth in rules of the state code reviser and the office of administrative hearings as now or hereafter amended. The rules of the code reviser are currently set forth in chapters 1-08 and ((1-12)) 1-21 WAC. The rules of the office of administrative hearings are currently set forth in chapter 10-08 WAC.

All other regulatory actions and hearings conducted by the state board of education may be conducted informally at the discretion of the state board of education.

READOPTED SECTION (Readopting Order 6-86, filed 6/10/86)

WAC 180-75-003 AUTHORITY. The authority for this chapter is RCW 28A.70.005 which authorizes the state board of education to establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state. (Note: RCW 28A.02.201 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

READOPTED SECTION (Readopting Order 11-87, filed 6/1/87)

WAC 180-75-005 PURPOSE. The purpose of this chapter is to incorporate into one chapter the general certification provisions to ensure uniform application and interpretation of the various certification rules within the confines of current statutory law. It is not the intent or purpose of this chapter to govern or limit the procedures and standards which are otherwise applicable to the nonrenewal or discharge of certificated employees by school districts and educational service districts. Proceedings under this chapter and local discharge/nonrenewal proceedings are separate proceedings.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-017 DENIAL OF RECOMMENDATION FOR CERTIFICATION OR ENDORSEMENT BY APPROVED PROFESSIONAL PREPARATION TRAINING INSTITUTIONS. Any person whose application for certification or for an endorsement is denied for recommendation to the superintendent of public instruction by an institution of higher education within the state with an approved professional preparation program, after exhausting any appeal procedures established by such institution, may apply directly to the superintendent of public instruction for such certificate or endorsement.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-018 WRITTEN NOTICE OF DENIAL, LAPSING, OR REVOCATION BY SUPERINTENDENT OF PUBLIC INSTRUCTION. Whenever the superintendent of public instruction takes action to deny an application or to lapse or revoke a certificate, the superintendent of public instruction, in accordance with the provisions of this chapter, shall report such decision to the applicant or affected certificate holder by written notice stating the reason(s) for such action and containing notice of applicable administrative appeal procedures provided in this chapter. If the notice is to lapse or revoke a certificate and the superintendent of public instruction has knowledge that such certificate holder is employed within the common school system or by an approved private school, the superintendent of public instruction shall provide such employer with a copy of the written notice.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-019 INVESTIGATORY FILES—ESTABLISHMENT, SECURITY, DISCLOSURE, RETENTION, AND DESTRUCTION. The following policies shall apply to investigatory files established by the superintendent of public instruction:

(1) Establishment. Upon receipt of any negative material relating to good moral character, personal fitness, and professional conduct as defined in WAC 180-75-037 and 180-75-081 or which forms the basis for initiation of a certificate revocation investigation pursuant to WAC 180-75-035, that section within the office of the superintendent of public instruction having responsibility for certification shall establish an investigatory file which shall contain all information related to the good moral character, personal fitness, and professional conduct in question.

(2) Security. The investigatory file shall be maintained separately from an applicant's or a certificate holder's noninvestigatory certification file and shall be kept in a secured storage area with access limited to the chief administrator responsible for certification and the assigned investigator and/or designated staff assistants of such investigator.

(3) Disclosure. The information in the investigatory file shall be exempt from public disclosure and copying pursuant to RCW 42.17.310 (1)(d). In response to a public records request concerning material in an investigatory file made by someone other than the certificate holder or applicant, the assigned investigator in the office of the superintendent of public instruction shall notify the requestor that the existence of or material in an investigatory file, pursuant to RCW 42.17.310 (1)(d), is exempt from public disclosure.

(4) Retention and destruction. Investigatory files shall be retained and destroyed pursuant to the following policies:

(a) If an applicant or certificate holder receives written notice, pursuant to WAC 180-75-018, of denial for failure to possess good moral character or personal fitness or of cause for revocation, the investigatory file related thereto shall not be destroyed until such affected party reaches the age of seventy-five or until such time as the chief administrator for certification determines, with a high degree of certainty, that the information within such file would not be relevant to a subsequent application for or reinstatement of a certificate or a subsequent revocation action. An affected party may request the chief administrator of certification, once in each calendar year, to make such a determination and either to destroy his or her investigatory file or to advise the affected party of the reason or reasons for the decision to retain such file.

(b) In all other cases, investigatory files shall be destroyed no later than one year after the date of establishment unless the chief administrator for certification, prior to such date, determines that the information within such file is or might be relevant either for investigatory and/or adjudication purposes in a current or subsequent revocation investigation or action and, in

which case, the investigatory file shall be destroyed ten years after the file has been closed, which for the purpose of this section means the last date upon which the file was reviewed for an investigatory purpose. An affected party may request the chief administrator of certification, once in each calendar year, to make a determination as to current or subsequent relevancy of the information within his or her file and either to destroy his or her investigatory file or to advise the affected party of the reason or reasons for the decision to retain such file.

READOPTED SECTION (Readopting Order 6-86, filed 6/10/86)

WAC 180-75-020 APPEAL—GENERAL. Any person who applies directly to the superintendent of public instruction for a certificate, particular endorsement, certificate renewal, or certificate reinstatement whose application is denied or any person who is notified that his or her certificate has lapsed or that his or her certificate will be revoked in thirty calendar days unless the decision is appealed shall be advised that he or she is entitled to appeal that decision to the superintendent of public instruction if he or she follows the procedures established in WAC 180-75-025 through 180-75-030: **PROVIDED,** That the appeal procedure may not be used to seek reinstatement of a certificate if that certificate has been revoked in the preceding twelve months by the superintendent of public instruction.

The appeal procedure to the superintendent of public instruction consists of two levels, one informal and one formal. The use of the informal level is a condition precedent to use of the formal level. In addition, the provisions of WAC 180-75-033 provide an additional appeal to the state board of education.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-025 APPEAL PROCEDURE—INFORMAL SPI REVIEW. Any person who appeals the decision to deny his or her application, the lapsing of his or her certificate pursuant to chapter 180-85 WAC or the proposed order to revoke his or her certificate must file a written notice with the superintendent of public instruction within thirty calendar days following the date of mailing from the section of the superintendent of public instruction's office responsible for certification of the decision to deny the application, the lapsing of the certificate, or the proposed order to revoke his or her certificate.

The written notice must set forth the reasons why the appellant believes his or her application should have been granted or why his or her certificate should not be lapsed or revoked, whichever is applicable.

Following timely notice of appeal, the superintendent of public instruction shall appoint a review officer who shall be someone other than the person or persons who denied the application, approved the lapsing, or the proposed revocation initially and who is not a subordinate of such person.

The review officer shall:

(1) Review the application, notice of lapsing, or proposed revocation, whichever is applicable, and appeal notice and may request further written information including but not limited to an explanation from the person or persons who initially reviewed the application or decided to lapse the certificate or to issue the proposed order to revoke the certificate, whichever is applicable, of the reason(s) why the application was denied or the certificate was lapsed or should be revoked.

(2) If he or she deems it advisable, schedule an informal meeting of the appellant, the person or persons who denied the application, lapsed the certificate, or proposed to revoke the certificate initially, and any other interested parties designated by the reviewing officer to receive oral information concerning the application, lapsing, or revocation. Any such meeting must be held within thirty days of the date of receipt by the superintendent of public instruction of the timely-filed appeal notice.

(3) Send by certified mail a written decision—i.e., findings of fact and conclusions of law—on the appeal within forty-five days from the date of receipt of the timely-filed appeal notice by the superintendent of public instruction. The review officer may uphold, reverse, or modify the decision to deny the application, the lapsing of the certificate, or the proposed order to revoke the certificate.

(4) The timelines stated herein may be extended by the review officer for cause.

(5) Provided, that in the case of an action for revocation of a certificate, the review officer, if so requested by an appellant, shall delay any review under this section until all quasi-judicial administrative or judicial proceedings (i.e., criminal and civil actions), which the review officer and the appellant agree are factually related to the revocation proceedings, are completed, including appeals, if the appellant signs the agreement stated in WAC 180-75-026. In requesting such delay, the appellant shall disclose fully all pending quasi-judicial administrative proceedings in which the appellant is involved.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-026 AGREEMENT NOT TO CONTINUE OR ACCEPT EDUCATIONAL EMPLOYMENT. The agreement required for deferring revocation proceedings pursuant to WAC 180-75-025 shall read as follows:

"I,, have received notice that the office of superintendent of public instruction believes sufficient cause exists for the revocation of the following certificate(s):

- (1) Cert. No.
- (2) Cert. No.

As a condition to a delay in the hearing date, I agree not to commence or continue employment in any Washington public or private school or agency in a position requiring such certificate until the office of superintendent of public instruction dismisses the case without a hearing or until a hearing has been held and the final

decision is rendered by the superintendent of public instruction. I further agree to advise the review officer assigned to my revocation proceedings, pursuant to WAC 180-75-025, of all decisions rendered in any administrative or judicial tribunal and all appeals therefrom which the review officer and I have agreed are factually related to the action to revoke my certificate(s). I understand my failure to abide by this agreement is an act of unprofessional conduct and, therefore, may be sufficient cause for revocation of my certificate(s)."

READOPTED SECTION (Readopting Order 6-86, filed 6/10/86)

WAC 180-75-027 WAIVER OF REQUIREMENT FOR TIMELY APPEAL. The requirements in this chapter for timely notice of appeal shall be waived if justifiable cause is established by the appellant, including failure to receive such notice without fault of the appellant or a plausible reason by the appellant for failure to understand the nature of or the timelines within the received notice.

AMENDATORY SECTION (Amending Order 6-86, filed 6/10/86)

WAC 180-75-030 APPEAL PROCEDURE—FORMAL SPI REVIEW PROCESS. (1) Any person who has filed an appeal in accordance with WAC 180-75-020 and desires to have the denial of his or her application, the lapsing of his or her certificate, or the proposed order to revoke his or her certificate reviewed further may do so. To instigate review under this section, a person must file a written notice with the superintendent of public instruction within thirty calendar days following the date of receipt of the review officer's written decision.

(2) For purposes of hearing an appeal under this section, the superintendent of public instruction shall conduct a formal administrative hearing in conformance with the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings pursuant to RCW 28A.03.500 to hear a particular appeal. Decisions in cases formally appealed pursuant to this section may be made by the administrative law judge selected by the chief administrative law judge if the superintendent of public instruction delegates this authority pursuant to RCW 28A.03.500.

(3) The decision of the superintendent of public instruction or the administrative law judge, whichever is applicable, shall be sent by certified mail to the appellant's last known address and if the decision is to revoke, the appellant shall be notified that such order took effect upon signing of the final order and that no stay of revocation shall exist pursuant to RCW 28A.70.170 until the filing of an appeal in a timely manner pursuant to WAC 180-75-033.

READOPTED SECTION (Readopting Order 6-86, filed 6/10/86)

WAC 180-75-033 APPEAL PROCEDURE TO SBE. Any person whose application has been denied for any reason or whose certificate has been lapsed or revoked by the superintendent of public instruction in accordance with the procedures of WAC 180-75-030 may appeal that decision to the state board of education by filing a notice of appeal with the superintendent of public instruction or the secretary of the state board of education within thirty calendar days of the date of mailing the final order by the superintendent of public instruction. Review by the state board of education shall be conducted as follows:

(1) Review shall be conducted by the state board of education at its next scheduled meeting following notice of appeal unless either the appellant or the superintendent of public instruction requests an extension of the review to the following next scheduled meeting.

(2) Review conducted by the state board of education shall be confined to the record, except that in cases of alleged irregularities in procedures before the superintendent of public instruction, not shown in the record, testimony thereon shall be taken before the state board of education.

(3) The record shall include written briefs submitted.

(4) Oral argument will be permitted if fifteen days advance notice is given to the secretary of the state board of education.

(5) The state board of education will be assisted in its deliberations and final order by an assistant attorney general who has not been involved in any prior proceeding related to the previous administrative order by the superintendent of public instruction.

(6) The state board of education may affirm the decision of the superintendent of public instruction, remand the matter for further proceedings, or reverse the decision.

(7) If the decision of the state board of education is to reverse the decision of the superintendent of public instruction or to remand the matter for further proceedings, the state board of education shall state its reasons in a written order.

(8) The final order of the state board of education shall be by written order, attested by the secretary of the state board of education, and sent to the appellant by certified mail within ten calendar days of the final decision by the state board of education.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-034 CERTIFICATE REVOCATION—INITIATION OF PROCEEDINGS. The initiation of revocation proceedings by the superintendent of public instruction shall commence as a result of the following:

(1) Whenever the superintendent of public instruction or the designated administrative officer of the superintendent of public instruction having responsibility for certification becomes aware from whatever source that a certificate holder has had a professional license revoked

by a licensing agency or has been arrested for any felony offense included within WAC 180-75-081(1), the superintendent of public instruction or the designated administrative officer shall cause an investigation pursuant to WAC 180-75-035(1).

(2) In all other cases, the initiation of investigative proceedings pursuant to WAC 180-75-035(1) shall commence only upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school. Such written complaint shall state the grounds for revocation and summarize the factual basis upon which a determination has been made that an investigation by the superintendent of public instruction is warranted. The superintendent of public instruction shall provide the affected certificate holder with a copy of such written complaint.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-035 CERTIFICATE REVOCATION AND SUBSEQUENT REINSTATEMENT. The following shall apply to revocation and subsequent reinstatement:

(1) Revocation. Upon receipt of information of an arrest for any offense included within WAC 180-75-081(1) or a written complaint pursuant to WAC 180-75-034(2), that section within the office of the superintendent of public instruction having responsibility for certification shall investigate the complaint. If sufficient cause for revocation of the individual's certificate(s) is determined to exist, the section shall notify the holder by certified mail of its finding of sufficient cause in the form of a proposed order—i.e., findings of fact and conclusions of law—and shall further advise the holder of the appeal procedures specified in WAC 180-75-020, 180-75-030 and 180-75-033. The notice shall further specify that the superintendent of public instruction will sign the order after thirty calendar days from the date of mailing if the proposed order is not appealed.

(2) Reinstatement. In accordance with RCW 28A.70-.180 an individual may become eligible to reinstate a certificate after a period of one calendar year from the date of revocation. The superintendent of public instruction or his or her designee shall consider the application of an individual whose certificate has been revoked and, based upon application and such other information as deemed appropriate, determine whether a certificate shall be reinstated.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-037 CERTIFICATE REVOCATION—GROUNDS FOR REVOCATION. The grounds for the revocation of professional education certificates are as follows:

(1) The lack of good moral character and/or personal fitness as defined in WAC 180-75-081.

(2) Unprofessional conduct, including the related acts of immorality, intemperance, and violation of written

contract: PROVIDED, That until the state board of education adopts a code of professional conduct pursuant to WAC 180-75-199, the ground of unprofessional conduct shall be limited to civil acts expressly prohibited by law, including statutes, common law, and administrative rules of the state board of education: PROVIDED FURTHER, That unprofessional conduct shall not include matters related to employment with a particular public or private school employer, such as insubordination, violation of a collective bargaining act, or other employment related acts correctable by the employer or other civil remedies.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-038 DUTY OF EDUCATIONAL SERVICE DISTRICT SUPERINTENDENT TO INVESTIGATE COMPLAINTS. Each educational service district superintendent shall cause to be investigated all written and signed complaints from whatever source, that allege that a certificated education professional within his or her educational service district is not of good moral character or personal fitness as defined in WAC 180-75-081 or has committed an act of unprofessional conduct as defined in WAC 180-75-037. If the educational service district superintendent investigates and determines the facts are reliable and further investigation by the superintendent of public instruction pursuant to WAC 180-75-035 is warranted, the educational service district superintendent shall forward the written complaint and the results of his or her investigation to the superintendent of public instruction: PROVIDED, That if the educational service district superintendent, after consultation with the assistant attorney general assigned to his or her educational service district, determines that the substance of the complaint would not constitute grounds for revocation if true, then such educational service district superintendent need not investigate the complaint: PROVIDED FURTHER, That if the educational service district superintendent receives a written assurance from the superintendent of public instruction, a district superintendent, or a chief administrative officer of an approved private school that such official is investigating or will investigate the same or a substantially similar complaint, the educational service district superintendent shall be deemed to have caused an investigation in compliance with this section.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-039 DUTY OF ESD SUPERINTENDENT, DISTRICT SUPERINTENDENT AND PRIVATE SCHOOL ADMINISTRATOR TO FILE COMPLAINTS. Whenever an educational service district superintendent, a district superintendent, or the chief administrative officer of an approved private school possesses sufficient reliable information to believe that a certificated employee within such district or approved private school is not of good moral character or personally fit or has committed an act of unprofessional conduct, such superintendent or chief administrative officer,

within a reasonable period of time of making such determination, shall file a written complaint with the superintendent of public instruction: PROVIDED, That if an educational service district or school district is considering action to discharge an employee of such district, the educational service district or school district superintendent need not file such complaint until ten calendar days after making the final decision to serve or not serve formal notice of discharge.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-040 NOTIFICATION OF DENIAL, SURRENDER, LAPSING, OR REVOCATION OF CERTIFICATES. The superintendent of public instruction shall notify all other states whenever an applicant has been denied a certificate for failure to possess good moral character or personal fitness or whenever a certificate has been surrendered or revoked and shall provide the full name and certificate number, if applicable, to the agency responsible for certification in each state. The superintendent of public instruction shall notify appropriate public or private school officials within the state the name and certification number of all certificate holders' whose certificate(s) has been lapsed, surrendered, or revoked: PROVIDED, That such notification shall not be made prior to forty-five days after the final administrative order and shall not be made if a court order staying the denial, lapsing, or revocation is in effect.

AMENDATORY SECTION (Amending Order 2-87, filed 4/3/87)

WAC 180-75-042 EMERGENCY SUSPENSION OF CERTIFICATE. Notwithstanding any other provision of this chapter, the superintendent of public instruction, pursuant to RCW ((34.04.170(2))) 34.05.422(4), may emergency suspend a certificate if the superintendent of public instruction finds that the public health, safety, or welfare of students, colleagues, or the general public imperatively requires emergency action. In such cases, the holder of the certificate who is subjected to emergency suspension of his or her certificate shall have the right to commence an informal review of such action pursuant to WAC 180-75-025 within forty-eight hours of filing a notice of appeal with the superintendent of public instruction or, if applicable, to sign an agreement pursuant to WAC 180-75-026. If such an agreement is signed or, if not, unless the review officer sustains the emergency action of the superintendent of public instruction within seven calendar days of the filing of the notice of appeal, the emergency suspension shall be void.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-043 UNPROFESSIONAL CONDUCT FOR FAILURE TO FILE A COMPLAINT.

The intentional failure of an educational service district superintendent, a district superintendent, or a chief administrator of a private school to file a complaint pursuant to WAC 180-75-039 is an act of unprofessional conduct and may be sufficient cause for revocation of such person's professional education certificate.

READOPTED SECTION (Readopting Order 14-87, filed 12/21/87)

WAC 180-75-044 UNPROFESSIONAL CONDUCT FOR MISREPRESENTATION OF FACTS. The intentional misrepresentation of material facts in an application for certification, reinstatement thereof, endorsement thereon, or continuing education related thereto is an act of unprofessional conduct and may be sufficient cause for the revocation of such person's professional education certificate.

READOPTED SECTION (Readopting Order 14-87, filed 12/21/87)

WAC 180-75-045 CERTIFICATE VALIDITY. Any certificate issued pursuant to chapters 180-77 or 180-79 WAC or previous standards of the state board of education shall entitle the holder thereof to be employed by a public or nonpublic school for the performance of duties encompassed by the type of certificate as specified in WAC 180-75-055, if such certification is required by statute or rules of the state board of education, until such certificate expires, lapses, or is revoked.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-047 UNIFORM EXPIRATION DATE. All certificates issued for one or more stated years shall expire on August 31 of the stated year and shall be calculated as follows:

(1) Certificates issued prior to October 1 of a calendar year shall have the expiration date of the certificate calculated on the basis such certificate was issued on September 1 of the same calendar year regardless of the date of issuance.

(2) Certificates issued October 1 or later in the calendar year shall have the expiration date of the certificate calculated on the basis such certificate was issued on September 1 of the next calendar year regardless of the date of issuance.

(3) All such certificates issued prior to the effective date of this section and scheduled to expire prior to August 31 of a given year, regardless of such stated expiration date, shall be valid until August 31 of the stated year of expiration.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-048 VALIDITY DATE. The validity date of a certificate or permit shall be the actual date of issuance.

READOPTED SECTION (Readopting Order 8-80, filed 6/2/80)

WAC 180-75-050 CERTIFICATE REQUIRED. Persons serving as teachers in public or private schools or as principals or educational staff associates in public schools and in vocational positions as established by chapter 180-77 WAC shall hold certificates authorized by the state board of education for service in the respective roles.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-055 TYPES OF CERTIFICATES. Four types of certificates shall be issued:

(1) **Teacher.** The teacher certificate, including alien permits as provided in chapter 392-193 WAC, authorizes service as a classroom teacher.

(2) **Administrator.**

(a) The administrator certificate endorsed "principal" authorizes services as a building administrator or vice principal.

(b) The administrator certificates endorsed "superintendent" or "program administrator" will be issued to persons who meet state board of education certification standards for service in the roles of superintendent or program administrator.

(3) **Educational staff associate.** The educational staff associate certificate authorizes service in endorsed roles of communication disorders specialists, counselors, school nurses, occupational therapists, physical therapists, psychologists, social workers, and reading resource specialists: **PROVIDED**, That nothing within chapter 180-79 WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations promulgated by the appropriate licensure board or agency.

(4) **Vocational.** The vocational certificate authorizes service in vocational instruction in accordance with the provisions of chapter 180-77 WAC.

READOPTED SECTION (Readopting Order 10-78, filed 9/1/78)

WAC 180-75-060 CERTIFICATE REPLACEMENT. The superintendent of public instruction shall issue a replacement certificate to any person who files an application, pays the appropriate certification fee, and verifies by signature that the original certificate has been lost or destroyed or that a legal name change has occurred.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-061 APPLICATION FOR CERTIFICATION. An individual who applies for a Washington state certificate, unless seeking reinstatement pursuant to WAC 180-75-087 or renewal pursuant to WAC 180-75-088, must meet the standards in effect at the time of application. Effective August 31,

1993, unless the candidate is applying for a limited certificate pursuant to WAC 180-79-230, an initial certificate pursuant to the reciprocity provisions of WAC 180-79-245, or a vocational certificate pursuant to WAC 180-77-040 or 180-77-095 or unless the candidate holds a valid Washington state certificate, the candidate must have passed the applicable parts of the admission to practice examination within one calendar year of the date of application.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-065 FEE FOR CERTIFICATION. (1) In accordance with provisions of RCW 28A.70.110 and 28A.71.100, the fee for certificates which are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

(a) The continuing certificate is seventy dollars;

(b) The reinstatement, additional endorsement on the certificate, duplicate certificates, substitute certificates, and certificates issued for the purpose of showing a name change is fifteen dollars; and

(c) Any other certificate or credential or any renewal thereof shall be five dollars for each year of validity;

(d) **PROVIDED**, That the fee for all vocational certificates shall be one dollar.

(2) The fee for any other certificate/credential, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certification fees are educational service district superintendents, local school district superintendents, deans and directors of education at colleges and universities, and designees of program units. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.70.110. The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or his or her designee. Fees not refunded shall apply as a credit to a reapplication for the same or one or more other certificates if such applicant reapplies within twenty-four months of the date of denial. Moneys accrued from certification fees within the boundaries of an educational service district shall be divided in the following manner:

(a) Local school districts employing more than one hundred teachers and other professional staff and collecting certification fees may retain one dollar of each fee in order to hold a professional training institute. If such district does not hold an institute all such moneys shall be placed to the credit of the educational service district.

(b) No less than fifty percent of the funds accruing within the boundaries of an educational service district shall be used to support program activities related to

state-wide precertification professional preparation and evaluation.

(c) The remaining funds shall be used to support professional inservice training programs and evaluations thereof.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-070 USE OF FEE FOR CERTIFICATION. (1) Certification fees will be used solely for precertification professional preparation, professional inservice training programs, teachers' institutes and/or workshops, and evaluations thereof in accordance with this chapter.

(2) Precertification professional preparation:

(a) A subcommittee of the state professional education advisory committee as established in WAC 180-78-015 shall assist the superintendent of public instruction in administration of precertification program funds by annually establishing priorities and procedures for distribution of funds available for precertification activities. The primary utilization shall be to support collaborative efforts essential to program development, program evaluation, and assessment of candidates' entry and exit competency.

(b) Funds set aside for precertification shall not supplant funds already available to any participating agency.

(c) A single educational service district shall be designated to administer the funds allocated for precertification programs. The designated educational service district shall be permitted to retain up to five percent of the precertification fees for costs related to administering these funds.

(d) Each quarter every educational service district shall forward the moneys designated for precertification programs to the educational service district designated to administer such programs.

(3) Professional inservice training programs and teachers' institutes and/or workshops:

(a) Each educational service district, or cooperative thereof as specified in subparagraph (d) of this subsection, shall establish an inservice committee composed of an educational service district representative; at least one district superintendent; one principal; one educational staff associate; one elementary, one junior high and one senior high teacher; one representative from the elementary or secondary level of private schools within the educational service district; and one representative selected by the chief administrative officer responsible for professional education from a college/university having a state board of education approved teacher education program. Teacher representatives shall be selected by agreement among the presidents of the local education associations within the respective educational service district or cooperative thereof.

(b) The educational service district representative shall serve as chairperson of the inservice committee and provide liaison with the superintendent of public instruction and the state board of education.

(c) The inservice committee will be responsible for coordinating inservice/staff development model programs within the educational service district and shall submit to the superintendent of public instruction and the state board of education a plan for soliciting and selecting model programs which shall include procedures for conducting needs assessments, determining priorities and carrying out program evaluation.

(d) Cooperative agreements may be made among educational service districts to provide quality inservice education programs.

(e) Funds designated for inservice programs shall not supplant funds already available for such programs.

(4) Allowable expenditures. Funds may be used to support costs related to training, such as the payment of professional contractual services, per diem, travel costs, materials, printing, or released time. Nonallowable costs are college/university tuition and fees.

(5) Annual reporting. The superintendent of public instruction shall prepare and present to the state board of education an annual report concerning the use of certification fees for precertification and inservice activities.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-080 CITIZENSHIP REQUIREMENTS—EXCEPTIONS. Except as provided in chapter 392-193 WAC, no person who is not a citizen of the United States of America shall be certified to teach in the common schools of this state.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-081 GOOD MORAL CHARACTER AND PERSONAL FITNESS—DEFINITION. As used in this chapter, the terms "good moral character and personal fitness" means character and personal fitness necessary to serve as a certificated employee in schools in the state of Washington, including character to have contact with and to teach children and personal fitness necessary to perform supervision of children and includes the following:

(1) No conviction of any felony crime involving:

(a) Physical neglect of children;

(b) The physical injury of children, excepting motor vehicle violations; and

(c) The sexual abuse of children.

Provided, that the general classes of felony crimes referenced within (a) and (b) of this subsection shall be limited in application to felony crimes in the state of Washington and equivalent federal and crimes in other states committed against children and which, in fact, caused bodily harm to such children greater than transient pain or minor temporary marks; provided further, that the general class of felony crime referenced within (c) of this subsection shall be limited in application to felony crimes in the state of Washington and equivalent federal and crimes in other states committed against children.

(2) No conviction of any crime within the last ten years, including motor vehicle violations, which would

materially and substantially impair the individual's worthiness and ability to serve as a professional within the public and private schools of the state. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to practice, the following considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as a professional educator within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness; and

(h) If this section is applied to a person certified under the laws of the state of Washington in a revocation action, the effect on the education profession, including any chilling effect shall be weighed.

(3) No serious behavioral problems which endanger the educational welfare or personal safety of students, teachers, or other colleagues within the educational setting.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-082 GOOD MORAL CHARACTER AND PERSONAL FITNESS—NECESSARY SUPPORTING EVIDENCE BY APPLICANTS. All applicants for certification shall submit the following:

(1) An affidavit from the applicant indicating that he or she has not been convicted of any crime or a complete disclosure of all arrests and subsequent dispositions of such arrests. In the event of a conviction for any arrest, the applicant shall state reasons why such conviction does not reflect adversely on the requirement to possess good moral character and be personally fit.

(2) An affidavit from the applicant that he or she has no history of serious behavioral problems or a complete disclosure of the nature and status of all such problems, including the names and addresses of health practitioners who have treated the applicant within the past ten years and an executed consent form permitting the superintendent of public instruction to contact and consult with such health practitioners and for such health practitioners to fully disclose medical information related to such behavioral problems.

(3) An affidavit from the dean of the college or school of education or one or more officials designated by such dean, or, if none, by the college or university president, where the applicant completed his or her approved preparation program, that indicates that a designated college or university official has contacted several faculty members who personally know or knew the applicant and has

no knowledge that the applicant has been convicted of any crime and has no knowledge that the applicant has a history of any serious behavioral problems or a statement from such affiant of the reasons why it is not possible to make such an affidavit.

(4) Provided, that, if the affidavit described in subsection (3) of this section is impossible or impractical to obtain, the applicant shall submit to the superintendent of public instruction the following:

(a) A statement as to why it is impossible or impractical to secure the affidavit required by subsection (3) of this section;

(b) A complete employment history, including the names, addresses, and phone numbers of the immediate supervisor of such applicant when an employee; and

(c) The names, addresses, and phone numbers of three character references who are not related to the applicant.

(5) If the applicant holds or has held a professional certificate in any other state, such applicant shall prepare one of the following affidavits for each such state:

(a) An affidavit that such certificate has not been suspended, surrendered, or revoked. Such affidavit shall be forwarded to the licensing agency in such state with a request that such affidavit be verified and forwarded directly to the superintendent of public instruction.

(b) An affidavit which shall fully disclose the reasons for the suspension, surrender, or revocation of the certificate. Such affidavit shall be submitted directly to the superintendent of public instruction.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-083 GOOD MORAL CHARACTER AND PERSONAL FITNESS—CONTINUING REQUIREMENT. The good moral character and personal fitness requirement of applicants for certification under the laws of the state of Washington is a continuing requirement for holding a professional educational certificate under regulations of the state board of education.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-084 GOOD MORAL CHARACTER, PERSONAL FITNESS, AND UNPROFESSIONAL CONDUCT—BURDEN AND STANDARD OF PROOF. The following burden and standard of proof shall be applicable for denial and revocation of a certificate for failure to meet the requirement to possess good moral character and personal fitness:

(1) If an application for certification or reinstatement has been denied by the superintendent of public instruction, the evidence submitted by the applicant must prove by clear and convincing evidence that he or she is of good moral character and personal fitness or the application will be denied.

(2) In a revocation proceeding, the superintendent of public instruction must prove by clear and convincing evidence that the certificate holder is not of good moral

character or personal fitness or has committed an intentional act which constitutes unprofessional conduct.

READOPTED SECTION (Readopting Order 11-89, filed 5/31/89)

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.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-086 VOLUNTARY SURRENDER OF CERTIFICATES. A holder of a certificate who has not received notice of sufficient cause for revocation of his or her certificate pursuant to WAC 180-75-035 may voluntarily surrender his or her certificate to the superintendent of public instruction if the certificate holder believes that he or she is or might be ineligible to hold a certificate for any reason which is or might constitute grounds for revocation of the certificate other than conviction of a felony crime stated within WAC 180-75-081(1).

A certificate holder voluntarily surrendering a certificate shall provide the superintendent of public instruction the following affidavit:

"I,, have reason to believe that I am or might be ineligible to hold a certificate(s) for reasons which do or might constitute grounds for revocation of the certificate(s). Accordingly, I hereby voluntarily surrender the following certificate(s):

- 1. Cert. No.
- 2. Cert. No.

I have not been to the best of my knowledge convicted of any felony crime listed within WAC 180-75-081(1).

I agree, if I request reinstatement of the certificate(s) I have voluntarily surrendered, to provide the superintendent of public instruction with an affidavit describing in full the reasons for my voluntary surrender of the certificate(s) listed above. I further understand that the superintendent of public instruction will notify other states and public and private school officials within the state of Washington that I have voluntarily surrendered my certificate(s)."

Upon request for reinstatement of such certificate, the applicant must comply with WAC 180-75-087 and, in addition, must disclose in full the reasons for the voluntary surrender of the certificate. In the event, if the surrendered certificate would have expired or lapsed but for the surrendering of the certificate, the applicant must meet all requirements for reinstating an expired or lapsed certificate.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-087 REINSTATEMENT OF CERTIFICATES. Only a continuing certificate may be reinstated. A holder of a lapsed, surrendered, or revoked continuing professional certificate at the time of application for reinstatement of such certificate must submit the following:

(1) Character evidence as required by WAC 180-75-085(2) for candidates for certification.

(2) An affidavit that he or she has not intentionally and knowingly practiced with an expired, lapsed, surrendered, or revoked certificate in a professional position for which certification is required under the rules of the state board of education or the submission of a statement why such practice, if conducted, should not reflect on such applicant's good moral character or personal fitness at the time of application.

(3) In accordance with RCW 28A.70.180, a revoked certificate may not be reinstated within one calendar year from the date of revocation.

(4) PROVIDED, That no certificate may be reinstated if more than five calendar years has passed since the date of lapsing, surrender, or revocation; however, such applicants may apply pursuant to WAC 180-75-061 for a new certificate under standards in effect at the time of application.

(5) PROVIDED FURTHER, That notwithstanding any regulation to the contrary, any person whose Washington state initial or provisional certificate has expired for any reason may apply prior to August 31, 1990, and be issued an initial certificate under the rules in effect at the time of application upon submission of the following:

(a) The character evidence required in subsection (1) of this section.

(b) The affidavit or statement required in subsection (2) of this section.

(c) Evidence of completion of fifteen quarter hours (ten semester hours) of course work at an accredited college or university within the seven years prior to the application for reinstatement.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-088 RENEWAL OF CERTIFICATE. A holder of a certificate subject to expiration may renew such certificate subject to the rules in effect at the time of such renewal. If such certificate has expired, the candidate may apply for a new certificate pursuant to WAC 180-75-061.

READOPTED SECTION (Readopting Order 25-88, filed 12/14/88)

WAC 180-75-090 TEMPORARY PERMITS. Temporary permits may be issued by the superintendent of public instruction under the following conditions:

(1) Temporary permits may be issued under this section to those persons who have filed an application for a certificate; who, based on available documentation, including affidavits or other evidence that appears reliable which substantiates the existence of missing documentation, appear to have completed all requirements for certification; and who do not disclose any information which indicates that such applicant fails to meet the character requirement of WAC 180-75-085(2).

(2) An individual may apply for a permit directly to the superintendent of public instruction: PROVIDED, That in the case of an individual completing requirements for certification in a Washington state institution of higher education the request may also be made to that institution.

(3) A permit entitles the holder to serve as a teacher, educational staff associate or administrator consistent with the endorsement(s) on his/her permit.

(4) A permit is valid for one hundred twenty consecutive calendar days commencing with the date following the date of issuance unless prior to such date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement. In such cases, the temporary permit shall expire on the date notice of cancellation is received by the applicant and/or the employer. The temporary permit may be re-issued only upon demonstration that the applicant has made a good faith effort to secure the missing documentation.

(5) Issuing authority. The superintendent of public instruction either directly or through a designated agent shall issue all permits and provide institutions of higher education with forms and instructions relevant to application for a permit.

READOPTED SECTION (Readopting Order 14-87, filed 12/21/87)

WAC 180-75-091 AFFIDAVITS FROM APPLICANTS. An individual's application for certification shall be signed under oath that the statements therein are true and correct. The application if not notarized by a notary public must conform with the formalities prescribed in RCW 9A.72.085. In addition, the application shall state that any knowingly false statement therein is punishable under perjury laws of the state of Washington.

READOPTED SECTION (Readopting Order 14-87, filed 12/21/87)

WAC 180-75-092 OTHER AFFIDAVITS FROM APPLICANTS AND CERTIFICATE HOLDERS. Whenever this chapter requires an applicant or certificate holder to file an affidavit, it shall be in the same form as required by WAC 180-75-091.

READOPTED SECTION (Readopting Order 8-80, filed 6/2/80)

WAC 180-75-100 CERTIFICATION OF OUT-OF-STATE TRAINED EDUCATIONAL PERSONNEL—INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS. The superintendent of public instruction is authorized to enter into interstate educational personnel contracts with states party to the interstate agreement on qualifications of educational personnel in accordance with provisions of RCW 28A.93.010 and 28A.93.020 which authorize on an interstate basis Washington state certification of persons of other states having preparation and qualifications comparable even though not identical to Washington state board of education standards.

READOPTED SECTION (Readopting Order 2-87, filed 4/3/87)

WAC 180-75-199 CODE OF PROFESSIONAL RESPONSIBILITY FOR CERTIFICATED EDUCATIONAL PROFESSIONALS. The state board of education acknowledges that RCW 28A.70.160 permits the revocation of certificates for unprofessional conduct and certain related acts—i.e., immorality, intemperance, and violation of written contract—some of which are included within the concept of unprofessional conduct. Therefore, the state board of education directs the superintendent of public instruction to appoint and provide necessary staff assistance to an advisory committee, described below, which shall have the responsibility to draft a code of professional conduct for certified educational professions and to present such code, including minority recommendations, to the state board of education in the form of proposed regulations no later than January, 1989. In addition to the responsibility for a code of professional responsibility, the advisory committee shall examine the desirability of establishing sanctions other than revocation, such as suspension and letters of reprimand, and the desirability of providing for professional and lay involvement in the administration of

such code. Prior to making appointments to the advisory committee created by this section, the superintendent of public instruction shall consult with one or more officers within recognized professional and other educational organizations regarding possible appointments to the advisory committee. Such advisory committee shall consist of the following:

- (1) Four classroom teachers, one of which shall be a private school teacher.
- (2) Two educational staff associates.
- (3) Three principals.
- (4) One program director.
- (5) One superintendent.
- (6) One school board member.
- (7) One parent.

WSR 89-22-011
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed October 20, 1989, 3:49 p.m.]

Date of Adoption: September 29, 1989.

Purpose: To clarify the intent of the legislature regarding the definition of approved masters degree.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-063.

Statutory Authority for Adoption: RCW 28A.70.005.

Pursuant to notice filed as WSR 89-17-106 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 18, 1989
 Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 27-88, filed 12/14/88)

WAC 180-79-063 APPROVED MASTERS DEGREE—DEFINITION. "Approved masters degree" for the purpose of this chapter means a masters or doctorate degree from a regionally accredited college or university ~~((in teaching, arts, science, or humanities. PROVIDED; That a candidate who obtains a masters or doctorate degree in another field will not be required to obtain the specified masters degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty upper division and/or graduate quarter hours (twenty semester hours) of post-baccalaureate course work in one of the subject areas of the endorsements listed in WAC 180-79-080)).~~

WSR 89-22-012
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed October 20, 1989, 3:50 p.m.]

Date of Adoption: September 29, 1989.

Purpose: To establish rules for implementation of pilot program to expand student teaching experiences and opportunities.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-115-070; and amending WAC 180-115-010, 180-115-020, 180-115-035, 180-115-045, 180-115-060, 180-115-085, 180-115-090 and 180-115-105.

Statutory Authority for Adoption: RCW 28A.70.400.

Pursuant to notice filed as WSR 89-17-105 on August 22, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 18, 1989
 Monica Schmidt
 Secretary

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-010 PURPOSE. The purpose of this chapter is to establish policies, procedures, and directions for a ~~((two-year))~~ pilot program that enhances the student teaching component of teacher preparation programs by supporting innovative ways to expand student teaching experiences and opportunities for student placement in school districts throughout the state.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-020 GRANT PROJECT PARTICIPANTS—DEFINITION. As used in this chapter "grant project participants" means those school building and school district personnel, teacher preparatory program personnel, ~~((program unit))~~ professional education advisory board members, and other appropriate personnel who have cooperated in the joint development of the pilot project grant application.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-035 RESPONSIBILITIES OF THE GRANTEE AGENCY. The responsibilities of the grantee agency are to:

(1) Submit a grant proposal which meets specifications set forth in chapter 180-115 WAC.

(2) Administer the project in accordance with chapter 180-115 WAC, ensuring that all conditions set forth in chapter 180-115 WAC are met.

(3) File a ~~((final))~~ preliminary written assessment of the program's effectiveness with the superintendent of public instruction no later than July 31, 1989, and a final report no later than July 31, 1990.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-045 PROGRAM DEVELOPMENT, IMPLEMENTATION, AND ADMINISTRATION. Each grant submitted to the superintendent of public instruction under this program shall be jointly developed through a documented process that demonstrates joint development of the pilot program by school

building and school district personnel, teacher preparation program personnel, ~~((program unit))~~ professional education advisory board members, and other personnel as appropriate. Primary administration for each grant project shall be the responsibility of one or more of the cooperating grant project participants as determined by the grant project participants. One or more college(s)/university(ies) with teacher education programs approved by the state board of education must be a participant in the submitted pilot project.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-060 ADVISORY COMMITTEE. The professional education advisory committee established under WAC 180-78-015 shall be responsible for the following:

(1) Assist the state board of education and the pilot projects in addressing issues relating to the roles and responsibilities of the participating parties in implementing the projects.

(2) Assist the state board of education in studying issues relating to the roles and responsibilities of the common school and higher education elements of the state's education system in the preparation of prospective teachers.

(3) Select five members of its committee to review and rank order grant proposals submitted under this chapter. ((Additionally, the committee will))

(4) Advise as to modification or elimination of components contained within specific grant requests and forward recommendations to the superintendent of public instruction for determination of final grant allocations. The committee recommendation will then be submitted to the state board of education.

NEW SECTION

WAC 180-115-081 CONTINUATION OF 1987-89 PILOT PROJECTS. Notwithstanding the approval process established in this chapter, pilot projects approved by the state board of education for funding during the 1987-89 biennium are hereby approved by the state board of education for continuation during the 1989-91 biennium subject to the condition stated in WAC 180-115-105.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-085 ASSURANCE OF ASSESSMENT. Each prospective grantee agency must provide an assurance that a ~~((final))~~ preliminary written assessment of the program's effectiveness will be submitted to the superintendent of public instruction no later than July 31, 1989, and a final report no later than July 1, 1990.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-090 DATE FOR RECEIPT OF PROPOSALS BY THE SUPERINTENDENT OF

PUBLIC INSTRUCTION. In order to be considered for funding, supplemental or revised proposals must be received by superintendent of public instruction by 5:00 p.m., ((Tuesday, March 1, 1988)) Friday, July 28, 1989.

AMENDATORY SECTION (Amending Order 8-88, filed 4/4/88)

WAC 180-115-105 TIMELINE FOR PROJECTS. The state funds for this project must be expended by ~~((June 30, 1989))~~ December 31, 1990.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-115-070 ADVISORY COMMITTEE DEADLINE.

WSR 89-22-013

PROPOSED RULES

TRANSPORTATION COMMISSION

[Filed October 23, 1989, 3:16 p.m.]

Original Notice.

Title of Rule: WAC 468-58-070 Stalled or disabled vehicles as a danger to safety—Removal.

Purpose: Repeal.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Statute Being Implemented: Chapter 47.52 RCW.

Summary: Proposed action is repeal of WAC 468-58-070.

Reasons Supporting Proposal: Other legislative authority for removal of stalled or disabled vehicles from all state highways eliminates the need for this rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: E. R. Burch, Transportation Building, (206) 753-6141.

Name of Proponent: Washington State Transportation Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Repeal of this rule is requested because RCW 46.55.085 and 46.55.113 authorize removal of stalled or disabled vehicles on all state highways, eliminating the need for the rule.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Board Room 102, Transportation Building, Olympia, Washington, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: E. R. Burch, Transportation Building, Olympia, Washington 98504, by December 13, 1989.

Date of Intended Adoption: December 14, 1989.

October 23, 1989

Anna Peterson
Administrator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 468-58-070 STALLED OR DISABLED VEHICLES AS A DANGER TO SAFETY—REMOVAL.

WSR 89-22-014
PERMANENT RULES
BASIC HEALTH PLAN
 [Filed October 24, 1989, 11:21 a.m.]

Date of Adoption: October 24, 1989.

Purpose: To change the requirement for submittal of documentation to verify income at recertification from six months worth to one months worth to make recertification consistent with the plan's application process.

Citation of Existing Rules Affected by this Order: Amending chapter 55-01 WAC.

Statutory Authority for Adoption: RCW 70.47.050.

Pursuant to notice filed as WSR 89-19-018 on September 11, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 24, 1989
 Thomas L. Kobler
 Director

AMENDATORY SECTION (Amending Order 89-002 [89-001], filed 5/17/89 [2/16/89])

WAC 55-01-050 ENROLLMENT IN THE PLAN. (1) Any individual applying for enrollment in the plan must complete and submit the plan's application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or legal guardian, who shall also be held responsible by the plan for payment of premiums due on behalf of the child.

(2) Each applicant shall complete and sign the application for enrollment, listing family members to be enrolled and supplying such other information as required by the plan. (a) Documentation will be required, showing the amount and sources of applicants' income for the most recent complete calendar month as of the date of application. Applicants will also be required to submit a copy of their most recent federal income tax form. Income documentation shall be required for all income-earning family members, including those not applying for enrollment, except for family members who reside in another household and whose income is not available to the family seeking enrollment, and dependent children. (b) Documentation of residence shall also be required, displaying the applicant's name and address. (c) The plan may request additional information from applicants for purposes of establishing or verifying eligibility, premium responsibility or managed health care system selection. (d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in the plan. Intentional submission of false information may result in disenrollment of the applicant and all enrolled family members, retroactive to the date upon which coverage began.

(3) Each family applying for enrollment must designate a participating managed health care system from which all enrolled family members will receive covered services. All applicants from the same family must receive covered services from the same managed health care system. No applicant will be enrolled for whom designation of a participating managed health care system has not been made as part of the application for enrollment. The administrator will establish procedures for the selection of managed health care systems, which will include conditions under which an enrollee may change from one managed health care system to another. Such procedures will allow enrollees to change from one managed health care system to another during open enrollment, or otherwise upon showing of good cause for the transfer.

(4) Except as provided in WAC 55-01-040(2), applications for enrollment will be reviewed by the plan within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(5) Eligible applicants will be enrolled in the plan in the order in which their completed applications, including all required documentation, have been received by the plan, provided that the applicant also remits full payment of the first premium bill to the plan by the due date specified by the plan.

(6) Not all family members are required to apply for enrollment in the plan; however, any family member for whom application for enrollment is not made at the same time that other family members apply may not subsequently enroll as a family dependent until the next open enrollment period available to that family member. Eligible newborn and newly adopted children may be enrolled effective from the date of birth or physical placement with the adoptive parents for adoption, provided that application for enrollment is submitted to the plan within sixty days of the date of birth or such placement for adoption. A newly acquired spouse of an enrollee may apply for enrollment within thirty days of the date of marriage and, if found eligible by the plan, will be enrolled on the first of a month following completion of the enrollment process by the plan, provided that the addition of the spouse does not otherwise render the family ineligible for coverage by the plan.

(7) Any enrollee who disenrolls from the plan for reasons other than (a) ineligibility due to an increase in gross family income or (b) coverage by another health care benefits program may not re-enroll in the plan for a period of twelve months from the effective date of disenrollment. An enrollee who disenrolls because of ineligibility due to an increase in gross family income may re-enroll in the event that gross family income subsequently falls to a level which qualifies the enrollee for eligibility. An enrollee who disenrolls because of coverage by another health care benefits program may re-enroll in the event that the enrollee becomes ineligible for such other coverage, provided that the enrollee has been continuously covered since the date of disenrollment from the plan, and provides documentation of such continuous

coverage to the plan. Before any person shall be re-enrolled in the plan, that person must complete a new application for enrollment and must be determined by the plan to be otherwise eligible for enrollment as of the date of application.

(8) Once every six months, the plan will request verification of information from enrollees ("recertification"), which may include a request to complete a new application form and submit required documentation. At recertification, enrollees will be required to report their ((monthly)) gross family income for the ((preceding six)) most recent complete calendar month((s)) as of the recertification date specified by the plan, and to provide the same documentation of such income as required of applicants. The plan may request information more frequently from an enrollee for the purpose of verifying eligibility if the plan has good cause to believe that the enrollee's income, residence, family size or other eligibility criteria may have changed since the date on which information was last received by the plan. Enrollees shall be given at least twenty days from the date of any such information request to respond to the request. Failure to respond within the time designated in any information request shall result in a second request from the plan. Failure to respond within the time designated in any second request for information may result in disenrollment of the enrollee. Each enrollee is responsible for notifying the plan within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

WSR 89-22-015

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-15—Filed October 24, 1989, 1:22 p.m.]

Date of Adoption: October 24, 1989.

Purpose: Implement provisions of section 84, chapter 380, Laws of 1989, entitling agricultural employees to pay statements and requiring employer recordkeeping.

Statutory Authority for Adoption: RCW 43.22.270, chapter 380, Laws of 1989.

Other Authority: Chapter 49.46 RCW.

Pursuant to notice filed as WSR 89-16-088 on August 2, 1989; and WSR 89-21-010 on October 6, 1989.

Changes Other than Editing from Proposed to Adopted Version: Wages shall be paid at less than monthly intervals if required by federal law. Consistent with recordkeeping requirements for other employers, lag payroll is authorized. Pay statements are to identify the employee, show the number of hours worked and the employer's name, address and telephone number. Records may be transcribed if copying facilities are unavailable.

Effective Date of Rule: Thirty days after filing.

October 24, 1989

Joseph A. Dear
Director

NEW SECTION

WAC 296-131-001 APPLICABILITY. These standards, adopted pursuant to sections 83 through 86, chapter 380, Laws of 1989, shall apply to persons employed in agricultural labor as defined in RCW 50.04.150.

NEW SECTION

WAC 296-131-010 PAYMENT INTERVAL. All wages due shall be paid at no longer than monthly intervals to each employee on established regular pay days, unless federal law requires more frequent pay intervals. To facilitate bookkeeping, an employer may implement a regular payroll system in which wages from up to seven days before pay day may be withheld from the pay period covered and included in the next pay period.

NEW SECTION

WAC 296-131-015 PAY STATEMENTS. A pay statement shall be provided to each employee at the time wages are paid. The pay statement shall identify the employee, show the number of hours worked or the number of days worked based on an eight-hour day, the rate or rates of pay, the number of piece work units earned if paid on a piece work basis, the gross pay, the pay period, all deductions and the purpose of each deduction for the respective pay period. A pay statement shall also include the employer's name, address, and telephone number.

NEW SECTION

WAC 296-131-017 EMPLOYMENT RECORDS.
(1) Every employer shall keep for at least three years a record of the name, address, and occupation of each employee, dates of employment, rate or rates of pay, amount paid each pay period to each such employee and the hours worked.

(2) Every employer shall make the records described in subsection (1) of this section available to the director or the director's authorized representative at any time for inspection and transcription or copying and to the employee, upon request for that employee's work record, at any reasonable time.

WSR 89-22-016

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-16—Filed October 24, 1989, 1:25 p.m.]

Date of Adoption: October 24, 1989.

Purpose: To standardize various statutory requirements for records access and payment procedures.

Citation of Existing Rules Affected by this Order: Amending WAC 296-126-023, 296-126-050 and 296-128-025.

Statutory Authority for Adoption: RCW 43.22.270, 49.12.020, 49.12.091, 49.12.050, 49.46.020 and 49.46.070.

Pursuant to notice filed as WSR 89-16-089 on August 2, 1989; and WSR 89-21-011 on October 6, 1989.

Changes Other than Editing from Proposed to Adopted Version: A sentence is added to clarify that the existing policy allowing payroll lag continues. It is clarified that records may be transcribed if copying facilities are unavailable.

Effective Date of Rule: Thirty days after filing.

October 24, 1989

Joseph A. Dear

Director

AMENDATORY SECTION (Amending Regulation 294.7.001 (part), filed 12/30/60)

WAC 296-128-025 PLACE FOR KEEPING RECORDS AND AVAILABILITY FOR INSPECTION. Each employer shall keep the records required by this regulation safe and accessible at the place or places of employment or at one or more established central recordkeeping offices where such records are customarily maintained (~~and~~). All such records shall be open at any time to inspection and transcription or copying by the director and his duly authorized representative and to the employee, upon request for that employee's work record, at any reasonable time.

NEW SECTION

WAC 296-128-035 PAYMENT INTERVAL. All wages due shall be paid at no longer than monthly intervals to each employee on established regular pay days. To facilitate bookkeeping, an employer may implement a regular payroll system in which wages from up to seven days before pay day may be withheld from the pay period covered and included in the next pay period.

AMENDATORY SECTION (Amending Order 74-9, filed 3/13/74, effective 4/15/74)

WAC 296-126-023 PAYMENT INTERVAL. All wages due shall be paid at no longer than monthly intervals to each employee on established regular pay days (~~((except that wages for no more than the last seven calendar days may be withheld from the pay period covered for inclusion in the next pay period for bookkeeping purposes))~~). To facilitate bookkeeping, an employer may implement a regular payroll system in which wages from up to seven days before pay day may be withheld from the pay period covered and included in the next pay period.

AMENDATORY SECTION (Amending Order 74-9, filed 3/13/74, effective 4/15/74)

WAC 296-126-050 EMPLOYMENT RECORDS. (1) Every employer shall keep for at least (~~(five))~~ three

years a record of the name, address, and occupation of each employee, dates of employment, rate or rates of pay, amount paid each pay period to each such employee and the hours (~~(or days))~~ worked.

(2) Every employer shall make the record described in subsection (1) available to the employee, upon request, at any reasonable time.

(3) Every employer shall, upon written request by the employee, furnish within ten working days of the request to each employee who is discharged a signed written statement, setting forth the reasons for such discharge and the effective date thereof.

WSR 89-22-017

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed October 24, 1989, 2:55 p.m.]

Original Notice.

Title of Rule: WAC 251-01-415 Temporary appointment; 251-04-040 Exemptions; 251-12-600 Remedial action; and 251-19-120 Appointment—Temporary.

Purpose: To amend recently adopted temporary rules which become effective October 1, 1989, to clarify how persons hired prior to October 1, 1989, are to be affected by the new rules when they become effective.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: RCW 28B.16.040(2) and 70.24.300.

Summary: Rule modification specifies how to administer new temporary employee rules as they affect current temporary employees.

Reasons Supporting Proposal: To specify the original hire date of all current temporary employees to facilitate administration of new rules; to minimize potential terminations and remedial actions due to application of rules adopted June 1, 1989, effective October 1, 1989.

Name of Agency Personnel Responsible for Drafting: Bill Gunther, 1202 Black Lake Boulevard, FT-11, Olympia, 98504, 753-0380; Implementation and Enforcement: John Spitz, 1202 Black Lake Boulevard, FT-11, Olympia, 98504, 753-3730.

Name of Proponent: Higher Education Personnel Board staff, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Treats current temporary employees like temporary employees hired on October 1, 1989. Facilitates implementation of rules adopted on June 1, 1989, effective October 1, 1989. Facilitates transition from old to new rules.

Proposal Changes the Following Existing Rules: Clarifies how current temporary employees are to be affected by rules which become effective October 1, 1989.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: President's Board Room, South Seattle Community College, Seattle, Washington, on December 7, 1989, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by December 7, 1989.

Date of Intended Adoption: December 7, 1989.

October 12, 1989

John A. Spitz

Director

AMENDATORY SECTION (Amending Order 179, filed 6/21/89, effective 10/1/89)

WAC 251-01-415 TEMPORARY APPOINTMENT. (1) Work performed in the absence of an employee on leave for more than six consecutive months in accordance with WAC 251-19-120(2); or

(2) Performance of work which does not exceed one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, in accordance with WAC 251-04-040(5); or

(3) Formal assignment of the duties and responsibilities of a higher level class for a period of less than six consecutive months.

AMENDATORY SECTION (Amending Order 179, filed 6/21/89, effective 10/1/89)

WAC 251-04-040 EXEMPTIONS. The following classifications, positions, and employees of higher education institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Students employed by the institution at which they are enrolled (or related board) and who either:

(a) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not:

(i) Take the place of a classified employee laid off due to lack of funds or lack of work; or

(ii) Fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(b) Provided further that the hour limitation shall not apply to student employees who were hired before July 20, 1984, with an understanding of working more than the stated number of hours monthly, and also with an understanding of such employment continuing for the duration of their education. However, this exception shall apply only to students who are continuously enrolled and shall not extend beyond September 1, 1988. Students covered by this exception shall be identified to the director;

(c) Are employed in a position directly related to their major field of study to provide training opportunity; or

(d) Are elected or appointed to a student body office or student organization position such as student officers or student news staff members.

(3) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(4) Students employed through the state or federal work/study programs.

(5) Persons employed to work one thousand fifty hours or less in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later. Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the number of hours worked exceeds one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, exclusive of overtime or work time as described in subsection (2) of this section.

(6) Part-time professional consultants retained on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed on an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

(7) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(8) The personnel director of the higher education personnel board and his confidential secretary.

(9) The governing board of each institution/related board may also exempt from this chapter, subject to the employee's right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: **PROVIDED**, That no nonacademic employee engaged in office, clerical, maintenance, or food and trades services may be exempted by the higher education personnel board under this provision.

(10) Any employee who believes that any classification should or should not be exempt, or any employee because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080, et seq.

(11) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment.

(12) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-19-160.

AMENDATORY SECTION (Amending Order 179, filed 6/21/89, effective 10/1/89)

WAC 251-12-600 REMEDIAL ACTION. (1) The director may take remedial action when it is determined that the following conditions exist.

(a) The hiring institution has made an appointment that does not comply with higher education personnel board rules.

(b) The employee has worked in one or more positions for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or October 1, 1989, whichever is later. (These hours do not include overtime or work time as described in WAC 251-04-040(2).)

(c) The position or positions are subject to civil service.

(d) The employee has not taken part in any willful failure to comply with these rules.

(2) Remedial action includes the power to confer permanent status, set salary, establish seniority, and determine benefits accrued from the seniority date. Remedial action also includes other actions the director may require to meet the highest personnel standards.

(3) If the institution has complied with WAC 251-19-122, the employee must:

(a) Submit any request for remedial action in writing; and

(b) File the request within thirty calendar days after the effective date of the alleged violation of the conditions of employment which are to be specified in the written notification of temporary appointment.

(4) The director's order for remedial action shall be final and binding unless exceptions are filed with the board within thirty calendar days of the date of service of the order. Exceptions must state the specific items of the order to which exception is taken. The board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.

AMENDATORY SECTION (Amending Order 179, filed 6/21/89, effective 10/1/89)

WAC 251-19-120 APPOINTMENT—TEMPORARY. (1) Temporary appointment may be made only to meet employment conditions set forth in the definition of "temporary appointment" in WAC 251-01-415.

(2) Temporary appointment to perform work in the absence of an employee on leave for more than six consecutive months shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept such temporary appointment. Employees appointed to classified positions in accordance with this subsection are covered by chapter 28B.16 RCW and Title 251 WAC. Temporary appointment made in accordance with this subsection is not limited to the one thousand fifty hours in any twelve consecutive month period from the original date of hire limitation, or October 1, 1989, whichever is later, identified in WAC 251-01-415(2) and 251-12-600.

(3) The employing official may temporarily assign a classified employee the duties and responsibilities of a higher-level class for a period of less than six consecutive months. The salary shall be determined per WAC 251-08-110.

(4) Temporary appointment to positions identified in the definition of "temporary appointment" in WAC 251-01-415 (2) and (3) may be made without regard to the rules governing appointment.

(5) A permanent classified employee accepting temporary appointment to a position identified in the definition of "temporary appointment" in WAC 251-01-415 (1)(a), (2), and (3), shall retain and continue to receive all rights and benefits provided by these rules for the duration of the temporary appointment.

(6) At the conclusion of a temporary appointment made in accordance with these rules, a permanent employee shall have the right to revert to his/her former position or to an equivalent position.

(7) Each institution shall develop for director approval a procedure which indicates its system for controlling and monitoring exempt positions as identified in RCW 28B.16.040(2).

(8) An institution may petition the director in writing for approval of exceptions to these requirements. The director will annually review the appropriateness of exceptions granted and advise the board.

(9) No temporary appointment shall take the place of employees laid off due to lack of work or lack of funds.

WSR 89-22-018**PERMANENT RULES****HIGHER EDUCATION PERSONNEL BOARD**

[Filed October 24, 1989, 2:58 p.m.]

Date of Adoption: October 5, 1989.

Purpose: Provides for leave for military training.

Citation of Existing Rules Affected by this Order:
Amending WAC 251-22-170.

Statutory Authority for Adoption: RCW 28B.16.100.

Other Authority: RCW 38.40.060.

Pursuant to notice filed as WSR 89-17-118 on August 23, 1989.

Effective Date of Rule: December 1, 1989.

October 12, 1989

John A. Spitz

Director

AMENDATORY SECTION (Amending Order 161, filed 9/30/87)

WAC 251-22-170 MILITARY TRAINING LEAVE. (1) Employees shall be entitled to leave with pay not to exceed fifteen working days in any one calendar year for active duty in the National Guard; Army, Air, Marine, or Naval Reserve forces of the United States for annual field training or otherwise discharging reserve obligations.

(2) Such leave shall be in addition to any vacation leave to which an employee is entitled and shall not result in any loss of benefits, privileges or pay.

(3) During military training leave, the employee shall receive the normal base pay.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service shall receive full pay for the time required to complete the examination.

WSR 89-22-019**PERMANENT RULES****HIGHER EDUCATION PERSONNEL BOARD**

[Filed October 24, 1989, 3:00 p.m.]

Date of Adoption: October 5, 1989.

Purpose: To provide for establishment of an annual leave sharing program for state employees as specified in ESSB 5933.

Statutory Authority for Adoption: RCW 28B.16.100 and chapter 41.04 RCW.

Pursuant to notice filed as WSR 89-17-119 on August 23, 1989.

Changes Other than Editing from Proposed to Adopted Version: WAC 251-22-260(4), deleted "and all overpayments" and replaced with "excess moneys received." Change was suggested by senate committee staff to reflect a more positive tone.

Effective Date of Rule: December 1, 1989.

October 19, 1989

John A. Spitz

Director

NEW SECTION

WAC 251-22-250 SHARED LEAVE. The purpose of the Washington state leave sharing program is to permit state employees, at no significantly increased cost to the state of providing annual leave, to come to the aid of another state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. For purposes of the Washington state leave sharing program, the following definitions apply:

(1) "Employee's relative" normally shall be limited to the employee's spouse, child, stepchild, grandchild, grandparent, or parent.

(2) "Household members" is defined as persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.

(3) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

NEW SECTION

WAC 251-22-260 SHARED LEAVE RECEIPT. An employee may be eligible to receive shared leave if the employee's agency/institution head has determined the employee meets the following criteria:

(1) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused or is likely to cause the employee to go on leave without pay status or terminate state employment; and

(2) The employee has depleted or will shortly deplete his or her annual and sick leave reserves; and

(3) The employee's absence and the use of shared leave are justified; and

(4) The employee is not eligible for time loss compensation under chapter 51.32 RCW. If a time loss claim is approved at a later time, all leave received shall be returned to the donors, and the employee will return any excess moneys received to the agency/institution. The employee is required to file a workers' compensation claim only in the event he or she is requesting shared leave due to a condition caused by an industrial injury or occupational disease; and

(5) The employee has abided by agency/institution policy regarding the use of sick leave.

NEW SECTION

WAC 251-22-270 SHARED LEAVE USE. (1) The agency/institution head shall determine the amount of leave, if any, which an employee may receive under these rules. However, an employee shall not receive more than two hundred sixty-one days of shared leave.

(2) The agency/institution head shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the employee's required absence, the description of the medical problem, and expected date of return-to-work status.

(3) The agency/institution head should consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time or special assignments in lieu of shared leave usage per WAC 251-10-070, 251-10-080, 251-10-090, 251-17-090, 251-18-180, 251-19-100, 251-19-105, and 251-24-030.

(4) Leave transferred under these rules may be transferred from employees of one agency/institution to an employee of the same agency/institution or, with the approval of the heads of both agencies/institutions, to an employee of another state agency/institution.

(5) Annual leave transferred under these rules shall be used solely for the purpose stated in WAC 251-22-250.

(6) The receiving employee shall be paid his/her regular rate of pay; therefore, the value of one hour of shared leave may cover more or less than one hour of the recipient's salary.

NEW SECTION

WAC 251-22-280 ANNUAL LEAVE DONATION. An employee may donate annual leave to another employee for purposes of the Washington state leave sharing program under the following conditions:

(1) The employee's agency/institution head approves the employee's request to donate a specified amount of annual leave to an employee authorized to receive shared leave; and

(2) The employee's request to donate leave will not cause his/her annual leave balance to fall below ten days; and

(3) Employees may not donate excess vacation leave that they would not be able to take due to an approaching anniversary date; and

(4) No employee may be intimidated, threatened, or coerced into donating leave for purposes of this program.

NEW SECTION

WAC 251-22-290 SHARED LEAVE ADMINISTRATION. (1) The calculation of the recipient's leave value shall be in accordance with applicable office of financial management policies, regulations, and procedures. The leave received will be coded as shared leave and be maintained separately from all other leave balances. All compensatory time, sick leave, and annual leave accrued must be used prior to using shared leave.

(2) An employee on leave transferred under these rules shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(3) All salary and wage payments made to employees while on leave transferred under these rules shall be made by the agency/institution employing the person receiving the leave.

(4) Where agency/institution heads have approved the transfer of leave by an employee of one agency/institution to an employee of another agency/institution, the agencies/institutions involved shall arrange for the transfer of funds and credit for the appropriate value of leave in accordance with office of financial management policies, regulations, and procedures.

(5) Leave transferred under this section shall not be used in any calculation to determine an agency's/institution's allocation of full-time equivalent staff positions.

(6) Any shared leave not used by the recipient shall be returned to the donor(s).

The remaining shared leave is to be divided on a pro rata basis among the donors and reinstated to the respective donors' annual leave balances based upon each employee's current salary rate at the time of the reversion.

(7) Unused shared leave may not be cashed out under WAC 251-22-090 but shall be returned to the donors per subsection (6) of this section.

NEW SECTION

WAC 251-22-300 SHARED LEAVE RECORDS. Agency/institution heads shall maintain the following

records pertaining to the Washington state shared leave program:

- (1) Number of requests received.
- (2) Number of requests granted.
- (3) Nature of request.
- (4) Additional cost to the agency/institution of allowing participation in the shared leave program.
- (5) Amount of leave transferred.
- (6) Value of leave transferred.
- (7) Date leave was transferred.

WSR 89-22-020

PERMANENT RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed October 24, 1989, 3:03 p.m.]

Date of Adoption: October 5, 1989.

Purpose: To specify the provision and implementation of hearings before the Higher Education Personnel Board. Chapter 34.05 RCW requires the Higher Education Personnel Board to review and adopt as many of the model rules of procedure as is reasonable under its circumstances and to readopt those appropriate Higher Education Personnel Board rules of procedure that differ from the model rules.

The Higher Education Personnel Board has reviewed the model rules of procedure which are required by RCW 34.05.250 and has compared them with its own rules of procedure which are promulgated in Title 251 WAC. The Higher Education Personnel Board was recognized by the legislature in the new APA as an agency with hearing procedures uniquely adapted to the constituency it was designed to serve. Labor and management are familiar and comfortable with the procedures currently in place. This factor was an important consideration in the determination of which of the model rules to adopt or adapt to the Higher Education Personnel Board system. The portions of the model rules which are adopted are in accord with Higher Education Personnel Board system needs and also serve to codify procedures which are currently being practiced in Higher Education Personnel Board hearings.

Be it resolved that the Higher Education Personnel Board, which is exempt from the adjudicative hearings portion of the new Administrative Procedure Act, has chosen to adopt, modify or reject each respective model rule for the following reasons: WAC 10-08-001, reject, not applicable because chapter 10-08 WAC is not being adopted in its entirety; WAC 10-08-035, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-040, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-045, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d). Will be reconsidered if future circumstances render it appropriate; WAC 10-08-050, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d) and from chapter 34.12 RCW, per RCW 34.12.020(4); WAC 10-08-080,

reject, already prescribed in WAC 251-04-100. The existing rule better serves the system; WAC 10-08-090, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-110, reject, already prescribed in WAC 251-04-105 and 251-04-110. The existing rule better serves this system; WAC 10-08-120, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-130, adopted in part as WAC 251-12-232; WAC 10-08-140, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-150, reject, already adhere to chapter 2.42 RCW, which prescribes the use of interpreters. The rule varies from the statute; WAC 10-08-160, adopted in part as WAC 251-12-100(2) (as amended); WAC 10-08-170, reject, already prescribed in WAC 251-12-100(3). The existing rule better serves the system; WAC 10-08-180, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d) and [34.05].431; WAC 10-08-190, adopted in part as WAC 251-12-100(1) (as amended); WAC 10-08-200, adopted in part as WAC 251-12-085(1) (as amended); WAC 10-08-210, reject, already prescribed in WAC 251-12-250. The existing rule better serves the system; WAC 10-08-211, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-215, reject, exempt from adjudicative proceeding provision of chapter 34.05 RCW, per RCW 34.05.030 (2)(d); WAC 10-08-220, reject, not applicable because chapter 10-08 WAC is not being adopted in its entirety; WAC 10-08-230, adopted in part as WAC 251-12-231; WAC 10-08-250, reject, already prescribed in WAC 251-12-097. The existing rule better serves the system; WAC 10-08-251, reject, already prescribed in WAC 251-12-096. The existing rule better serves the system; and WAC 10-08-252, reject, already prescribed in WAC 251-12-096. The existing rule better serves the system.

Citation of Existing Rules Affected by this Order: New WAC 251-12-231 and 251-12-232; readopting WAC 251-04-105, 251-04-110, 251-12-073, 251-12-075, 251-12-076, 251-12-080, 251-12-090, 251-12-096, 251-12-097, 251-12-101, 251-12-102, 251-12-170, 251-12-180, 251-12-190, 251-12-200, 251-12-210 and 251-12-250; and amending WAC 251-12-085 and 251-12-100.

Statutory Authority for Adoption: RCW 28B.16.100.

Other Authority: RCW 34.05.220 and [34.05.]250.

Pursuant to notice filed as WSR 89-17-120 on August 23, 1989.

Effective Date of Rule: December 1, 1989.

October 12, 1989

John A. Spitz

Director

AMENDATORY SECTION (Amending Order 161, filed 9/30/87)

WAC 251-12-085 HEARING EXAMINERS. (1) The board may appoint one or more hearing examiners to preside over, conduct and make recommended decisions in all cases of employee appeals to the board. The

hearing examiner shall conduct hearings in the same manner and shall have the same authority as the presiding board member at hearings before the board. The hearing examiner shall also have the authority to do the following:

- (a) Determine the order of presentation of evidence;
- (b) Administer oaths and affirmations;
- (c) Issue subpoenas;
- (d) Rule on procedural matters, objections, and motions;
- (e) Rule on offers of proof and receive relevant evidence;
- (f) Take any appropriate action necessary to maintain order during the hearing;
- (g) Permit or require oral argument or briefs and determine the time limits for submission thereof; and
- (h) Take any other action necessary and authorized by any applicable statute or rule.

(2) With the exclusion of WAC 251-12-076, within thirty calendar days of the hearing, the hearing examiner shall issue a recommended decision which shall be transmitted to the board and be served upon the parties by certified mail with a statement regarding the right to file exceptions to the recommended decision.

(3) Within thirty calendar days of service of the recommended decision, any party adversely affected may file written exceptions with the board.

(4) If no written exceptions are filed, the hearing examiner's recommended decision will become final forty calendar days after service of the recommended decision unless within that period the board issues a notice to each of the parties that a hearing will be scheduled for reconsideration of the hearing examiner's recommended decision.

(5) When exceptions are filed, such written statements shall include in detail the specific items of the hearing examiner's recommended decision to which exception is taken. A hearing on the exceptions will be scheduled before the board at which time all parties may present written and/or oral argument on the basis of the transcript and exhibits. Following the hearing on the exceptions the board may affirm, reverse, or modify the recommended findings of fact, conclusions of law and/or decision of the hearing examiner.

AMENDATORY SECTION (Amending Order 105, filed 4/29/83, effective 6/1/83)

WAC 251-12-100 HEARINGS BEFORE THE BOARD. (1) Hearings shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the employee so requests. On motion of a party or on the hearing examiner's own motion, witnesses may be excluded from any hearing except when testifying. Photographic and recording equipment may be permitted; however, the hearing examiner may impose such conditions upon their use as he or she deems necessary to prevent disruption of the hearing. Hearings shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law.

(2) Both parties shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses and give evidence before the board. Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board according to the provisions of RCW 5.28.020 through 5.28.060. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court.

(3) The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails.

NEW SECTION

WAC 251-12-231 INFORMAL SETTLEMENTS. (1) If settlement of an appeal may be accomplished by informal negotiation, negotiations shall be commenced at the earliest possible stage of the proceeding. Settlement shall be concluded by one of the following:

- (a) Stipulation of the parties;
 - (b) Withdrawal by the appellant of his or her appeal;
- or
- (c) Withdrawal by the institution of the action which is the subject matter of the appeal.

(2) Settlement negotiations shall be informal and without prejudice to the rights of a participant in the negotiations; provided, however, that any time limit applicable to filing an appeal shall not be extended because settlement attempts are pending.

NEW SECTION

WAC 251-12-232 PREHEARING CONFERENCE. (1) The hearing examiner may direct the parties or their representatives to engage in an off-the-record prehearing conference or conferences to consider the following:

- (a) Simplification of issues;
- (b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (c) Procedural matters; and
- (d) Such other matters as may aid in the disposition or settlement of the proceeding.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the hearing examiner.

(3) The hearing examiner may, at his or her discretion, conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this section.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-04-105 METHOD AND COMPLETION OF SERVICE. Service of papers shall be made either personally or by registered or certified mail, unless otherwise provided by law. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail, upon deposit in the United States mail properly stamped and addressed to the last known address on file with the institution.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-04-110 FILING WITH BOARD. Papers required to be filed with the board shall not be deemed filed until actual receipt of the papers by the board at its headquarters in Olympia, Washington. All papers shall be filed at the office of the director, where the date of receipt shall be recorded on such papers.

READOPTED SECTION (Readopting Order 134, filed 7/31/85, effective 9/1/85)

WAC 251-12-073 APPEALS FROM EXEMPT STATUS. As indicated in WAC 251-04-040(11), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080.

READOPTED SECTION (Readopting Order 176, filed 3/23/89, effective 5/1/89)

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 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.

READOPTED SECTION (Readopting Order 161, filed 9/30/87)

WAC 251-12-076 APPEALS FROM DENIAL OF PARENTAL LEAVE REQUESTS. Any permanent employee who is denied parental leave per WAC 251-22-195 may appeal such action to the board. The appeal must be in writing and submitted to the higher education personnel board office within seven calendar days following receipt by the employee of the personnel officer's written notification and rationale for denial. Appeals under this section will be heard by a board hearing examiner and a verbal decision will be rendered within forty-eight hours of the hearing, with a written decision to follow within thirty days. The hearing examiner's determination shall be final and binding.

READOPTED SECTION (Readopting Order 119, filed 7/31/84)

WAC 251-12-080 APPEALS FROM DEMOTION, SUSPENSION, LAYOFF, REDUCTION IN SALARY, SEPARATION, DISMISSAL. Any permanent employee who is demoted, suspended, laid off, reduced in salary, separated or dismissed, may appeal such action. Appeals must be in writing and must be filed in the office of the director within thirty calendar days after the effective date of the action appealed.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-090 APPEALS RECEIPT—PROCEDURE. The director shall forward the written notice of appeal to the board or hearing examiner and the institution concerned and shall aid in arranging an appeal hearing as soon as possible. The hearing shall be conducted within thirty calendar days after receipt of the appeal by the director.

READOPTED SECTION (Readopting Order 177, filed 6/6/89)

WAC 251-12-096 DECLARATORY ORDERS. As provided in RCW 34.05.240, any person may petition the board for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the higher education personnel board. For purposes of this section, the term person includes natural persons, employee organizations, institutions of higher education, and related boards.

(1) The petition shall be in writing, in accordance with WAC 251-12-097, and filed at the higher education personnel board office in Olympia. The petition shall set forth the facts and reasons on which the petitioner relies to show:

- (a) That uncertainty necessitating resolution exists;
- (b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion;
- (c) That the uncertainty adversely affects the petitioner;
- (d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested.

(2) Upon receipt of a petition for declaratory ruling, the director or designee will acknowledge receipt of the petition and forward the petition to the board for consideration.

(3) Within fifteen days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person it deems desirable.

(4) The board shall consider the petition without argument and within thirty days of receipt of the petition will:

- (a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances as stated in the petition; or
- (b) Set a reasonable time and place for a hearing to be held no more than ninety days after receipt of the petition, including submission of evidence by the parties if deemed necessary by the board, or submission of written argument upon the matter if the material facts are not in dispute. Reasonable notification will be given to the petitioner and other persons who have been given notice of the petition pursuant to subsection (3) of this section of the time and place for such hearing or submission and of the issues it will be considering; or
- (c) Set a specified time no more than ninety days after receipt of the petition by which it will enter a declaratory order; or
- (d) Decline to enter a declaratory order, stating the reasons for its action.

(5) The board may extend the time limits of subsection (4)(b) and (c) of this section for good cause.

(6) Normally, the board will not issue a declaratory order on any matter that is or could have been the subject of any other proceeding before the board.

(7) The board at any time before taking final action on a petition may request submission of additional facts or argument, including setting the case for oral argument.

(8) If the board proceeds in the manner provided in subsection (4)(b) of this section, it shall within a reasonable time after conclusion of the proceeding:

- (a) Issue a declaratory order; or
- (b) Notify the petitioner and any other party to the proceeding that no declaratory order will be issued and stating the reason for such action.

(9) The board may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

(10) A declaratory order has the same status as any other order entered in a higher education personnel board proceeding adjudicated under WAC 251-12-080. Each declaratory order shall contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

READOPTED SECTION (Readopting Order 177, filed 6/6/89)

WAC 251-12-097 DECLARATORY ORDERS—FORM. Any interested person petitioning the higher education personnel board for a declaratory order pursuant to WAC 251-12-096 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "BEFORE THE HIGHER EDUCATION PERSONNEL BOARD." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of the Petition of (Name of Petitioning Party) for a Declaratory Order." Opposite the foregoing caption shall appear the phrase: "Petition for Declaratory Order."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and the name and address, if any, of the representative appearing on behalf of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set forth all of the facts which the petitioner wishes the board to consider in issuing a declaratory order. The concluding paragraph(s) shall clearly set forth the issues which the petitioner wishes the board to address in its order and the requested order.

The original and two copies shall be filed with the petition. Petitions shall be on 8-1/2 x 11 inch paper.

Examples of a form petition for declaratory ruling shall be available for reference to any interested person in the office of the higher education personnel board in Olympia.

READOPTED SECTION (Readopting Order 174, filed 11/1/88)

WAC 251-12-101 MOTION(S) FOR CONTINUANCE. Any party to a hearing may make a motion(s) to continue a hearing for good cause shown. Any such motion(s) shall be in writing directed to the person(s) who will be conducting the hearing. The motion(s) shall state the specific reason(s) and the period of time for which a continuance is necessary.

READOPTED SECTION (Readopting Order 174, filed 11/1/88)

WAC 251-12-102 MOTION FOR CONTINUANCE—PROCEDURE. Any party desiring a continuance shall first contact the opposing party to determine

whether agreement to a continuance can be reached. The requesting party will immediately notify the board or hearing examiner orally of the request, the reason(s) for the request, and the opposing party's response to the request.

(1) If the opposing party agrees to a continuance, the requesting party shall submit the motion in writing. The motion shall be filed with the director and served on the board or hearing examiner and the opposing party at least five working days prior to the scheduled hearing date. When the requesting party is represented by a union representative, a management representative, or an attorney at law, the requesting party's representative shall be responsible for coordinating a hearing date with the other parties. The board or hearing examiner shall review the motion, make a decision whether or not to grant the continuance, and notify the parties orally of the decision within three working days of receipt of the motion.

(2) If the opposing party does not agree to the continuance, the requesting party shall submit the motion in writing. The motion shall be filed with the director and served on the board or hearing examiner and served on the opposing party at least five working days prior to the scheduled hearing date. The board or hearing examiner shall review the motion, make a decision whether or not to grant the continuance, and notify the parties orally of the decision within three working days of receipt of the motion.

(3) In unusual circumstances, and only where the reason(s) for the continuance could not have been foreseen, a motion for continuance may be made when the party seeking the continuance becomes aware of the facts upon which the request for continuance is based. The following will apply:

(a) The requesting party shall notify the other party of the desire for a continuance and obtain the other party's response.

(b) The requesting party shall notify the board or hearing examiner orally of the request, the reason(s) for the request, and the opposing party's response to the request.

(c) The board or hearing examiner shall review the request, make a decision whether or not to grant the continuance, and notify the parties orally of the decision within three working days of receipt of the motion.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-170 SUBPOENAS—FORM. Every subpoena shall name the 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 records under his/her control at a specified time and place, and shall as nearly as practicable follow the form required in superior court.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-180 SUBPOENAS—ISSUANCE TO PARTIES. Subpoenas may be issued by any member of the board, the director, or the hearing examiner before whom the appeal is to be heard, or by the attorney of record of the party to the hearing in whose behalf the witness is required to appear, and shall be subscribed by the signature of the issuing person. Parties desiring subpoenas which are to be signed by members of the board or the director shall prepare them for issuance, send them to the board's office for signature, and upon return shall make arrangements for service. The service of all subpoenas shall be at the expense of the party requiring the witness to appear. In order to insure return to the requesting party in time for service, it is recommended that all subpoenas be submitted at least five calendar days prior to the hearing.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-190 SUBPOENAS—SERVICE OF SUBPOENA. Service of subpoena shall be made by delivering a copy of the subpoena a reasonable period ahead of time to such person and by tendering, on demand, the fees for one day's attendance and the mileage allowed by law.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-200 SUBPOENAS—WITNESS FEES. Witnesses summoned before the board shall be paid the same fees and mileage paid to witnesses in the superior court of the state of Washington by the party at whose instance they appear. The board shall be responsible only for paying the witness fees of witnesses subpoenaed by it.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-210 SUBPOENAS—PROOF OF SERVICE. The person serving the subpoena shall make proof of service by filing the original subpoena. If such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

READOPTED SECTION (Readopting Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-12-250 FINDINGS OF FACT—CONCLUSIONS OF LAW—FILING PROCEDURE. Within thirty calendar days after the conclusion of the appeal hearing, the board shall make and fully record in its permanent records, findings of fact, conclusions of law, and its order based thereon, which shall be final subject to action by the court on appeal as hereinafter provided; at the same time a copy of the findings, conclusions and order shall be sent by registered mail to the

employing institution and to the employee at his/her address as given at the hearing or to his/her counsel of record.

WSR 89-22-021
PREPROPOSAL COMMENTS
DEPARTMENT OF TRANSPORTATION
[Filed October 25, 1989, 1:14 p.m.]

Subject of Possible Rule Making: Administrative review of the following rules: Chapter 468-66 WAC, Highway Advertising Control Act; chapter 468-70 WAC, Motorist information signs; chapter 468-74 WAC, Junkyard adjacent to highways; and chapter 468-95 WAC, Manual on uniform traffic control devices for streets and highways.

Persons may Comment on this Subject in the Following Ways: Written submissions will be accepted through January 5, 1990. Verbal comments may be presented at the administrative review hearing. Submit written comments to Department of Transportation, Room 3A26, Transportation Building, Olympia, Washington 98504. The hearing will be on January 12, 1990, at 10:00 a.m. in the Commission Board Room, Transportation Building, Olympia, Washington 98504.

October 25, 1989
Ed W. Ferguson
Deputy Secretary

WSR 89-22-022
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—October 20, 1989]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of University of Washington Medical Center.

Medical Center Board Planning Committee

CANCEL RESCHEDULE
October 18 Friday, November 3
12-2:00 p.m. 7:30-9:30 a.m.
Room B Plaza Cafe Room B

CANCEL NEXT MEETING
November 15 Wednesday, December 20
12-2:00 p.m. 12-2:00 p.m.
Room B Plaza Cafe Room B

If you have a conflict with the meeting schedule, please call 548-6364.

Joint Conference Committee

CANCEL
7:30-9:00 a.m. in Plaza Cafe Room B
October 11
November 8
December 13

RESCHEDULE
12 Noon-2:00 p.m. in Plaza Cafe Room B
October 17
November 21
December 19

WSR 89-22-023
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—October 20, 1989]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Social Work.

Future dates for Curriculum Committee meetings are:

Thursday November 9, 1989 8:30 a.m. Room 210F
Thursday November 30, 1989 8:30 a.m. Room 210F
Thursday December 14, 1989 8:30 a.m. Room 210F

All other meetings of policy-setting bodies within the School of Social Work (faculty meetings and Ph.D. steering committee meetings) scheduled during 1989, remain as initially scheduled and published.

The faculty council was dissolved at the end of Spring Quarter 1989. Its functions were merged with those of the faculty personnel committee, which, because of its confidential personnel content, does not conduct public meetings. A new body, the School of Social Work executive committee, is being instituted during Autumn Quarter 1989; but it, because of its confidential personnel content, also does is not a [does not conduct] public meeting[s].

WSR 89-22-024
ATTORNEY GENERAL OPINION
Cite as: AGO 1989 No. 19
[October 23, 1989]

FIREARMS - LAW ENFORCEMENT - STATE PATROL - SHERIFF - CITIES AND TOWNS - AUCTION OF FIREARMS

In order to comply with the auction requirements of RCW 9.41.098, a law enforcement agency must conduct its initial auction of firearms within one year after accumulating ten "forfeited" firearms as defined in the statute, excluding any firearms which the agency is legally entitled to retain for its own use; agencies which have not accumulated ten "forfeited" firearms may use their own discretion in deciding when to conduct an auction.

Requested by:

Honorable Marlin Appelwick
State Representative, 46th District
335 House Office Building
Olympia, WA 98504

WSR 89-22-025
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—October 23, 1989]

The Washington State Human Rights Commission will hold its next regular commission meeting in Olympia. The meeting on November 15 will be held at the Evergreen Plaza Building, Second Floor Conference Room, 711 South Capitol Way, Olympia, beginning at 7:00 p.m. and will be a training, planning and work session. The regular business meeting will be held at the General Administration Building, Second Floor, Room 214, 210 11th Street, Olympia, beginning at 9:30 a.m. on November 16, 1989.

WSR 89-22-026
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 89-129—Filed October 26, 1989, 10:17 a.m.]

Date of Adoption: October 24, 1989.
 Purpose: Commercial fishing regulations.
 Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-36-02100F.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There are 8500 chum salmon available for harvest in the Grays Harbor quota. The season has been moved ahead one day because of concerns that weather will impede the ability to harvest as originally scheduled.

Effective Date of Rule: 6:00 p.m., October 26, 1989.
 October 24, 1989
 Joseph R. Blum
 Director

NEW SECTION

WAC 220-36-02100G GRAYS HARBOR GILL NET SEASON Notwithstanding the provisions of WAC 220-36-021, and WAC 220-36-031, effective 6 PM October 26, 1989 until further notice, it is unlawful to fish for, or possess salmon and sturgeon taken for commercial purposes from any Grays Harbor Salmon Management and Catch Reporting Areas except as provided for in this section:

Open to gill net gear:
 6 PM October 26 to 6 PM October 27 in SMCRA 2B
 6 PM October 30 to 6 PM October 31 in SMRCA 2B
 Gill net gear shall be used as provided for in WAC 220-36-015

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-36-02100F GRAYS HARBOR GILL NET SEASON. (89-111)

WSR 89-22-027
EMERGENCY RULES
DEPARTMENT OF LABOR AND INDUSTRIES
 [Order 89-10—Filed October 26, 1989, 11:31 a.m.]

Date of Adoption: October 26, 1989.

Purpose: To ensure a healthful and safe workplace for all employees in Washington state. State-initiated changes to comply with Washington State SSB 5681 which amends chapter 49.26 RCW relating to asbestos projects, to correct terminology and to make new legislative requirements available in WAC standards for enforcement.

Citation of Existing Rules Affected by this Order:
 Amending WAC 296-62-07703, 296-62-07707, 296-62-07712, 296-62-07721, 296-62-07753, 296-65-001, 296-65-003, 296-65-005, 296-65-010, 296-65-015, 296-65-020, 296-65-025 and 296-65-030.

Statutory Authority for Adoption: Chapters 34.04 [34.05] and 49.17 RCW and chapter 1-21 WAC.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These amendments are being adopted to comply with 1989 Washington State SSB 5681. Emergency adoption is necessary to provide immediate safety and health protection to the worker in Washington state.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: These rules were initially adopted emergency on July 1, 1989, and effective for 120 days (October 28, 1989). The rules were subsequently taken to public hearing on August 10, 1989, permanently adopted on October 10, 1989, and effective November 24, 1989. This emergency adoption is being filed to cover the period October 28, 1989, through November 24, 1989.

Effective Date of Rule: Immediately.

October 26, 1989
 Joseph A. Dear
 Director

Reviser's note: The material contained in this filing will appear in the 89-23 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-22-028
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION

[Filed October 26, 1989, 1:32 p.m.]

Date of Adoption: October 13, 1989.

Purpose: Chapter 468-320 WAC, Determination of bonding amounts required for ferry systems vessel contracts.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: Chapter 58, Laws of 1989.

Pursuant to notice filed as WSR 89-18-087 on September 6, 1989.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Sections 2 and 3, chapter 58, Laws of 1989, chapter 39-08 RCW.

Effective Date of Rule: Thirty days after filing.

October 13, 1989

Ed W. Ferguson

Deputy Secretary

Chapter 468-320 WAC
WASHINGTON STATE FERRY VESSEL CONSTRUCTION, MAINTENANCE AND REPAIR CONTRACTS—ALTERNATE FORMS OF SECURITY AND DETERMINATION OF BONDING AMOUNT REQUIRED

- WAC
- 468-320-010 Marine contract security—General requirements.
- 468-320-020 State's exposure to loss.
- 468-320-030 Calculation of state's exposure to loss.
- 468-320-040 Alternate forms of security.
- 468-320-050 Specific requirements for alternate forms of security.
- 468-320-060 Warranty coverage.
- 468-320-070 Replacement bond option.
- 468-320-080 Prohibition of double security.
- 468-320-090 Delivery of alternate security to the state.
- 468-320-100 Delegation of authority.

NEW SECTION

WAC 468-320-010 MARINE CONTRACT SECURITY—GENERAL REQUIREMENTS. (1) As required by chapter 58, Laws of 1989, the bond and/or alternate form(s) of security for a contract for construction, maintenance or repair of a marine vessel by the Washington state department of transportation (hereafter "contract"), shall be in an amount adequate to protect one hundred percent of the state's exposure to loss on such contract. The contractor shall provide either:

(a) An executed contract bond, as described in RCW 39.08.010, in the amount of one hundred percent of the state's exposure to loss and in the form required in the bid specifications; or

(b) A combination of security, totaling one hundred percent of the state's exposure to loss, consisting of:

(i) An executed payment bond in the amount of the state's payment exposure (see WAC 468-320-030) as stated in the bid specifications, which is adequate to fully protect the state against claims for work done by laborers, mechanics, subcontractors, materialmen and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, when such persons have not been paid by the contractor, and the state has paid for such work; and

(ii) An executed contract bond and/or alternate form(s) of security totaling one hundred percent of the state's performance exposure (see WAC 468-320-030) as provided herein; or

(c) An executed contract bond and/or alternate form(s) of security totaling one hundred percent of the state's performance exposure, if the state, in performing the analysis described in WAC 468-320-030, determines that contract payment procedures completely eliminate its payment exposure (see WAC 468-320-030), and the state so provides in the bid specifications.

(2) Subject to the warranty coverage requirements of WAC 468-320-060 and 468-320-070, such bond and/or alternate form(s) of security shall remain in effect from the date of contract execution until the state has accepted the contract work, the lien claim period has passed, any liens filed under chapter 60.28 RCW have been settled, and all releases from other state of Washington agencies have been received.

NEW SECTION

WAC 468-320-020 STATE'S EXPOSURE TO LOSS. The state's exposure to loss in such a contract is equal to the amount calculated in the written loss evaluation process described in WAC 468-320-030.

NEW SECTION

WAC 468-320-030 CALCULATION OF STATE'S EXPOSURE TO LOSS. (1) For each contract, a written loss evaluation will be conducted by the project design team during the estimating phase of plan preparation. This evaluation will determine the amount of the state's exposure to loss broken down into performance exposure (subsection (2)(a) through (f) of this section) and payment exposure, if any (subsection (2)(g), (h), and (i) of this section). These amounts will be included in the bid specifications. The amount of the state's exposure to loss will be expressed in terms of a dollar amount or a percentage of the contract amount. After bid opening, copies of the written evaluation will be made available upon request.

(2) The evaluation will include consideration of all potential costs to the state (including engineering and administration (overhead)) in the following risk categories, mitigated generally by permitted delays in payments to the contractor and by contract retainage, and mitigated specifically as described below:

(a) Damage to the vessel, mitigated as appropriate by the required builder's risk insurance.

(b) Noncomplying or faulty material, mitigated as appropriate by the manufacturers' warranties and/or the degree of anticipated state inspection and testing.

(c) Work done poorly, incompletely, or incorrectly, mitigated as appropriate by the nature, complexity, and accessibility of the work, and/or the degree of anticipated state inspection.

(d) Out of service costs due to delays in the work.

(e) Failure to receive United States Coast Guard or American Bureau of Shipping approval, when required, for work already paid for by the state.

(f) Default or bankruptcy of the contractor, including:

(i) Removing the vessel from the contractor's facility;

(ii) Identifying and removing from the contractor's facility material paid for by the state;

(iii) Delivering the vessel to alternate shipyard facilities (contractor or state);

(iv) Completing the work, whether by new contract or by state forces; and

(v) Administering all such actions.

(g) Failure of the contractor to pay taxes or other governmental obligations related to the contract.

(h) Failure of the contractor to pay wage rates required by law.

(i) Failure of the contractor to pay claims of laborers, mechanics, subcontractors, materialmen and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work.

(3) If a contract change order significantly increases the amount of the state's exposure to loss, such change order shall specify the amount of such increase and shall provide the amount and form of additional contract security required.

NEW SECTION

WAC 468-320-040 ALTERNATE FORMS OF SECURITY. In addition to a contract bond, the following alternate forms of contract security are acceptable if they provide protection in an amount at least equal to the state's exposure to performance loss, meet all legal requirements for effectiveness and authenticity, are specified in the bid specifications for a particular contract as being acceptable for that contract, and meet all of the special requirements set forth below and in the bid specifications for the particular contract:

(1) Certified check;

(2) Cashier's check;

(3) Treasury bill(s);

(4) Irrevocable bank letter of credit;

(5) Assignment of a savings account;

(6) Assignment of other liquid assets specifically approved by the assistant secretary for marine transportation or his designee.

NEW SECTION

WAC 468-320-050 SPECIFIC REQUIREMENTS FOR ALTERNATE FORMS OF SECURITY. In addition to meeting any special requirements contained in the bid specifications for a contract, alternate forms of contract security will be subject to the following requirements:

(1) Certified check.

(a) Must be issued by a bank which:

(i) Is a qualified public depository under RCW 39.58-.010 and meets any other requirements contained in the bid specifications; or

(ii) Meets alternate standards set forth in the bid specifications.

(b) Will be deposited as directed by the contractor at the time of contract execution, with the options specified in WAC 82-32-010.

(2) Cashier's check.

(a) Must be issued by a bank which:

(i) Is a qualified public depository under RCW 39.58-.010 and meets any other requirements contained in the bid specifications; or

(ii) Meets alternate standards set forth in the bid specifications.

(b) Will be deposited as directed by the contractor at the time of contract execution, with the options specified in WAC 82-32-010.

(3) Treasury bill(s).

(a) Must be issued by the Treasury Department of the United States and meet any other requirements contained in the bid specifications.

(b) Must be used only for contract security, not warranty coverage.

(c) Must bear a maturity date which is at least six months past the date specified for contract completion. If for any reason, the actual contract completion date extends to within sixty days of the maturity date of the treasury bill(s) furnished by the contractor, the contractor shall, at least thirty days prior to the maturity date, substitute treasury bill(s) with a maturity date at least six months longer than the state's new estimate of the time required for contract completion.

(d) Must be held in book entry at the Federal Reserve in San Francisco and be pledged to the state's account.

(4) Irrevocable bank letter of credit.

(a) Must be issued by a bank which:

(i) Is a qualified public depository under RCW 39.58-.010 and meets any other requirements contained in the bid specifications; or

(ii) Meets alternate standards set forth in the bid specifications.

(b) If at any time during the contract or warranty period, as applicable, the issuing bank fails to meet the standards specified in (a) of this subsection, the contractor shall inform the state of such event, and shall, within ten days, substitute an irrevocable letter of credit from a bank which meets the standards specified in (a) of this subsection.

(c) Must be in the form required in the bid specifications, unless an alternate form is approved as provided in (d) of this subsection.

(d) If a contractor cannot obtain an irrevocable letter of credit in the form required in the bid specifications, and wishes to propose an alternative form of irrevocable letter of credit, it shall submit such alternate irrevocable letter of credit to the contracts department of Washington state department of transportation, marine division, for approval on or before the date set forth in the bid specifications. The state, in its sole discretion, may approve or reject the proposed letter of credit, or may suggest changes in it which will make it acceptable,

provided the contractor and its bank concur with such changes, in writing, prior to the date set for bid opening.

(5) Assignment of savings account.

(a) The assigned account must be in a bank which:

(i) Is a qualified public depository under RCW 39.58-.010 and meets any other requirements contained in the bid specifications; or

(ii) Meets alternate standards set forth in the bid specifications.

(b) The proposed document of assignment shall be submitted to the contracts department of Washington state department of transportation, marine division, on or before the date set forth in the bid specifications. The state, in its sole discretion, may approve or reject the proposed document of assignment, or may suggest changes in it which will make it acceptable, provided the contractor and its bank concur with such changes, in writing, prior to the date set for bid opening.

(c) Must be accompanied by a notarized statement, on bank letterhead, stating that the bank concurs in the assignment.

(d) Must be effective:

(i) For at least six months past the date specified for contract completion, if the contractor does not propose to use the assignment for warranty coverage; or

(ii) For at least one year and six months past the date specified for contract completion if the contractor proposes to use the assignment for warranty coverage.

If for any reason, the actual contract completion date or end of the contract warranty period, as applicable, extends to within sixty days of the end of the savings account assignment, the contractor shall, at least thirty days prior to the end of the initial assignment, make a new or extended assignment in compliance with these regulations for a period at least six months longer than the state's new estimate of the time required for contract completion or warranty coverage, as applicable.

(6) Assignment of other liquid assets.

(a) Must be an assignment of assets approved for investment in WAC 82-32-060.

(b) Both a full description of the liquid assets proposed to be assigned and the proposed document of assignment shall be submitted to the contracts department of Washington state department of transportation, marine division, on or before the date set forth in the bid specifications. The state, in its sole discretion, may approve or reject the proposed liquid assets and/or document of assignment, or may suggest changes in them which will make the liquid assets or the document of assignment acceptable, provided the contractor concurs with such changes, in writing, prior to the date set for bid opening.

(c) Must be effective:

(i) For at least six months past the date specified for contract completion, if the contractor does not propose to use the assets for warranty coverage; or

(ii) For at least one year and six months past the date specified for contract completion, if the contractor proposes to use the assignment for warranty coverage.

If for any reason the actual contract completion date or end of the contract warranty period, as applicable,

extends to within sixty days of the end of the liquid asset assignment, the contractor shall, at least thirty days prior to the end of the initial assignment, make a new or extended assignment in compliance with these regulations for a period at least six months longer than the state's new estimate of the time required for contract completion or warranty coverage, as applicable.

NEW SECTION

WAC 468-320-060 WARRANTY COVERAGE.

All forms of contract security provided by a contractor shall ensure that the state receives warranty coverage for all losses resulting from any defects in material and workmanship for the period beginning on the date of redelivery of the vessel to the state and ending one year after that date. Such warranty coverage shall be at least as effective in protecting the state as that contained in the state's standard contract bond. Warranty coverage under a contract bond shall be specified in the bond and shall equal ten percent of the penal sum of the bond. Warranty coverage under alternate forms of security shall be in an amount specified in the bid specifications, increased or decreased by ten percent of the net amount of any change orders, and shall be delivered to the state as provided in WAC 468-320-090.

NEW SECTION

WAC 468-320-070 REPLACEMENT BOND OP-

TION. As an alternative to the warranty coverage described in WAC 468-320-060, a contractor may, for the period beginning on the date of redelivery of the vessel to the state and ending one year after that date, provide a replacement bond in the amount specified for warranty coverage in the bid specifications, increased or decreased by ten percent of the net amount of any change orders. Such replacement bond shall be in the form required in the bid specifications, and shall be delivered to the state as provided in WAC 468-320-090.

NEW SECTION

WAC 468-320-080 PROHIBITION OF DOUBLE

SECURITY. Assets used as an alternate form of contract security shall not also be used to secure a contract bond on the contract.

NEW SECTION

WAC 468-320-090 DELIVERY OF ALTER-

NATE SECURITY TO THE STATE. All alternate forms of security permitted by these regulations and the bid specifications for a contract shall be delivered to the state in the manner provided in the bid specifications for delivery of a contract bond, unless provided otherwise in the bid specifications.

NEW SECTION

WAC 468-320-100 DELEGATION OF AU-

THORITY. The assistant secretary for marine transportation is hereby delegated authority to administer the provisions of chapter 58, Laws of 1989 and chapter 468-

320 WAC. The assistant secretary for marine transportation may further delegate authority to exercise all such powers.

WSR 89-22-029
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—October 23, 1989]

The board of trustees of Community College District Number Eleven (Pierce College) would like to make the following change to the December, 1989 regular board meeting:

December 13, 1989, 12:30, change meeting date to December 6, 1989, Pierce College Board Room, 325H.

WSR 89-22-030
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed October 26, 1989, 3:10 p.m.]

Date of Adoption: October 26, 1989.

Purpose: Define the content of the insurance identification card mandated by chapter 353, Laws of 1989.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: Section 3, chapter 353, Laws of 1989.

Pursuant to notice filed as WSR 89-19-052 on September 19, 1989.

Effective Date of Rule: Thirty days after filing.

October 26, 1989
 Mary Faulk
 Director

Chapter 308-106 WAC
MANDATORY INSURANCE

NEW SECTION

WAC 308-106-010 **INSURANCE IDENTIFICATION CARD.** (1) Any person who operates a motor vehicle subject to registration under chapter 46.16 RCW must have an identification card in his or her possession, as required by section 4(1), chapter 353, Laws of 1989, unless exempt under section 2 (4)(a) or (b) of that chapter.

(2) In the event that an identification card contains a description of the insured vehicle(s), and the person acquires any additional or replacement vehicle(s), possession of a valid insurance identification card previously issued, along with proof of recent acquisition or transfer of ownership of the additional or replacement vehicle(s), shall be deemed to fulfill the requirements of this section for a period not to exceed thirty days after such vehicle(s) was acquired. The person must notify the company issuing the identification card of the acquisition of the additional or replacement vehicle(s) within fifteen days of acquisition. Possession of any binder issued

pending the issuance of a motor vehicle liability policy shall likewise be deemed to fulfill the requirements of this section.

NEW SECTION

WAC 308-106-020 **INSURANCE IDENTIFICATION CARD—CONTENT.** Whenever an insurance company issues or renews a motor vehicle liability insurance policy, the company shall provide the policy holder with an identification card that is to include, at a minimum:

- (a) The name of the insurance company;
- (b) The policy number;
- (c) The effective date of the policy;
- (d) The expiration date of the policy; and
- (e) A description of the year, make and/or model of the insured vehicle(s) and/or the name of the insured driver. If there are five or more vehicles under common ownership, the word "Fleet" may be used in place of the vehicle description. The insurance company may issue a supplemental listing of vehicles covered.

If an insurance company issues an identification card containing information in addition to that identified above, the above information shall be printed in such a way so as to be readily discernible. To the extent practical, the insurance identification card shall be printed in a manner so as to discourage tampering.

NEW SECTION

WAC 308-106-030 **INSURANCE IDENTIFICATION CARD—SELF-INSURANCE—CERTIFICATE OF DEPOSIT—BOND.** A person or organization providing proof of compliance through self-insurance, as provided in RCW 46.29.630, certificate of deposit, as provided in RCW 46.29.550, or bond, shall provide an identification card to all covered drivers. The card shall contain the following information:

- (a) For persons or organizations who are self-insured:
 - (i) The self-insurance number issued by the department of licensing;
 - (ii) The effective date of the certificate of self-insurance; and
 - (iii) A description of the year, make and/or model of the vehicles covered by the certificate of self-insurance and/or the name of the driver covered by the certificate of self-insurance. The word "Fleet" may be used in place of the vehicle description. The person or organization may issue a supplemental listing of vehicles covered;
- (b) For persons or organizations who are covered by a certificate of deposit:
 - (i) The certificate number issued by the state treasurer; and
 - (ii) The name of the driver covered by the certificate of deposit;
- (c) For persons or organizations covered by a liability bond:
 - (i) The name of the company issuing the bond;
 - (ii) The bond number; and
 - (iii) The name of the driver covered by the bond.

WSR 89-22-031
PROPOSED RULES
THE EVERGREEN STATE COLLEGE

[Filed October 27, 1989, 8:10 a.m.]

Original Notice.

Title of Rule: New WAC 174-108-910 Model rules of procedure; 174-122-010 - 174-122-040 Mid contract termination with adequate cause; 174-130-010 - 174-130-020 Tuition and fees; 174-131-010 Scholarships; 174-133-010 - 174-133-020 Organization; 174-135-010 Brief adjudicative proceeding; 174-168-010 - 174-168-020 Library circulation policy; 174-276-010 through 174-276-120 Public records; and 174-280-010 - 174-280-045 Family Educational Rights and Privacy Act; repealing WAC 174-108-170 - 174-108-90002 Governance and decision making at TESC—Public records; 174-162-010 - 174-162-045 Student affairs—Release of student information—Financial obligation of students; 174-112-130 - 174-112-150 Employment of relatives concerning conflict of interest; 174-126-010 - 174-126-030 Use of human subjects; 174-128-010 - 174-128-990 Faculty membership; 174-132-020 - 174-132-120 Computer services; 174-136-010 - 174-136-330 Use of college facilities (outside speakers, performers, and other events: Library circulation policy, smoking regulations; pet policy); 174-157-600 - 174-157-990 Food service—Alcoholic beverage banquet permit procedures; and 174-160-010 - 174-160-040 Admissions procedures; and amending WAC 174-132-010 Financial aid.

Purpose: Implements chapter 34.05 RCW, the Administrative Procedure Act.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Statute Being Implemented: Chapter 34.05 RCW.

Summary: Making changes to be consistent with new APA requirements.

Reasons Supporting Proposal: Promulgates new policy; repeals in order to change numbering and adopt into new chapter; eliminates college policy not required to be in WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patrick Hill, Library 3131 ex. 6400, for WAC 174-122-010 - 174-122-040, 174-126-010 - 174-126-990 and 174-128-010 - 174-128-990; Arnaldo Rodriguez, Library 1221 ex. 6310, for WAC 174-130-010 - 174-130-020, 174-131-010, 174-132-010, 174-280-010 - 174-280-045 and 174-160-010 - 174-160-040; Becky Gallagher, Library 1113 ex. 6450, for WAC 174-162-010 - 174-162-045; Sarah Pedersen, Library 2300 ex. 6262, for WAC 174-168-010 - 174-168-020; Gail Martin, Library 3236 ex. 6296, for WAC 174-136-040 - 174-136-042, 174-136-300 - 174-136-330 and 174-157-600 - 174-157-990; Rita Cooper, Library 3236 ex. 6361, for WAC 174-112-130 - 174-112-150; Jim Johnson, Library 2414 ex. 6232, for WAC 174-132-010 - 174-132-120; Jim Duncan, Seminar 4103 ex. 6123, for WAC 174-136-013; Ken Winkley, Library 3127 ex. 6500, for WAC 174-136-019 - 174-136-022 and 174-136-160 - 174-136-250; Wendy Freeman, Library 1400 ex. 6193, for

WAC 174-136-210 - 174-136-250; and Rita Brackenbush, Library 3109 ex. 6100, for WAC 174-108-910, 174-133-010 - 174-133-020, 174-135-010 and 174-276-010 - 174-276-120.

Name of Proponent: The Evergreen State College, public.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: The Evergreen State College Board of Trustees Room, Library Building Room 3112, Olympia, Washington 98505, on December 13, 1989, at 1:45 p.m.

Submit Written Comments to: Rita Brackenbush, Room 3109, Library Building, The Evergreen State College, by December 4, 1989.

Date of Intended Adoption: December 13, 1989.

October 19, 1989

Rita Brackenbush
Rules Coordinator

Chapter 174-108 WAC
 ((GOVERNANCE AND DECISION MAKING AT THE EVERGREEN STATE COLLEGE—PUBLIC RECORDS)) MODEL
RULES OF PROCEDURE

NEW SECTION

WAC 174-108-910 PRACTICE AND PROCEDURE. Adoption of model rules of procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at The Evergreen State College. Those rules may be found at chapter 10-08 WAC. Other procedural rules adopted in this title and this chapter are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and these procedural rules, the procedural rules adopted by The Evergreen State College shall govern.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 174-108-170 DEFINITION OF PUBLIC RECORD.
- WAC 174-108-180 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION THE EVERGREEN STATE COLLEGE.
- WAC 174-108-190 GENERAL COURSE AND METHOD OF DECISION MAKING.
- WAC 174-108-200 INFORMAL PROCEDURES REGARDING THE GENERAL COURSE AND METHODS OF DECISION.
- WAC 174-108-210 DESIGNATION OF PUBLIC RECORDS OFFICERS.
- WAC 174-108-220 AVAILABILITY FOR PUBLIC INSPECTION AND COPYING OF PUBLIC RECORDS.
- WAC 174-108-230 REQUESTS FOR PUBLIC RECORDS.
- WAC 174-108-240 CHARGES FOR COPYING.
- WAC 174-108-250 DETERMINATION REGARDING EX-EMPT RECORDS.
- WAC 174-108-260 REVIEW OF DENIALS FOR PUBLIC RECORDS REQUESTS.
- WAC 174-108-900 FORM—REQUEST FOR PUBLIC RECORDS.
- WAC 174-108-90001 FORM—PUBLIC RECORDS REQUEST FOR COPIES.
- WAC 174-108-90002 FORM—REQUEST FOR REVIEW—PUBLIC RECORDS REQUEST.

Chapter 174-122 WAC

MID-CONTRACT TERMINATION WITH ADEQUATE CAUSE

WAC

174-122-010	Preamble.
174-122-020	Informal procedures.
174-122-030	Formal hearing procedures.
174-122-040	Summary suspension.

NEW SECTION

WAC 174-122-010 PREAMBLE. (1) Termination of a contract with a property-interest, or of a provisional contract before the end of the specified term, may be effected by the institution only for adequate cause. The burden of proof of adequate cause rests on the institution.

(a) It is the policy of The Evergreen State College that no faculty member will be separated from the college because of his/her written or spoken views, according to the guarantees of the first amendment to the Constitution of the United States. The Evergreen State College subscribes to the American Association of University Professors statement of principles on academic freedom and tenure as modified by the college's faculty reappointment policy.

(b) If termination takes the form of a dismissal for adequate cause, it shall be pursuant to the procedures specified in this policy. This policy allows the institution to terminate the contract of a faculty member for committing an action(s) which is grounds for termination even if the faculty member's action(s) can be ascribed to his/her medical condition. However, a faculty member's contract cannot be terminated because she/he has a particular medical condition. Termination of any faculty member's contract before the end of the specified term for reasons of institutional financial exigency are not covered by this policy but by the college's reduction in force policy.

(2) Adequate cause for initiating hearings. The trustees and their designees in consultation with the members of the college community are charged to monitor policies which define the role and mission of the college. Of necessity, actions which materially and substantially affect or impede the ability of the college to implement its role and mission concern them. When actions of a faculty member appear to interfere materially and substantially with the ability of the college to implement its role and mission, the provost, with authority designated to him or her from the president and the trustees, may initiate procedures which could result in the mid contract termination of the faculty member or in some lesser sanction. It is not possible to make an exhaustive listing of the actions or conduct which might materially and substantially interfere with the implementation of the role and mission of the college. However, three classes of action or conduct are likely to trigger the hearing procedures of this policy. Those three classes are as follows:

(a) Unfitness of the faculty member to continue in their professional capacities at the institution.

(b) Serious violation of the published standards to which the college holds all faculty as set forth in the Faculty Handbook, as amended, and of the published institutional rules, particularly in the social contract, the sexual harassment policy, the human subjects review policy, and the faculty reappointment policy. Such serious violations include but are not limited to the following:

(i) Presenting the work of another as one's own;

(ii) Discrimination in the awarding of credit on the basis of race, sex, national origin, religious or political belief, marital status, sexual preference, age, handicap, or Vietnam era or disabled veteran status (see Faculty Handbook, Social Contract 3.100, p. 3 and Affirmative Action Policy 3.300);

(iii) Making or denying awards of credit or contents of evaluations of students or colleagues dependent on sexual favors (see Faculty Handbook, Sexual Harassment Policy 3.500, p. 1);

(iv) Serious violation of the "informed consent" provisions of the use of human subjects policy (see Faculty Handbook 7.700, p. 1);

(v) Flagrant neglect of one's responsibility to submit student evaluations in a timely manner.

(c) Illegal acts which seriously affect the faculty member's ability to carry out his/her professional work at the institution or the college's ability to carry out its role and mission. The college shall not initiate termination procedures solely on the grounds that a faculty member has been convicted, on or off campus, of violation of a state or federal law. However, violation by a member of the faculty of a criminal law is a legitimate interest of the college and shall constitute grounds for initiating termination procedures when the violation seriously affects

the ability of the faculty member or college to carry out their professional or institutional roles. In the case where college proceedings determine a violation by a member of the faculty, on or off the campus, the college may consider, but is not bound by, any action taken in regard to the conviction by city, state, or federal courts. Neither dismissal nor lesser sanctions shall be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens. These rights exist in equal measure for each member of the faculty regardless of type of contract or acceptability of views or opinions advocated.

NEW SECTION

WAC 174-122-020 INFORMAL PROCEDURES. (1) Conciliation. When the provost has received information suggesting that a faculty member has taken action(s) which are grounds for termination, she/he shall attempt to reach a mutual settlement of the matter through discussion with the faculty member and other appropriate persons of either party's choosing who might contribute to a mutual settlement. If the origins of the alleged conduct appear to be due to developing physical or mental incapacities, appropriate responses involving sick leave or medical help should be explored.

If a mutual settlement cannot be reached, the provost may request an informal hearing (pursuant to RCW 34.05.413) before a faculty inquiry committee. If the provost wants such a hearing, the provost shall issue a statement of charges and simultaneously request the president to constitute a faculty inquiry committee.

(2) Statement of charges. Upon deciding that efforts at mutual settlement between his/her office and the faculty member are futile, the provost may issue a statement of charges. This statement shall specify the standards of performance and conduct which the faculty member has allegedly violated, referencing the particular institutional rules involved, and shall describe the alleged violation. If the matters cannot be stated in detail at the time the statement of charges is served, the initial statement of charges may be limited to a statement of the issues involved. Thereafter, upon request of the faculty inquiry committee or the hearing officer, a more explicit and detailed statement of charges shall be furnished by the provost.

The statement of charges shall be served personally on the faculty member.

(3) Faculty inquiry committee. A pool of twenty-five faculty members who have taught at least three years at The Evergreen State College shall be appointed by the faculty agenda committee at the beginning of each academic year and confirmed by the faculty in its first meeting each academic year to serve on faculty inquiry committees for that year. Upon the request of the provost, simultaneous with the issuance of a statement of charges, the president shall choose five members of this pool to serve on such a committee. (As far as is possible, a faculty member shall not be asked to serve on more than one such committee each year.) Members deeming themselves disqualified for bias or interest, shall remove themselves from the committee. Both the faculty member involved in the issue and the provost shall have a maximum of two challenges without stated cause and additional challenges for cause satisfactory to the faculty agenda committee. It is the responsibility of the chair of the faculty to facilitate the constitution of a full committee in a reasonable time period which should not exceed eight working days from receipt of the request from the provost for a committee.

(4) Informal conciliation and hearings. The faculty inquiry committee shall attempt to reach a satisfactory resolution of the matter through conciliation.

(a) Serving a statement of charges initiates an informal "brief adjudicative proceeding," and procedures contained in the Administrative Procedure Act governing such cases shall apply (RCW 34.05.482). Statements, testimony, and all other evidence given at an informal proceeding shall be confidential and shall not be subject to discovery or released to anyone unless required by law or otherwise specified in this policy.

(b) The committee's work is intended to be an informal process and certainly not a trial. The committee's procedures may well include direct discussion between the parties involved concerning the alleged misconduct.

(c) Both the faculty member and the provost have the right to secure legal counsel, and their attorneys may accompany them to meetings with the faculty inquiry committee. However, because the likelihood of informal resolution is greatly enhanced if only the key players are present and seldom enhanced by the presence of legal authorities, attorneys, if present, may not speak at these meetings except to the

party they represent in order to provide the party advice. Should the faculty member obtain legal counsel, payment of all attorney fees shall be the responsibility of the faculty member.

(d) If satisfactory resolution is attained through the faculty inquiry committee's work, there shall be no further action. Such informal resolution may include the sanctions defined in this policy in WAC 174-122-030(5) titled "Findings of fact, decisions, and sanctions" or other sanctions but no sanctions shall be part of the resolution unless they have been agreed to by the faculty member.

(e) If the informal hearings result in a sanction, the provost's letter explaining the charge and the sanctions shall be included in the faculty member's portfolio. If the informal hearings result in a mutually satisfactory settlement without sanctions, a brief statement written by the faculty inquiry committee describing the issue in dispute and the resolution achieved shall, at the request of the faculty member, be included in the faculty member's portfolio required by the college's reappointment policy.

(5) Moving to a formal hearing. (A formal hearing herein embraces an "adjudicative proceeding" as provided in RCW 34.05.010(1).)

(a) Failing to reach a mutual settlement through informal conciliation procedures, the faculty inquiry committee may recommend to the provost whether or not a formal hearing as set forth below should be undertaken. If its recommendation is that no formal hearing be held, and if the provost agrees with this recommendation, there shall be no further proceedings. If the recommendation is for a formal hearing, and if the provost agrees, the formal hearing procedures described below shall be instituted.

(b) If the provost does not agree with the faculty inquiry committee's recommendations, she/he shall discuss the recommendations with the committee before deciding whether to hold a formal hearing.

(c) If the provost decides to hold a formal hearing, she/he shall promptly notify the faculty member, the faculty inquiry committee and the president, and this notice shall be accompanied by a statement of charges.

NEW SECTION

WAC 174-122-030 FORMAL HEARING PROCEDURES. (1) Hearing by an administrative law judge. The hearing shall be conducted by and the case heard by an administrative law judge. The college will pay all of the costs/fees of the administrative law judge. It shall be the judge's decision whether the faculty member has violated the college's standards of performance and conduct such as to warrant sanction and her/his decision as to what sanction(s) to impose. The standard of judgment shall be that of clear and convincing proof. The severity of sanctions imposed shall correspond to the seriousness of the violation(s) established in the hearing.

Upon receiving a request for a formal hearing from the provost, the president shall promptly initiate procedures for the appointment of an administrative law judge to the case.

(2) Notice of hearing. Notice of hearing with specific charges in writing shall be served by the administrative law judge on the faculty member and on the provost not less than twenty days prior to the hearing. Upon request, the faculty member shall be granted one additional ten-day period in which to prepare a defense. The notice shall include the following, and comply with RCW 34.05.434:

(a) A statement of the time, place, and nature of the hearing.

(b) A statement that the hearing is to be conducted under the authority of the Administrative Procedure Act of the state of Washington, chapter 34.05 RCW, the statutes pertaining to the powers and authority of The Evergreen State College, and college rules.

(c) A statement of the specific standards of performance and conduct, as they appear in this policy and the Faculty Handbook which the faculty member has allegedly violated.

(d) A short and plain statement of the matters asserted. If the matters cannot be stated in detail at the time the statement is served, the initial statement may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

(3) Faculty member response to hearing notice. The faculty member may waive his/her right to a formal hearing. The faculty member must waive this right in writing to the president no more than seven days after receipt of the notice of hearing.

After receipt of a waiver, the provost shall consult with the faculty inquiry committee about the sanction(s) he or she intends to impose on the faculty member. The provost shall also consult with this committee in preparing a statement which:

(a) Specifies the standards of performance and conduct which the faculty member has violated, referencing the particular institutional rules involved;

(b) Describes the violation(s); and

(c) Reports the sanction(s) imposed. This statement shall be included in the faculty member's portfolio.

(4) Conduct of the formal hearing.

(a) The hearing officer may, with the consent of the parties concerned, hold joint prehearing meetings with the parties concerned in order to:

(i) Clarify the issues;

(ii) Effect stipulations of facts;

(iii) Provide for the exchange of documentary or other information; and

(iv) Achieve such other appropriate prehearing objectives as will make the hearing fair, effective, and expeditious.

(b) The hearing shall be conducted with as much dispatch as possible while recognizing the need for the parties to have sufficient opportunity to prepare their cases. Normally, hearings should not exceed sixty days after the faculty member has received a statement of charges.

(c) The hearing is open to public observation, pursuant to RCW 34.05.449(5) with exceptions therein.

(d) During the proceedings both parties shall have the right to have the advice and presence of any third party including legal counsel, at their own expense.

(e) A hearing record, which shall be a verbatim typewritten transcript and/or a tape, and exhibits and other material used during the hearing shall be maintained at the expense of the institution. A taped record, if made, and exhibits and other material used during the hearing shall be made available on request to the faculty member, the hearing officer, and the institution on an equitable basis.

(f) The hearing officer shall grant postponements to enable either party to investigate evidence concerning which a valid claim of surprise is made. She/he may grant postponements whenever in her/his judgment such postponement will contribute to her/his deliberations.

(g) The contesting parties in the case shall be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The administration of the institution and the administrative law judge shall, insofar as it is possible for it to do so, secure the cooperation of such witnesses and make available necessary documents and other evidence within its control.

(h) The faculty member and representatives of the institution shall have the right to confront and cross-examine all witnesses. Subpoena power may be exercised in accordance with RCW 34.05.446.

(i) The hearing officer shall not be bound by strict rules of legal evidence but shall consider all evidence that is of probative value in determining the issues involved (RCW 34.05.452).

(j) Except for such simple announcements as may be required covering the time of the hearing and similar matters, public statements and publicity about the case by the faculty member, administrative officers of the institution, or other participants in the formal hearing shall be avoided as far as possible, until the proceedings have been completed.

(5) Findings of fact, decisions, and sanctions.

(a) The burden of proof that the faculty member has violated the standards of performance and conduct as defined in this policy rests with the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole.

(b) The findings of fact and the decision shall be based solely on the hearing record.

(c) Sanctions shall be imposed only for adequate cause. Adequate cause must be related, directly and substantially, to the standards of performance and conduct for faculty members as defined in this policy. Sanctions or the threat thereof shall not be used to restrain faculty members in their exercise of academic freedom or other rights.

(d) The sanctions available once adequate cause is established are limited to one of the following:

(i) A written reprimand from the provost which specifies the standards of performance and conduct which the faculty member has violated and describes the violation shortly and plainly. This reprimand shall be included in the faculty member's portfolio required in the college's reappointment policy;

(ii) Suspension - any one of, or combination of, the following:

(A) Temporary release of a faculty member from assigned responsibilities;

(B) Reduction of assigned responsibilities;

- (C) Reduction or suspension of pay;
- (D) Suspension of an opportunity for a salary increase; or
- (E) Denial or postponement of an opportunity for professional leave;
- (iii) Dismissal - termination, for adequate cause, of the employment of any faculty member before the end of the specified term of contract.

(A) The president, provost, and the faculty member shall be notified in writing of the hearing officer's findings of fact, conclusions as to the alleged violation, decision as to sanctions, and supporting arguments within thirty days of the completion of the hearing. The conclusions as to guilt and the decision as to sanctions, made by the hearing officer, are binding on the college. This report by the hearing officer concludes the proceedings.

(B) If the hearing officer concludes that adequate cause for sanction has not been established, a statement clearing the faculty member will be prepared by the hearing officer, countersigned by the provost, and given to the faculty member. It is the decision of the faculty member whether to include the hearing officer's record in his/her portfolio required by the college's reappointment policy.

If the hearing officer concludes that adequate cause for sanction has been established, the provost shall impose the sanctions decided upon by the hearing officer, and the hearing officer's findings shall be included in the faculty member's portfolio required by the college's reappointment policy.

(C) In the event of dismissal for adequate cause, the hearing officer shall decide after consideration of the provost's suggestions, the dismissal date and compensation, if any, to be paid. The hearing officer's decisions are binding on the college and shall be implemented by the provost.

NEW SECTION

WAC 174-122-040 SUMMARY SUSPENSION. (1) Summary suspension is the responsibility of the provost. She/he shall suspend a faculty member or assign him/her to other duties in lieu of suspension only if immediate harm to the faculty member or others of the campus community is threatened. Salary shall continue during such summary suspensions.

(2) The notice of summary suspension shall be served on the faculty member in person. The notice shall indicate that the suspension is for an emergency purpose in accordance with this policy. If personal service is not feasible, the notice shall be sent by certified mail. If there is to be a restriction on the faculty member's privilege to be present on college property, the faculty member shall be notified of that constraint, such notice not necessarily to be simultaneous with the notice of summary suspension.

(3) In all such emergency cases, the faculty member is thereafter entitled to the same due process as provided in this policy. There shall be the same need for a statement of charges, with the provost as the initiating party. Informal procedures to be conducted by the faculty inquiry committee shall begin within five working days from a summary suspension. The faculty member has the right to waive the informal procedures and to request a formal hearing.

Chapter 174-130 WAC
TUITION AND FEES

- WAC
174-130-010 Tuition and fee schedules.
174-130-020 Location of schedules.

NEW SECTION

WAC 174-130-010 TUITION AND FEE SCHEDULES. Authority. Chapter 28B.15 RCW sets the parameters for tuition and fee levels at state colleges and universities. The legislature then establishes current biennium tuition and fee rates. Based on this legislation, the specific amounts to be charged are transmitted to The Evergreen State College by the higher education coordinating board.

NEW SECTION

WAC 174-130-020 LOCATION OF SCHEDULES. Additional and detailed information and specific amounts to be charged for each of five categories of students (resident undergraduates, resident graduates, nonresident undergraduates, nonresident graduates, and veterans of Southeast Asia) will be found in the college catalog and in the following locations on The Evergreen State College campus:

- (1) The office of admissions;

- (2) The registration and records office;
- (3) The dean of enrollment services office;
- (4) The controller's office.

Chapter 174-131 WAC
SCHOLARSHIPS

- WAC
174-131-010 Scholarships.

NEW SECTION

WAC 174-131-010 SCHOLARSHIPS. Detailed information concerning the criteria, eligibility, procedures for application, and other information regarding scholarships at The Evergreen State College is located in the office of the dean of enrollment services on The Evergreen State College campus.

Chapter 174-132 WAC
~~((POLICY STATEMENT ON COMPUTER SERVICES))~~ FINANCIAL AID

AMENDATORY SECTION (Amending Order 88-4, Resolution No. 88-41, filed 12/19/88)

WAC 174-132-010 ~~((GENERAL))~~ FINANCIAL AID. ~~((Computer services is responsible for providing computing services to both academic and administrative users. Computer services operates with the advice of an academic computing users group and an administrative computing users group. Membership in the user groups consists of user constituents and includes faculty, staff and students. Interested users should contact computer services for meeting schedules.))~~ Federal, state, and private financial aid applications and information may be obtained at the following address:

Office of Financial Aid
The Evergreen State College
Olympia, WA 98505

Award of federal and state aid will be made in accordance with applicable federal and state laws and regulations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 174-132-020 ACQUISITION OF INFORMATION PROCESSING RESOURCES.
- WAC 174-132-030 INFORMATION PROCESSING PLAN.
- WAC 174-132-040 SECURITY PLAN.
- WAC 174-132-050 ACADEMIC COMPUTING.
- WAC 174-132-060 GENERAL POLICIES.
- WAC 174-132-070 PRIVACY.
- WAC 174-132-080 ABUSE OF COLLEGE COMPUTING RESOURCES.
- WAC 174-132-090 COPYING OF SOFTWARE.
- WAC 174-132-100 ACCOUNT USAGE AND LIFETIMES.
- WAC 174-132-110 ADMINISTRATIVE COMPUTING.
- WAC 174-132-120 REQUESTS FOR SERVICES.

Chapter 174-133 WAC
ORGANIZATION

- WAC
174-133-010 Description of organization—Purpose.
174-133-020 Organization—Operation—Information.

NEW SECTION

WAC 174-133-010 DESCRIPTION OF ORGANIZATION—PURPOSE. The purpose of this chapter is to establish rules implementing RCW 34.05.220 (1)(b) and 42.17.250 (1)(a) and (b).

NEW SECTION

WAC 174-133-020 ORGANIZATION—OPERATION—INFORMATION. (1) ORGANIZATION. The Evergreen State College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a seven-member board of trustees

appointed by the governor. The board normally meets once per calendar month. The meeting schedule is published in the Washington State Register maintained by the code reviser's office. The board establishes such divisions and units necessary to carry out the purpose of the college, provides the necessary property, facilities and equipment and promulgates such rules, regulations, and policies as are necessary to the administration of the college. The board employs a president and has delegated to the president the authority to employ members of the faculty and other employees. The president acts as the chief executive officer of the institution and establishes the structure of the administration.

(2) LOCATION. The Evergreen State College is located on a campus in Thurston County, near the city of Olympia, Washington.

(3) OPERATION. The administrative office of The Evergreen State College is at the following address:

The Evergreen State College Campus
Olympia, WA 98505

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

The Evergreen State College Campus
Olympia, WA 98505

TESC Tacoma Campus
1202 South K Street
Tacoma, WA 98405

(4) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Office of Admissions
The Evergreen State College Campus
Olympia, WA 98505

Chapter 174-135 WAC
BRIEF ADJUDICATIVE PROCEEDING

WAC
174-135-010 Brief adjudicative proceeding.

NEW SECTION

WAC 174-135-010 BRIEF ADJUDICATIVE PROCEEDING. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative proceedings shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013;
- (2) Appeals from traffic and parking violations;
- (3) Challenges to contents of education records; and
- (4) Financial aid appeals to the extent permitted by federal law.

Chapter 174-168 WAC
LIBRARY CIRCULATION POLICY

WAC
174-168-010 Loan periods and fines.
174-168-020 Lost and damaged library resources

w/90-03-

NEW SECTION

WAC 174-168-010 LOAN PERIODS AND FINES. (1) GENERAL USE LIBRARY RESOURCES (PRINT AND NONPRINT).

(a) Due dates will not exceed one academic quarter. Requests for extended loan periods should be cleared through the head of circulation. Renewals should be requested before due date.

(b) Users are guaranteed the use of the material for ten days, after which it may be recalled to meet the needs of another user. A five dollar service charge will be levied if the recall due date is not honored. If an item is not returned within sixty days, a replacement charge and processing fee will be levied.

(2) Limited use library resources.

(a) Limited use library resources (e.g., video tapes) will only be loaned for specific periods.

(b) Slides are checked out for showings only.

(c) 16mm films and video cassettes will be checked out for showings only and are circulated through the services of the Washington state film library.

(d) Media services resources.

(i) The first priority for use of media services resources is for coordinated and contracted studies. Resource requests will be handled by and administered in accordance with policy formulated by the coordinator of media services.

(ii) Charges consistent with current commercial rates will be made to users outside The Evergreen State College community and to non-academic workshops, seminars, conferences or self-sustaining programs.

(e) Portable media loan equipment. Media loan circulates audio/visual equipment to students, staff, and faculty of the college to support academic work and college business. The first priority for use of media loan resources is for coordinated and contracted studies. Borrowers are liable for loss or damage of equipment and any associated processing fees.

(i) Media loan reserves the right to deny privileges if a borrower is in violation of state operating procedures (see media loan policy statement). Campus security may be asked to contact the borrower in cases where equipment is more than two weeks overdue.

(ii) To assure borrowers that equipment will be available for reservations, overdue fines will be assessed for late equipment. Fines are uniform regardless of the kind of equipment. A three dollar charge per transaction will be levied when equipment is one day overdue. A five dollar additional charge will be levied once a week for the next two weeks. If equipment is more than two weeks overdue, the borrower may lose privileges and twenty dollars/weekly fines (up to the cost of the items) will be assessed until the equipment is returned.

(iii) If the borrower keeps equipment out over the end of the academic quarter, the replacement cost and a two dollar service fee will be charged to his or her account. This replacement fee will be rescinded when the equipment is returned, but accumulated overdue fees and service fees will be not rescinded.

(iv) When equipment is returned and all fees and charges have been paid, a borrower may make an appointment with the Head of Media Loan to review policies and procedures in order to determine if borrowing privileges may be restored.

(v) Late fees, replacement charges and service fees are deposited in a library account for replacement of media loan equipment.

(vi) Charges will be made to funded workshops, seminars, conferences or self-sustaining programs. Charges will be consistent with current commercial rates.

(vii) Borrowers may be required to carry insurance for large packages of equipment (the college has no insurance). Insurance is a requirement if equipment is to leave the country.

(f) Other library resources can circulate by special arrangement with the head of circulation or appropriate account manager and are subject to recall and replacement charges.

(3) Borrowers who repeatedly ignore the rights of other borrowers or abuse the responsibilities inherent in sharing library resources with the rest of the Evergreen community, shall be denied the privilege of borrowing those resources for the remainder of the quarter.

NEW SECTION

WAC 174-168-020 LOST AND DAMAGED LIBRARY RESOURCES. (1) The borrower is responsible for loss.

(2) The borrower is responsible for damage.

(3) The borrower is responsible for the proper operation of media loan equipment.

(4) It is the borrower's responsibility to pay for lost resources before the end of the quarter. The cost of lost resources shall be their replacement value and a processing fee (twelve dollars for library books)

Chapter 174-276 WAC
PUBLIC RECORDS

- WAC
- 174-276-010 Definition of public record.
- 174-276-020 General course and method of decision making.
- 174-276-030 Informal procedures regarding the general course and methods of decision.
- 174-276-040 Designation of public records officers.
- 174-276-050 Availability for public inspection and copying of public records.
- 174-276-060 Requests for public records.
- 174-276-070 Charges for copying.
- 174-276-080 Determination regarding exempt records.
- 174-276-090 Review of denials for public records requests.

- 174-276-100 Form—Request for public records.
 174-276-110 Form—Public records request for copies.
 174-276-120 Form—Request for review—Public records request.

NEW SECTION

WAC 174-276-010 DEFINITION OF PUBLIC RECORD. A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by The Evergreen State College, regardless of the physical form or characteristics; provided, however, that in accordance with RCW 42.17.310, the following personal and other records are exempt from the definition of public record: (1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers or parolees.

(2) Personal information in files maintained for employees, appointees or elected officials or any public agency to the extent that disclosure would violate their right to privacy.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(4) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(7) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

(8) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(9) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(10) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital government interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

NEW SECTION

WAC 174-276-020 GENERAL COURSE AND METHOD OF DECISION MAKING. (1) The formal procedures for decision making at the college are governed by the board of trustees through rules promulgated by it in accordance with the requirements of chapter 34.05 RCW, the Administrative Procedure Act (APA). Accordingly, all rules, orders or directives, or regulations of the college which affect the relationship of particular segments of the college, such as students, faculty, or other employees, with the college or with each other, (a) the violation of which subjects the person to a penalty or administrative sanction; or

(b) Which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional hearings; or

(c) Which establishes, alters or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law;

are implemented through the procedures of the APA and appear in Title 174 WAC. However, in accordance with RCW 34.05.010(15),

the college reserves the right to promulgate as internal rules not created or implemented in accordance with the APA, the following: Rules, regulations, orders, statements, or policies relating primarily to the following: Standards for admissions; academic advancement, academic credits, graduation and the granting of degrees; tuition and fees, scholarships, financial aids, and similar academic matters; employment relationships, fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under APA unless otherwise required by law. Internal rules and regulations are set forth in the colleges published catalogs, the Policies and Procedures Manual, and the Faculty Handbook.

NEW SECTION

WAC 174-276-030 INFORMAL PROCEDURES REGARDING THE GENERAL COURSE AND METHODS OF DECISION. Informal procedures regarding the methods and general course of operations at the college are, for the purposes of these rules, either:

(1) Decisions made by persons authorized by board resolution, the president, or any designee to make a decision within the scope of responsibility assigned to such person; or

(2) Methods of human persuasion utilized by any member of the college's constituencies or of the public to attempt to influence one in power to make decisions within that person's scope of responsibility.

NEW SECTION

WAC 174-276-040 DESIGNATION OF PUBLIC RECORDS OFFICERS. (1) In accordance with the requirements of chapter 42.17 RCW, insofar as such chapter requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official records while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the college shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in the Daniel J. Evans Library Building of the college; his or her exact location and name may be determined by inquiry at the office of the president of the college. The public records officer shall also be responsible for compiling and maintaining the index required by chapter 42.17 RCW.

(3) For purposes of this chapter, the custody of the college's records shall be divided into the following divisions:

- (a) Office of the president;
- (b) Office of the vice-president and provost;
- (c) Office of the vice-president for finance and administration;
- (d) Office of the vice-president for college advancement.

The heads of the above-designated divisions shall be deemed custodian of the records in the possession or control of units and employees of his division and responsible for the care and custody of records within his division even though such person is not in actual possession or control of such records. The four persons mentioned above shall be known as the college "records custodians."

(4) In any cases where a question arises as to whether a given public record is a responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made by the public records officer, or the president of the college.

NEW SECTION

WAC 174-276-050 AVAILABILITY FOR PUBLIC INSPECTION AND COPYING OF PUBLIC RECORDS. Public records shall be available for inspection and copying during the customary office hours of the college. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the college, acting through the public records officer or a records custodian, agree on a different time.

NEW SECTION

WAC 174-276-060 REQUESTS FOR PUBLIC RECORDS. In accordance with the 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 are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer or any other of the persons designated by this chapter as a custodian of certain college records, per WAC 174-276-040. Such request shall include the following:

- (a) The name of the person requesting the record.
(b) The time of day and calendar date on which the request was made.

(c) If the matter requested is referenced within the current index maintained by the college records officer, a reference to the requested record as it is described in such index.

(d) If the requested matter is not identifiable by reference to the college records current index, a statement that succinctly describes the record requested.

(e) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the college person to whom the request is being made to assist the member of the public in succinctly identifying the public record requested.

NEW SECTION

WAC 174-276-070 CHARGES FOR COPYING. (1) No fee shall be charged for inspection of public records. The college may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the college for its actual costs incident to such copying.

(2) No person shall be released a record which has been copied by photostatic process until and unless the person requesting the copied public record has tendered payment for such copying to the records official from whom the public record was obtained, or to any person designated by such records official.

NEW SECTION

WAC 174-276-080 DETERMINATION REGARDING EXEMPT RECORDS. (1) The college reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the college, president of the college, or an assistant attorney general assigned to the college.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within one business day as to whether his request for a public record will be honored.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or his designee, specifying the specific reasons therefor.

NEW SECTION

WAC 174-276-090 REVIEW OF DENIALS FOR PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for a public record shall petition for prompt review of such decision by tendering a written request for a review of such denial. Such written request by a person demanding prompt review shall specifically reference the written statement by the college denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the college or any of his designees, which for the purposes of this section may include the public records officer or the records custodians, shall consider such petition.

(3) During the course of the two business days in which the president or his designee reviews the decision of the public records officer denying the request for a public record, the president or his designee may conduct an informal hearing. During the course of such informal hearing, the president or his designee may require that the person requesting the public record appear in person at a reasonable time and

place located on the campus and further explain and identify the exact nature of the public record he is seeking. Failure by the person requesting the review hearing to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request within two business days. If the petitioner requesting review does appear at such informal hearing, then the period for review by the college shall be extended to a period not exceeding twenty-four hours after such person requesting review has appeared before the president or his designee.

(4) During the course of the informal hearing conducted by the president or his designee under this section, the hearing officer shall consider the obligations of the college fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.250 insofar as it requires the college to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

NEW SECTION

WAC 174-276-100 FORM-REQUEST FOR PUBLIC RECORDS.

REQUEST FOR PUBLIC RECORDS

The Evergreen State College

Section I - IDENTIFICATION. The information requested in Boxes 1 through 4 is not mandatory. If provided, it will allow the Records Officer to contact you, if necessary, in connection with your request. Includes fields for Name of Requester, Representing (if applicable), Street Address, and City-State-Zip Code.

Section II - NATURE OF REQUEST. Please be specific about the records you wish to see. If you do not know the name of the records, make your request in the form of a question. To comply with RCW 42.17.260(5) (noncommercial use), please sign the certification below.

I certify that the information obtained as a result of this request for public records will not be used in whole or in part to compile a list for commercial purposes.

Requester's Signature

DO NOT FILL IN BELOW THIS LINE

Section III - REQUEST FOR REVIEW

Requested by, Office, Telephone

Section IV - DISPOSITION OF REQUEST

Grid for disposition of request with numbered boxes 1 through 9.

NEW SECTION

WAC 174-276-110 FORM—PUBLIC RECORDS REQUEST FOR COPIES.

PUBLIC RECORDS REQUEST FOR COPIES

The Evergreen State College

Please indicate the records that you wish to have copied, and number of copies of each. When completed, give this request to a staff member who will accompany you to the cashier and then to the nearest copy center. You will be required to pay for the copies before receiving them.

DESCRIPTION OF MATERIALS TO BE COPIED:

.....
Requester's Signature

NEW SECTION

WAC 174-276-120 FORM—REQUEST FOR REVIEW—PUBLIC RECORDS REQUEST.

**REQUEST FOR REVIEW
PUBLIC RECORDS REQUEST**

The Evergreen State College

A review of the attached request for public records has been requested by the person named below. Note your opinion below and then have your secretary notify the PRO so that the forms may be picked up by our office. Your opinion, as stated, will not be disclosed to the public.

Review Requested By	Office	Telephone
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.....
Reason for Request of Review

.....
Opinion

.....
Review Made By

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 174-162-010 GENERAL POLICY.
- WAC 174-162-015 DEFINITIONS.
- WAC 174-162-020 DISCLOSURE TO THE STUDENT.
- WAC 174-162-025 REQUESTS AND APPEAL PROCEDURES.
- WAC 174-162-030 RELEASE OF PERSONALLY-IDENTIFIABLE RECORDS.
- WAC 174-162-035 COLLEGE RECORDS.
- WAC 174-162-040 RELEASE OF PUBLICITY INFORMATION.
- WAC 174-162-045 NOTICE OF RIGHTS.

**Chapter 174-280 WAC
FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974**

- WAC 174-280-010 General policy.
- 174-280-015 Definitions.
- 174-280-020 Disclosure to the student.

- 174-280-025 Requests and appeal procedures.
- 174-280-030 Release of personally identifiable records.
- 174-280-035 College records.
- 174-280-040 Release of publicity information.
- 174-280-045 Notice of rights.

NEW SECTION

WAC 174-280-010 GENERAL POLICY. The Evergreen State College must insure that information contained in student records is treated responsibly with due regard for its personal nature, and for the students', college's, and community's needs. The following guidelines implement this general policy and respond to the requirements of Public Law 93-380 (Family Educational Rights and Privacy Act of 1974).

NEW SECTION

WAC 174-280-015 DEFINITIONS. For the purposes of WAC 174-280-010 through 174-280-045, the following terms shall have the definitions shown:

- (1) A "student" is any person who is or has been registered at Evergreen, with respect to whom Evergreen maintains educational records or other information personally-identifiable by name, identification number, or other names of recognition.
- (2) The term "educational records" means those records, files, documents and other materials maintained by Evergreen which contain information directly related to the individual student.
- (3) The term "directory information" means the student's name, address, telephone number, dates of attendance, date and place of birth, major field of study, participation in officially recognized activities and sports, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

NEW SECTION

WAC 174-280-020 DISCLOSURE TO THE STUDENT. (1) A student has the right to inspect, and request copies of his or her educational records, except that a student is not entitled to access to:

- (a) Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a person appointed to replace or assume responsibilities of the originator of the records;
- (b) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes;
- (c) Records on a student which are created or maintained by a physician, psychiatrist or other officially recognized professional or para-professional acting in his or her professional or para-professional capacity, and which are created, maintained or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment: PROVIDED, HOWEVER, That such records can be personally reviewed by a physician or other appropriate professional of the student's choice;

(d) A parent's confidential financial statement unless the student's parent or guardian has granted permission for access in writing either on the statement or in a separate authorizing letter;

(e) Records or/and documents of the security office which are kept apart from educational records and which are maintained solely for law enforcement purposes and which are not made available to persons other than law enforcement officials of the same jurisdiction, if security office personnel do not have access to educational records under subsection (1) of this section.

(2) Recommendations, evaluations or comments concerning a student, whether or not provided in confidence, either expressed or implied, as between the author and the recipient, shall nonetheless be made available to the student, except that:

(a) The student may specifically release his right to review where the information consists only of confidential recommendations respecting admission to any educational institution, or an application for employment, or receipt of an honor or honorary recognition, by submitting the release in writing to the Evergreen individual(s) or office(s) having custody of the particular record;

(b) A student's waiver of his or her right of access to confidential statements shall apply only if the student is, upon request, notified of the names of all persons making confidential statements concerning him or her, the dates of such confidential statements were provided; and such confidential statements are used solely for the purpose for

which they were originally intended, and such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from Evergreen;

(c) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under this subsection: PROVIDED, HOWEVER, That upon request the student is notified of the names of the authors of all such confidential records, the dates appearing on such confidential records and the purpose for which each confidential record was provided. Such records shall remain confidential and shall be released only with the consent of the author. The student will initiate any request for release by direct contact with the author. Confidential information will then only be released to the student upon receipt of written consent of the author. Such records shall be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to that student.

(4) Charges for copies of education records shall not exceed one dollar per page.

(5) The registrar is the official custodian of academic records and therefore is the only official who may issue a transcript of the student's official academic record or prepare other copies of the student's records on file in the registrar's office.

(6) Student education records may be destroyed in accordance with routine retention schedules. In no case will any record which is requested by a student for review in accordance with this section and WAC 174-280-025 be removed or destroyed prior to informing the student and, if requested, providing the student access.

(7) A student's right to inspecting and securing copies of his or her education records passes to the student's heir(s) upon his or her death.

NEW SECTION

WAC 174-280-025 REQUESTS AND APPEAL PROCEDURES. (1) A request by a student for review of information should be made in writing to the Evergreen individual(s) or office(s) having custody of the particular record. The individual(s) or office(s) having custody of the record requested shall require presentation of proper identification, including validation of identity by way of student's photo I.D. card and/or signatures, from the requesting student.

(2) The individual(s) or office(s) must respond to a request for educational records within a reasonable period of time, but in no case more than forty-five days after the request has been made. Those specific cases identified in WAC 174-280-020(1) are exempted from coverage under this section.

(3) After reviewing his or her records, a student may challenge the content of the records if the student believes them to be inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. In such cases the student should contact the appropriate dean or director responsible for custody of the record. If a student has been unable to negotiate correction of or deletion of inaccurate, misleading or otherwise inappropriate data, he or she may pursue the grievance procedures in chapter 174-108 WAC and may place a written statement of rebuttal in his or her official records.

(4) Request for public records must be submitted in accordance with procedures outlined in chapter 174-108 WAC.

NEW SECTION

WAC 174-280-030 RELEASE OF PERSONALLY IDENTIFIABLE RECORDS. (1) The college shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the following:

(a) Evergreen staff, faculty, and student employees when the information is specifically required for a legitimate educational interest within the performance of their assigned responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those assigned responsibilities;

(b) Federal and state officials requiring access to educational records in connection with the audit and evaluation of a federally- or state-supported education program or in connection with the enforcement of

the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students to other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements;

(c) Agencies or organizations requesting information specifically required as a part of a student's application for, or receipt of, financial aid, with the understanding that its use will be strictly limited to that purpose;

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purpose for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purpose for which it was provided;

(f) Any person or entity designated by judicial order or lawfully-issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith. Any college individual(s) or office(s) receiving a subpoena or judicial order for educational records should also immediately notify the assistant attorney general assigned to Evergreen;

(g) A collection agency under contract to Evergreen when necessary to collect past due accounts the student owes to Evergreen upon the condition that the student is forwarded a notice at least ten days in advance of the date the account is transferred.

(2) Where the consent of a student is obtained for the issuance of education records, it shall be in writing, signed and dated by the student giving the release, and the names of the parties to whom such records will be released, and may include the reasons for such release, except that transcripts may be issued to other colleges or universities for admission as a result of telephone requests from the student.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e), (f), and (g) of this section, the appropriate Evergreen official shall maintain a record, which will be made available to the student upon request kept with the education record, which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) of this section need not be recorded.

(4) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.

(5) Students may request that the college not release directory information by written notice to the registrar.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is clearly necessary to protect the health or safety of a student or other person(s).

(7) Student information in computer files may be released only by the Evergreen individual or office which maintains the respective files.

NEW SECTION

WAC 174-280-035 COLLEGE RECORDS. (1) All Evergreen individual(s) or office(s) which have custody of education records will develop implementation procedures in accordance with WAC 174-280-010 through 174-280-045.

(2) Disciplinary records shall be kept separate and apart from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

NEW SECTION

WAC 174-280-040 RELEASE OF PUBLICITY INFORMATION. The college relations officer of the college may refer to "directory information" concerning the availability of information which may be released generally concerning enrolled students. Students may request that the college not release publicity information by written notice to the college relations office.

NEW SECTION

WAC 174-280-045 NOTICE OF RIGHTS. In accordance with the requirements of the federal statute, the college through the office of the dean of enrollment services will annually notify all enrolled students of their rights under WAC 174-280-010 through 174-280-045 to include:

(1) The types of educational records and information contained therein which are directly related to students and maintained by the institution.

(2) The name and position of the official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have access.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 174-112-130 EMPLOYMENT OF RELATIVES CONCERNING CONFLICT OF INTEREST—GENERAL POLICY.
- WAC 174-112-140 EMPLOYMENT OF RELATIVES CONCERNING CONFLICT OF INTEREST—PROCEDURE.
- WAC 174-112-150 EMPLOYMENT OF RELATIVES CONCERNING CONFLICT OF INTEREST—DEFINITION.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 174-126-010 GENERAL POLICY.
- WAC 174-126-020 PRACTICES AND PROCEDURES.
- WAC 174-126-030 HUMAN SUBJECTS REVIEW BOARD.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 174-128-010 PHILOSOPHY.
- WAC 174-128-020 CATEGORIES OF FACULTY MEMBERSHIP.
- WAC 174-128-030 PHILOSOPHY.
- WAC 174-128-040 RECRUITMENT OF REGULAR FACULTY.
- WAC 174-128-042 PROCEDURES FOR HIRING ASSOCIATE FACULTY.
- WAC 174-128-044 RESOURCE FACULTY.
- WAC 174-128-046 STAFF FACULTY.
- WAC 174-128-050 PHILOSOPHY.
- WAC 174-128-060 THE APPOINTMENT AND EVALUATION CYCLES.
- WAC 174-128-062 FACULTY SEMINARS.
- WAC 174-128-064 THE FACULTY PORTFOLIO.
- WAC 174-128-066 FACULTY EVALUATION SCHEDULE.
- WAC 174-128-070 THE DEAN'S ROLE IN THE EVALUATION PROCESS.
- WAC 174-128-080 REAPPOINTMENT AND NONREAPPOINTMENT.
- WAC 174-128-090 ACADEMIC FREEDOM AND TENURE.
- WAC 174-128-990 APPENDIX I—DIAGRAM OF FACULTY RECRUITMENT AND HIRING PROCEDURE.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 174-136-010 GENERAL POLICY.
- WAC 174-136-011 LIMITATIONS.
- WAC 174-136-012 SPONSORING AND BROAD POLICY.

- WAC 174-136-013 SCHEDULING AND RESERVATION PRIORITIES.
- WAC 174-136-014 FACILITIES ASSIGNMENT AND SCHEDULING RESPONSIBILITY.
- WAC 174-136-015 PROCEDURES FOR SECURING PERMISSION AND RESERVATIONS.
- WAC 174-136-016 SCHEDULING AND PROCEDURES.
- WAC 174-136-017 OTHER REQUIREMENTS.
- WAC 174-136-018 AUDIO AND VISUAL RECORDING.
- WAC 174-136-019 ACTIVITIES FOR COMMERCIAL PURPOSES.
- WAC 174-136-02001 REVENUES.
- WAC 174-136-021 CONFERENCES AND CONVENTIONS.
- WAC 174-136-022 PENALTIES FOR VIOLATIONS OF COMMERCIAL ACTIVITIES REGULATIONS.
- WAC 174-136-040 HABITATING IN UNAUTHORIZED PLACES—PROHIBITION.
- WAC 174-136-042 HABITATING IN UNAUTHORIZED PLACES—PENALTIES FOR VIOLATION.
- WAC 174-136-060 ACCESS AND USE OF LIBRARY RESOURCES.
- WAC 174-136-080 LOAN PERIODS AND FINES.
- WAC 174-136-090 LOST AND DAMAGED LIBRARY RESOURCES.
- WAC 174-136-100 RESERVE.
- WAC 174-136-110 CHARGING OUT LIBRARY RESOURCES.
- WAC 174-136-120 INTERLIBRARY LOAN.
- WAC 174-136-130 CIRCULATION RECORDS.
- WAC 174-136-140 SELECTION OF RESOURCES AND SERVICES.
- WAC 174-136-160 WHEN SMOKING IS PERMITTED.
- WAC 174-136-170 WHEN SMOKING IS NOT PERMITTED.
- WAC 174-136-210 POLICY.
- WAC 174-136-220 HEARING BOARD.
- WAC 174-136-230 DISCRIMINATION.
- WAC 174-136-240 PROTESTS.
- WAC 174-136-250 REQUESTS FROM EMPLOYERS.
- WAC 174-136-300 PET POLICY—PURPOSE.
- WAC 174-136-310 PET POLICY—DEFINITIONS.
- WAC 174-136-320 PET POLICY—ANIMAL CONTROL.
- WAC 174-136-330 PET POLICY—ENFORCEMENT.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 174-157-600 PURPOSE AND DEFINITION.
- WAC 174-157-610 BANQUET PERMIT POLICY.
- WAC 174-157-620 BANQUET PERMIT PROCEDURES.
- WAC 174-157-990 FORM—EXHIBIT 1—REQUEST FOR APPROVAL OF BANQUET PERMIT.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 174-160-010 CLOSING DATE AND ENROLLMENT LIMITATIONS.
- WAC 174-160-020 PROCEDURES.
- WAC 174-160-030 NOTIFICATION.
- WAC 174-160-040 CREDENTIALS.

WSR 89-22-032

PERMANENT RULES

DEPARTMENT OF COMMUNITY DEVELOPMENT

[Filed October 27, 1989, 8:41 a.m.]

Date of Adoption: October 23, 1989.

Purpose: Amending WAC 365-140-040 Contractor funding allocation and award of contracts.

Citation of Existing Rules Affected by this Order:
Amending WAC 365-140-040.

Statutory Authority for Adoption: RCW 43.63A.060.

Pursuant to notice filed as WSR 89-18-052 on September 1, 1989.

Effective Date of Rule: Thirty days after filing.

October 23, 1989

Chuck Clarke

Director

AMENDATORY SECTION (Amending Order 87-11, filed 9/18/87)

WAC 365-140-040 CONTRACTOR FUNDING ALLOCATION AND AWARD OF CONTRACTS. Each county of the state is allocated a portion of the total appropriation by the legislature.

(1) Sixty percent of total funds shall be provided ~~((to food banks))~~ by county ~~((according to the following formula:~~

~~(a) Three thousand dollars minimum allocation))~~ to a public or private nonprofit organization ~~((in every county))~~ for food banks ~~((to offset the limited resources and higher costs of providing services in rural areas.~~

~~(b) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the state's population with an income of one hundred twenty five percent of poverty using federal guidelines; and~~

~~(c) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year)).~~

(2) Forty percent of total funds shall be provided ~~((to food distribution centers))~~ by county ~~((according to the following formulas:~~

~~(a) Three thousand dollars minimum allocation))~~ to a public or private nonprofit organization ~~((in every county))~~ for food distribution centers ~~((to offset the limited resources and higher costs of providing services in rural areas;~~

~~(b) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the state's population with an income of one hundred twenty five percent of poverty using federal guidelines; and~~

~~(c) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year)).~~

(3) A formula for distributing the funds in proportion to need shall be established by the department in consultation with a committee appointed by the director or the director's designee. The formula shall address the following:

(a) Poverty population in each county;

(b) Unemployed population in each county; and

(c) Unmet needs in each county.

(4) The department may award the combined allocation for two or more counties to a single applicant.

~~((4))~~ (5) The department shall award a food bank contract to one lead agency contractor in each county, with the exception of Pierce County, where there may be two lead agency contractors, and King County, where there may be five lead agency contractors to administer subcontracts with one or more local providers of emergency food bank services.

~~((5))~~ (6) The department shall award a contract to food distribution centers which are designated by the emergency food assistance program and the food bank lead agency contractors.

~~((6))~~ (7) The department shall pay for services provided under the emergency food assistance program after the contractor submits a monthly report of expenditures incurred and a request for reimbursement.

~~((7))~~ (8) In the event that funds are not claimed by ~~((a))~~ an eligible organization in a county or that a portion of the funds allocated to a county remain unspent, the ~~((county with the highest rate of unemployment which was allocated no more than three thousand dollars for the contract year will receive unspent funds not to exceed three thousand dollars. Unspent funds exceeding three thousand dollars will be reallocated to a county with the next highest rate of unemployment which was allocated no more than three thousand dollars for the contract year))~~ lead agency contractor may request permission from the department to reallocate funds to an area of unmet need.

WSR 89-22-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2883—Filed October 27, 1989, 9:50 a.m.]

Date of Adoption: October 27, 1989.

Purpose: Authorizes the department to review counties in state to determine which counties are care distressed areas; provides criteria for determining if a county is a maternity care distressed area; counties identified as maternity care distressed areas are required to submit a brief report to the department recommending remedial action; and authorizes department to prepare report required in above.

Citation of Existing Rules Affected by this Order:
Amending [new] WAC 388-81-070.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-18-053 on September 1, 1989.

Changes Other than Editing from Proposed to Adopted Version: Subsection (2) is changed to show that the department shall conduct "a biennial" review rather than "an annual" review.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-81-070 DETERMINATION OF MATERNITY CARE DISTRESSED AREAS. (1) A maternity care distressed area shall be defined as a county where women eligible for medical assistance are unable to obtain adequate maternity care.

(2) The department shall conduct a biennial review of each county in the state to determine if the county is a

maternity care distressed area. The department shall include the following factors in the department's determination:

- (a) Higher than average percentage of eligible women receive late or no prenatal care;
- (b) Higher than average percentage of eligible women go out of the area to receive maternity care;
- (c) Higher than average ratio of medical assistance births to obstetrical care providers;
- (d) Higher than average percentage of infants are born to eligible persons per obstetrical care provider; and
- (e) Higher than average percentage of infants are of low birth weight born to eligible women. Low birth weight shall be defined as less than five and one-half pounds, or less than two thousand five hundred grams.

(3) The department shall notify the relevant county authority, for example, board of county commissioners, county council, or county executive, when the department determines a maternity care distressed area exists.

(4) The county authority shall, within one hundred twenty days from the date notified, submit a brief report to the department recommending remedial action.

(a) The county authority shall prepare the report in consultation with:

- (i) The department and the department's local community service offices;
- (ii) The local public health officer;
- (iii) Community health clinics;
- (iv) Health care providers;
- (v) Hospitals;
- (vi) The business community;
- (vii) Labor representatives; and
- (viii) Low income advocates in the distressed area.

(b) The county authority may contract with a local nonprofit agency to develop the report.

(c) The county authority shall notify the department within thirty days if the county authority is unable or unwilling to develop the report.

(5) The department shall develop the report for the distressed area if the department is notified that the county authority is unable or unwilling to develop the report.

(6) The department shall review the report and use the report in developing strategies to improve maternity care access in the distressed area.

WSR 89-22-034
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2884—Filed October 27, 1989, 9:57 a.m.]

Date of Adoption: October 27, 1989.

Purpose: To incorporate the changes in the level of income for pregnant women and children from 90 percent of the federal poverty level to 185% for pregnant women and infants under one year of age and to 100% for children born after September 30, 1983, and are under eight years of age. The rules clarify that citizenship

and residence under chapter 388-82 WAC are eligibility requirements for this program. Resources are not considered.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-032 and [new] 388-83-033.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-16-060 on July 31, 1989.

Changes Other than Editing from Proposed to Adopted Version: In WAC 388-83-032(1), the words "under one year of age" replaces "one year of age and under." The wording is changed to clarify the exact age and be consistent with the other sections of this WAC. In WAC 388-83-033, the wording is changed to read under eight years of age instead of seven years of age and under. Also in WAC 388-83-033, the reference to "enumeration" is changed to Social Security Number to be consistent with the referenced title. The cross reference to chapter 388-82 WAC is corrected to chapter 388-83 WAC in subsection (1)(b).

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-83-032 (~~NEEDY INFANTS, CHILDREN AND~~) PREGNANT WOMEN AND INFANTS. (1) The department shall find (~~the following groups~~) pregnant women and infants under one year of age eligible for Medicaid as categorically needy, if (~~they~~) the pregnant women and infants meet:

(a) 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 two years of age~~) Citizenship, Social Security Number, and Residence requirements under chapter 388-83 WAC.

(2) If the pregnant woman applies on or before the last day of pregnancy, the department shall find her eligible for continued Medicaid coverage through the end of the month containing the sixtieth day from the day pregnancy ends.

(3) Income eligibility:

(a) Total family income shall not exceed (~~ninety~~) one hundred eighty-five percent of the poverty income guidelines as published and updated by the secretary of health and human services. (~~Ninety~~) One hundred eighty-five percent of the 1989 poverty income guidelines is:

	Family Size	Monthly
(i)	One	\$ ((499.00)) 922
(ii)	Two	\$ ((602.00)) 1,236
(iii)	Three	\$ ((755.00)) 1,551
(iv)	Four	\$ ((908.00)) 1,865

	Family Size	Monthly
(v)	Five	\$ ((1,061.00)) <u>2,180</u>
(vi)	Six	\$ ((1,214.00)) <u>2,494</u>
(vii)	Seven	\$ ((1,367.00)) <u>2,809</u>
(viii)	Eight	\$ ((1,520.00)) <u>3,123</u>

(ix) For family units with nine members or more, add \$~~((153.00))~~ 315 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))~~ the department shall exclude the income of the unmarried father of the unborn unless the income is actually contributed; and

(ii) Apply the special situations under WAC 388-83-130 (5) and (6)~~((; and~~

~~((ii) 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) ~~The department shall count as resources only cash, savings accounts, checking accounts, and certificates of deposit))~~ The department shall not consider resources in determining the eligibility of groups in 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))~~ Changes in family income shall not affect eligibility for medical assistance during pregnancy and when eligible under subsection (2) of this section through the sixtieth day from the last day of pregnancy:

(a) Once the department determines 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, described 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))~~ becomes one year of 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))~~ becomes one year of age; and

(ii) The stay for inpatient services continues into the following month or months; and

(iii) The infant ~~((or child))~~ is eligible for medical assistance under this section except for age.

NEW SECTION

WAC 388-83-033 CHILDREN—((OPTIONAL CATEGORICALLY NEEDY)) UNDER EIGHT YEARS OF AGE. (1) The department shall find children ~~((seven))~~ under eight years of age ~~((and under)),~~

born after September 30, 1983, eligible for Medicaid as categorically needy if the children meet:

(a) The income requirements of this section; and
 (b) Citizenship, Social Security Number, and Residence under chapter ~~((388-82))~~ 388-83 WAC~~((; and~~
 (c) ~~Enumeration requirements under chapter 388-82 WAC)).~~

(2) Income eligibility:

(a) Total family income shall not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. One hundred percent of the 1988 poverty income guidelines is:

FAMILY SIZE MONTHLY

(i)	One	\$ 498.00
(ii)	Two	\$ 668.00
(iii)	Three	\$ 838.00
(iv)	Four	\$ 1,008.00
(v)	Five	\$ 1,178.00
(vi)	Six	\$ 1,348.00
(vii)	Seven	\$ 1,518.00
(viii)	Eight	\$ 1,688.00

(ix) For family units with more than eight members, add \$170 to the monthly income for each additional member.

(b) The department shall determine family income:

(i) According to AFDC methodology; and

(ii) Applying the special situations under WAC 388-83-130(5) and (6).

(3) The department shall not consider resources in determining eligibility of children included in this section.

(4) A child who ~~((attains))~~ becomes eight years of age shall be eligible until the later of:

(a) The end of the month of the child's eighth birthday; or

(b) The end of the month in which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month in which the child ~~((attains))~~ becomes eight years of age; and

(ii) The stay for inpatient services continues into the following months; and

(iii) Who, but for ~~((attaining))~~ becoming such age, would be eligible for assistance under this section.

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

**WSR 89-22-035
 PERMANENT RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Public Assistance)**

[Order 2885—Filed October 27, 1989, 10:02 a.m.]

Date of Adoption: October 27, 1989.

Purpose: To add enhanced maternity benefit rules.

Citation of Existing Rules Affected by this Order:
Amending [new] WAC 388-86-024.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-16-069 on July 31, 1989.

Changes Other than Editing from Proposed to Adopted Version: The word "each" is added to subsection (1) to clarify that the rule applies to different pregnancy for the same woman.

The following language is added to subsection (2):

(c) "Vitamins and nonprescription drugs as listed in the department's formulary.

(d) Transportation as provided under WAC 388-86-085."

A subsection (5) is added: "With prior approval, the department may pay for additional recipient contacts under subsection (4) of this section."

The principal reasons for adopting the changes are as follows: These were suggested comments we received from Evergreen Legal Services. These comments were received since our review process. The comments clarify the present language in the proposed WAC. Even though the language is new to this WAC, the apparent additional benefits in subsection (2) are not new services to clients. These services are also covered in other WACs. This statement shall be filed with the order of adoption for publication in the State Register.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-86-024 ENHANCED BENEFITS FOR PREGNANT WOMEN. (1) The department shall provide enhanced benefits to a Medicaid recipient during each pregnancy and through the end of the month containing the sixtieth day after the pregnancy ends.

(2) The enhanced benefits include:

(a) Maternity support services, by a provider approved by the bureau of parent-child health services, consisting of:

- (i) Nursing assessment and/or counseling visit;
- (ii) Psychosocial assessment and/or counseling visit;
- (iii) Nutrition assessment and/or counseling visit; and
- (iv) Child birth/parenting education.

(b) Outpatient alcohol and drug treatment consisting of:

(i) A chemical (~~abuse~~) dependency assessment by an Alcohol and Drug Abuse Treatment and Service Act assessment center as defined under chapter 275-19 WAC; and

(ii) Chemical dependency treatment.

(c) Vitamins and nonprescription drugs as listed in the department's formulary; and

(d) Transportation as provided under WAC 388-86-085.

(3) The recipient has the freedom of choice:

(a) To receive maternity support services;

(b) Of qualified maternity support services providers; and

(c) To be referred for outpatient alcohol and drug treatment, unless ordered by the court.

(4) The department shall pay per recipient a maximum of:

(a) Ten contacts for assessment/counseling visits under subsection (2)(a) of this section;

(b) One contact for child birth/parenting education;

(c) One contact for an alcohol and drug treatment assessment under subsection (2)(b) of this section; and

(d) Two hundred hours of outpatient chemical dependency treatment.

(5) With prior approval, the department may pay for additional recipient contacts under subsection (4) of this section.

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

WSR 89-22-036

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2886—Filed October 27, 1989, 10:05 a.m.]

Date of Adoption: October 27, 1989.

Purpose: To clarify the limitations of when a provider may bill a recipient.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-87-010.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-16-062 on July 31, 1989.

Changes Other than Editing from Proposed to Adopted Version: To clarify the role of third party payers, subsection (7) was rewritten. In subsections (2) and (3) extraneous wording is deleted. The words deleted were, ", except as specified in chapter 388-86 WAC." and "regardless of whether the provider is aware of the person's eligibility status."

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2600, filed 3/2/88)

WAC 388-87-010 CONDITIONS OF PAYMENT—GENERAL. (1) The department shall be responsible for payment of service rendered to a recipient only when:

(a) The services are within the scope of care(;) of the medical assistance program under chapter 388-86 WAC;

(b) The services are properly authorized; ((and))

(c) The services are billed properly;

(d) The services are timely billed as described under WAC 388-88-015;

(e) The recipient is certified as eligible; and

(f) Third-party payment procedures are followed.

(2) The fees and rates (~~established by~~) the department establishes shall constitute the maximum allowable payment for approved medical care and services provided to recipients by the providers (~~except as specified in chapter 388-86 WAC~~).

(3) (~~When a provider of service furnishes services to an eligible recipient and does not bill the department for services for which the department is responsible for payment, or fails to satisfy department conditions of payment such as prior approval and timely billing, the recipient is under no obligation to pay the provider~~) An "eligible recipient" shall mean a person the department finds eligible for any medical program. The provider is responsible for ascertaining whether a client has medical coverage for the dates of service.

(4) A provider shall not bill, demand, or otherwise collect reimbursement from an eligible recipient, or from other persons on behalf of the recipient, for any service included in the medical program's scope of benefits, and the recipient is not liable for payment for such services if the provider:

(a) Does not properly bill the department for services the department is responsible for payment; or

(b) Fails to satisfy department conditions of payment, including but not limited to:

(i) Prior approval when required;
(ii) Timely billing and billing according to department instructions;

(iii) Pursuit of third-party liability; or
(iv) Adequate documentation of medical necessity.

(5) The department shall not pay for services not included in the medical program's scope of benefits.

(6) A provider may bill an eligible recipient for services only when:

(a) The recipient signs a specific written agreement with the provider before receiving the services stating the:

(i) Specific service provided;
(ii) Service is not covered by the medical assistance program;

(iii) Recipient chooses to receive the specific service;
(iv) Agreement is to pay for the services; and

(v) Agreement is void and unenforceable and the recipient is under no obligation to pay the provider if the:

(A) Service is covered by the medical program; or
(B) Provider fails to satisfy department conditions of payment as described under WAC 388-87-010 (4)(b).

(b) The recipient received reimbursement directly from a third party for services the department has no payment responsibility for; or

(c) The bill counts toward a spenddown liability as described under WAC 388-99-030 and chapter 388-100 WAC.

(7) If a third party pays a provider the department rate, or more, for a covered service, the provider may not bill the department or the recipient for that service.

(8) The department shall not be responsible for payment of medical care or services if the third-party benefits are available to pay the recipient's medical expenses at the time the provider bills the department. The recipient shall not be responsible for payment except to the

extent the recipient has directly received third-party reimbursement for such services.

(9) A provider shall not refuse to furnish covered services to an eligible recipient because of a third party's potential liability for the services.

(10) Payment for any service (~~furnished~~) a provider furnishes to a recipient (~~by a provider~~) may not be made to or through a factor who advances money to that provider for accounts receivable.

(~~(5)~~) (11) The department (~~will~~) shall not be responsible for payment for medical care and goods and/or services provided to a recipient:

(a) Enrolled in a department-contracted, prepaid medical plan (~~who fails~~); and

(b) Failing to use the provider under contract unless:

(i) Emergency conditions exist; or
(ii) The department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(~~(6)~~) The department will not be responsible for payment of that portion of medical care or services reimbursable within a reasonable time by a third-party resource available to the recipient such as health insurance coverage, casualty insurance or when medical needs result from accident or injury caused by another party. See chapter 388-83 WAC.

(~~(7)~~) (12) Payment for care under the medical assistance or limited casualty-medically needy programs (~~will be~~) are retroactive for three months (~~prior to~~) before the month of application provided the applicant (~~would have been~~) was eligible when the care was received. The applicant need not be eligible at the time of actual application. The central authorization unit's (CAU) medical consultant shall approve medical services that require approval (~~must be approved by the ESO medical consultant~~) for the retroactive period.

(~~(8)~~) (13) Payment for care under the limited casualty program-medically indigent may be retroactive for seven days (~~prior to~~) before the date of application if applicant is otherwise eligible. Medical services that require approval (~~must~~) shall be approved by the (~~ESO~~) CAU medical consultant for the retroactive period.

(~~(9)~~) (14) The department may pay a claim (~~by~~) a provider submits for payment for services rendered to a person (~~who~~) subsequently (~~is~~) determined (~~to be~~) ineligible at the time of service (~~was rendered may be paid~~) under the following conditions only:

(a) The ineligible person (~~must have been~~) was certified at the time of service as both financially and medically eligible(;) ;

(b) Payment (~~has~~) was not (~~been~~) made from sources outside the department(;) ; and

(c) A request for such payment (~~must be~~) is submitted to and approved by the division of medical assistance.

(~~(10)~~) (15) (~~Payment~~) The department shall pay for medically necessary services (~~shall be made~~) on the basis of usual and customary charges or the rates (~~established by~~) the department establishes, whichever is lower.

~~((11))~~ (16) The department shall not authorize payment for well-baby care ((is not authorized)) except as provided under the early periodic screening, diagnosis and treatment (EPSDT) program. See WAC 388-86-027.

~~((12))~~ (17) In counties/areas where transportation is provided as a medical service, payment for medically necessary transportation services, provided by nonprofit organizations, shall be based on the operating costs incurred in providing the service but shall not exceed the rates established by the department. See WAC 388-87-035 for transportation payment other than provided by a nonprofit organization.

WSR 89-22-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2887—Filed October 27, 1989, 10:06 a.m.]

Date of Adoption: October 27, 1989.

Purpose: To delete the section of the rule that states jail inmates are not eligible for the medically indigent program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-100-005.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-18-047 on August 31, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2499, filed 6/1/87)

WAC 388-100-005 LIMITED CASUALTY PROGRAM—MEDICALLY INDIGENT. (1) The department of social and health services shall provide a limited casualty program of medical care, administered through the division of medical assistance, designed to meet the health care needs of persons not receiving cash assistance or eligible for ~~((any))~~ other medical program.

(2) An individual eligible for the medically indigent program is a person who:

(a) Has an emergency medical condition.

(i) 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:

(A) Placing the patient's health in serious jeopardy;

(B) Serious impairment to bodily functions; or

(C) Serious dysfunction of any bodily organ or part.

(ii) For the purposes of this section pregnancy and treatment under the Involuntary Treatment Act (ITA) are considered ~~((as))~~ emergent medical conditions~~(;)~~.

(b) Meets the financial eligibility requirements ~~((as defined in))~~ under chapter 388-100 WAC; and

(c) Is not an inmate of a ~~((city or county jail,))~~ federal or state prison ~~((or of a juvenile detention facility)).~~

WSR 89-22-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2889—Filed October 27, 1989, 10:07 a.m.]

Date of Adoption: October 27, 1989.

Purpose: Clarify garnished wages are part of gross earned income.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-475.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-18-078 on September 6, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2608, filed 3/14/88)

WAC 388-28-475 USE OF INCOME AND INCOME POTENTIALS. (1) Meaning of income (see definition in WAC 388-22-030). Income shall include, but is not limited to, all types of:

(a) Real or personal property;

(b) Support from parent, stepparent, or other nonrelated adult;

(c) Stocks and bonds;

(d) Wages, including garnished wages;

(e) Interest in an estate;

(f) Income from farming;

(g) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.;

(h) Gifts and prizes in the form of cash or marketable securities; and

(i) For AFDC lump sum payments. For general assistance, only that amount of the lump sum in excess of the resource limits is income.

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through 388-28-420 regarding ownership and use of resources also govern the ownership and use of income and income potentials.

(3) Resources and income. WAC 388-28-400 through 388-28-457 contain policies and procedures for considering and using nonexempt resource values to determine financial need. WAC 388-28-475 through 388-28-600 covers policies and procedures used in computing income to determine financial need. The total nonexempt resource values and nonexempt net income values are compared with the appropriate payment level plus authorized additional requirements to determine financial need and, if it exists, the amount of the grant for which the applicant is eligible.

WSR 89-22-039
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed October 27, 1989, 10:08 a.m.]

We are hereby withdrawing proposed amendments to chapter 248-105 WAC, filed in the Washington State Register under WSR 89-13-079 and 89-20-019.

Kristine M. Gebbie
 Secretary

WSR 89-22-040
PROPOSED RULES
DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
 [Filed October 27, 1989, 1:44 p.m.]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Division of Savings and Loan Associations intends to adopt, amend, or repeal rules concerning credit union field of membership expansion;

that the agency will at 10:00 a.m., Wednesday, December 6, 1989, in the General Administration Building, Room 214, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 31.12.535.

The specific statute these rules are intended to implement is RCW 31.12.045(2), 31.12.115 and 31.12.516.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before December 6, 1989.

This notice is connected to and continues the matter in Notice No. WSR 89-11-095 filed with the code reviser's office on May 24, 1989.

Dated: October 27, 1989
 By: Betty Reed
 Supervisor

CHAPTER 419-72 WAC
 CREDIT UNION FIELD OF MEMBERSHIP EXPANSION

- WAC 419-72-010 - PURPOSE
- WAC 419-72-015 - DEFINITIONS
- WAC 419-72-020 - EXPANSION OF A GROUP WITH A COMMON BOND OF OCCUPATION
- WAC 419-72-025 - APPLICATION
- WAC 419-72-030 - CONSOLIDATION
- WAC 419-72-035 - OTHER INFORMATION
- WAC 419-72-040 - OVERLAP JUSTIFICATION
- WAC 419-72-045 - EXPANSION OF A GROUP WITH A COMMON BOND OF ASSOCIATION
- WAC 419-72-050 - APPLICATION
- WAC 419-72-055 - OTHER INFORMATION
- WAC 419-72-060 - EXPANSION OF A GROUP WITH A COMMON BOND OF COMMUNITY
- WAC 419-72-065 - APPLICATION
- WAC 419-72-070 - APPLICATION DEEMED COMPLETE
- WAC 419-72-075 - APPROVAL
- WAC 419-72-080 - SPECIAL CIRCUMSTANCES
- WAC 419-72-090 - ADOPTION OF FORM
- WAC 419-72-095 - APPENDIX I

NEW SECTION

WAC 419-72-010 PURPOSE. This chapter is adopted by the supervisor for the purpose of establishing the application process for a credit union to expand its field of membership to include a separate group with a common bond of occupation, association, or community which each have a common bond.

NEW SECTION

WAC 419-72-015 DEFINITIONS. Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Common bond of Occupation" has the same meaning as in WAC 419-70-030
- (2) "Common bond of Association" has the same meaning as in WAC 419-70-040
- (3) "Common bond of Community" has the same meaning as in WAC 419-70-050
- (4) "Credit Union" means a credit union organized and operating under Chapter 31.12 RCW.

NEW SECTION

WAC 419-72-020 EXPANSION OF A GROUP WITH A COMMON BOND OF OCCUPATION. If a credit union wants to include a separate group with a common bond of occupation in its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-025.

NEW SECTION

WAC 419-72-025 APPLICATION. The application to include a separate group with a common bond of occupation shall include at least the following information:

- (1) The name of the credit union;
- (2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;
- (3) A description of the enterprise including its name, number of employees, the geographic location of those employees, and the degree of employee support to be made available, i.e., payroll deduction, access to employer premises. If other related individuals specified in WAC 419-70-030 are included, they must be separately identified;
- (4) A statement from the enterprise's managing officer that the enterprise desires membership for its employees in the applicant credit union and that they are not currently eligible for membership in an existing credit union, either state or federally chartered, because of their employment. If the employees of the enterprise are eligible for membership in another credit union the applicant credit union must provide a statement of non-objection from the other credit union;
- (5) A copy of the applicant credit union's most recent financial statement;
- (6) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application, the supervisor may request such additional information as is necessary to clarify the application.

NEW SECTION

WAC 419-72-030 CONSOLIDATION. If a credit union submits multiple bylaw amendments either simultaneously or within the same six month period, the requirements of subsection (5) and (6) of WAC 419-72-025 can be satisfied by reference to the first application submitted during the semi-annual period.

NEW SECTION

WAC 419-72-035 OTHER INFORMATION. If a separate group with a common bond of occupation exceeds 700 individuals, the applicant credit union shall provide the following additional information with its application:

- (1) An analysis that explains why the group does not have sufficient size or resources to form a credit union of its own;

(2) Documentation that the applicant credit union is serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

NEW SECTION

WAC 419-72-040 OVERLAP JUSTIFICATION. If a credit union cannot obtain the letter of non-objection required in subsection (4) of WAC 419-72-025, after having made a best efforts attempt to do so, it may submit documentation that:

(1) At least 30% of the employees of the enterprise desire membership in the applicant credit union, or

(2) The other credit union has failed to adequately serve the group after a reasonable period of time, and

(3) How the applicant credit union plans to improve that service.

A copy of the information required in subsections (1), (2), and (3) above will be supplied to the other credit union. That credit union will be given 60 days during which to respond or raise objections to the overlap.

Overlaps will be approved if approval is consistent with WAC 419-72-075 and at least 30% of the employees of the enterprise desire membership in the applicant credit union; or if, in the opinion of the supervisor, (a) the other credit union is not adequately serving the group, (b) the group itself desires membership in the applicant credit union and (c) the applicant credit union has reasonable plans to do so. More consideration will be given to the quality of service rather than variety of services.

Overlaps will not be granted if the result, in the opinion of the supervisor, might reasonably threaten the viability of the other credit union.

This section is intended to establish procedures to deal with unavoidable conflicts; it is not intended to encourage overlaps. Overlaps will not be granted if, in the opinion of the supervisor, an applicant credit union is using this section as a marketing device.

NEW SECTION

WAC 419-72-045 EXPANSION OF A GROUP WITH A COMMON BOND OF ASSOCIATION. If a credit union wants to include a separate group with a common bond of association into its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-050.

NEW SECTION

WAC 419-72-050 APPLICATION. The application to include a separate group with a common bond of association shall contain at least the following information:

(1) The name of the credit union;

(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;

(3) A detailed description of the group including its charter or articles of incorporation, its bylaws, the qualifications and requirements for membership, and the number and geographic location of its current members;

(4) A resolution from the petitioning group's governing body that the members of the group are not currently eligible for membership in an existing credit union and have been informed of the proposal to affiliate with the applicant credit union and that those members desire to be associated with the applicant credit union and are willing to support its objectives;

(5) A statement by the applicant credit union that its marketing efforts will be directed toward active members of the group and that the group will not be used as vehicle to create eligibility for credit union membership to the general public;

(6) A copy of the applicant credit union's most recent financial statement;

(7) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels.

Upon receipt of the above application the supervisor may request such other information as is necessary to clarify the application.

NEW SECTION

WAC 419-72-055 OTHER INFORMATION. If group has more than 700 members the applicant credit union shall provide the following additional information to the supervisor with its application:

(1) Documentation that explains why the group does not have sufficient size or resources to form a credit union of its own. A statement from the group that it lacks sufficient size or its resources are not sufficient to satisfy this requirement;

(2) Documentation that the applicant credit union is actively serving its current field of membership or has plans in place to do so within a reasonable period of time;

(3) Documentation that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

NEW SECTION

WAC 419-72-060 EXPANSION OF A GROUP WITH A COMMON BOND OF COMMUNITY. If a credit union wants to include a group with a common bond of community into its field of membership it shall make application to the supervisor to amend Article III of its bylaws as set forth in RCW 31.12.115. The amendment shall be in a form as set forth in WAC 419-72-095 and shall be submitted to the supervisor in duplicate along with an application as described in WAC 419-72-065.

NEW SECTION

WAC 419-72-065 APPLICATION. The application to include a community shall contain at least the following information:

(1) The name of the credit union;

(2) Evidence that the board of directors of the credit union has complied with the notice and voting requirements of RCW 31.12.115;

(3) A detailed description of the community, neighborhood or rural district including a map setting forth the geographic boundaries of the community and the current population of the proposed community;

(4) Documentation satisfactory to the supervisor describing how the proposed community meets the definition of Common Bond as set forth in WAC 419-70-050;

(5) Documentation satisfactory to the supervisor that the community does not have adequate credit union financial services available to it;

(6) Letters of support from community organizations and/or residents of the area demonstrating their desire to be associated with the applicant credit union and their willingness to support its objectives;

(7) Any other information that demonstrates the community's desire to have the services of a community based credit union;

(8) A copy of the applicant credit union's most recent financial statement;

(9) A copy of the applicant credit union's business plan or other document demonstrating the credit union's ability and intent to provide service to the new group and specific plans relating anticipated growth to capital levels. The plan should include active participation in community activities;

(10) A copy of the credit union's current loan underwriting standards describing adequate safeguards for its lending activities;

(11) Evidence that the applicant credit union has given written notice to all other credit unions, both state and federally chartered, doing business in the county in which the applicant credit union is located.

Upon receipt of the above application the supervisor may request such other information as necessary to clarify the application.

NEW SECTION

WAC 419-72-070 APPLICATION DEEMED COMPLETE. An application to expand its field of membership shall be deemed complete when the supervisor has received the information required in this chapter except when the applicant credit union is required to give notice to other credit unions. Such an application will not be deemed complete until at least 30 days from the date such notification was given. When an application involves an overlap dispute, such application will not be deemed complete until 60 days from the date that information required in WAC 419-72-040 has been supplied to the affected credit union. If an application is received that is not complete the supervisor will give written notice to the credit union that further

information is necessary no later than 30 days from the date the original application was received.

NEW SECTION

WAC 419-72-075 APPROVAL. The supervisor shall give written approval or denial of a request made in conformance with this regulation within 30 days from the date it is deemed complete. The supervisor's decision will be based on the following general criteria:

- (1) The application is consistent with the provisions of Chapter 31.12 RCW and this regulation;
 - (2) The credit union is currently operating in conformance with the provisions of RCW 31.12, applicable rules in WAC 419, and written supervisory orders, directives and agreements;
 - (3) The proposed new group possesses a common bond as defined in WAC 419-70. The strongest consideration will be given to groups on the lowest organizational level;
 - (4) The application is economically feasible and advisable;
 - (5) The proposed new group does not have sufficient size or resources to form a credit union of its own;
 - (6) The proposed new group is composed of individuals who work or reside within a reasonable distance from an operating office of the applicant credit union;
 - (7) The applicant credit union is financially sound and possesses the financial resources and management capability to provide quality credit union service to the proposed group in a safe and sound manner;
 - (8) The applicant credit union is providing adequate service to its existing eligible membership or has plans to do so in a reasonable time period;
 - (9) The proposal will make quality credit union service available to individuals who wish to have it;
 - (10) Approval of the request will not create a financial hardship on another credit union or threaten its viability.
- Approval of a request for a group with a common bond of community will be based on the following additional general criteria:
- (1) The geographic boundaries of the proposed community, set it off as distinct and recognizable;
 - (2) The common bond of community is the most viable common bond available to provide credit union services to the residents or workers in the subject area;
 - (3) The proposed community has a total population of 60,000 or less.

NEW SECTION

WAC 419-72-080 SPECIAL CIRCUMSTANCES. An applicant credit union may request that one or more of the provisions of this regulation be waived if an emergency exists which requires immediate expansion in order to preserve the viability of the applicant credit union. The request for waiver may be granted if, in the opinion of the supervisor, the expansion request has a reasonable probability of remedying an emergency situation or is otherwise in the public interest.

NEW SECTION

WAC 419-72-090 ADOPTION OF FORM. The Division of Savings and Loan Associations hereby adopts for use by all credit unions requesting approval of amendments to its bylaws, the form attached hereto as WAC 419-72-095, entitled "Request for Bylaw Amendment."

NEW SECTION

WAC 419-72-095 APPENDIX 1—REQUEST FOR BYLAW AMENDMENT.

"Request for Bylaw Amendment"

AMENDMENT TO BYLAWS NO. _____

THIS IS TO CERTIFY: That at a meeting called for that purpose the following amendment to the bylaws of the _____ Credit Union was adopted on _____ by the Board of Directors in accordance with the provisions of RCW 31.12.115.

* ARTICLE _____ SECTION _____:

AMENDED TO READ: ARTICLE ____ SECTION _____:

Signed this _____ day of _____, 19__
ATTEST:

Chairman/President

Secretary

The foregoing amendment of the Bylaws approved this _____ day of _____, 19__.

Supervisor, Division of Savings and Loan Associations, having supervision of Credit Unions.

* Insert section as it now reads.

WSR 89-22-041
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
[Memorandum—October 26, 1989]

The board of directors of the Washington State Convention and Trade Center will hold a special meeting of the board on Wednesday, November 1, 1989, at 2:00 p.m. This special meeting replaces the regular meeting scheduled for 3:00 p.m. the same day.

Due to the fact that two years ago the International Facility Management Association booked their national convention of 2,000 delegates and will utilize all WSCTC meeting rooms, the foregoing meeting will be held at the Plymouth Congregational Church, Room 322, 6th and University Street, Seattle.

If you have questions regarding these meetings, please call 447-5000.

WSR 89-22-042
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Filed October 27, 1989, 4:44 p.m.]

Date of Adoption: October 27, 1989.

Purpose: Commercial fishing regulation.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-40-02100R.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of chum salmon are available for harvest. The fishery needs to be scheduled two days earlier than the previous schedule to ensure the fish do not bypass the harvest area.

Effective Date of Rule: 6 p.m., October 30, 1989.

October 27, 1989
Judith Merchant
Deputy Director
for Joseph R. Blum
Director

NEW SECTION

WAC 220-40-02100S WILLAPA BAY SALMON
Notwithstanding the provisions of WAC 220-40-027, effective 6 PM October 30, 1989 through 6 PM November 1, 1989 it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

FISHING PERIOD

Gill net gear may be used to fish for salmon from 6 PM October 30 to 6 PM November 1, 1989 in SMCRA 2G, 2J, 2K, and 2M.

GEAR

The gill net shall be 5 inch minimum to 6 1/2 inch maximum mesh, and shall not exceed 1,500 feet in length along the corkline.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-40-02100R WILLAPA BAY SALMON (89-107)

WSR 89-22-043

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Filed October 27, 1989, 4:45 p.m.]

Date of Adoption: October 27, 1989.

Purpose: Commercial fishing regulation.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-521.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The openings in Areas 7 and 7A provide opportunity to harvest the non-Indian share of the United States share of the United States and Canadian origin chum salmon. The opening in Area 7B provides opportunity to harvest the non-Indian allocation of Nooksack-Samish origin coho, and is necessary to reduce wastage. The opening in Area 8 provides opportunity to harvest the non-Indian allocation of Skagit origin chum per state-tribal agreement. Openings in Area 8A provide opportunity to harvest the non-Indian allocation of Stillaguamish-Snohomish origin chum, and openings in Area 8D provide opportunity to harvest

Tulalip Bay Hatchery origin coho in order to balance treaty/nontreaty allocation shares and reduce wastage of surplus hatchery stocks. The exclusion zone in Area 8A has been modified to provide greater opportunity to harvest Stillaguamish origin chum salmon. Openings in Areas 10 and 11 provide opportunity to harvest the non-Indian allocation of South Sound origin chum stocks. The restriction in Area 10 is necessary to reduce harvest impacts on local chum stocks. Openings in Areas 12 and 12B provide opportunity to harvest the non-Indian allocation of Hood Canal origin chum stocks. The restriction in Area 12B is necessary to reduce interactions between commercial and sport fisheries, and prevent overharvest of local 12B/12C salmon stocks. All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

Effective Date of Rule: 5:59 p.m., October 28, 1989.

October 27, 1989
Judith Merchant
Deputy Director
for Joseph R. Blum
Director

NEW SECTION

WAC 220-47-522 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. *Notwithstanding the provisions of Chapter 220-47 WAC, effective 5:59 PM Saturday October 28th, until further notice, it is unlawful to take, fish for, or possess salmon or Atlantic salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and restrictions:*

- * Areas 7 and 7A – Gill nets using 6-inch minimum mesh may fish from 4 PM Wednesday November 1 to 8 AM Thursday November 2. Purse seines may fish from 5 AM to 8 PM Thursday November 2. Reef nets may fish from 5 AM to 8 PM Wednesday November 1.
- * Area 7B – Gill nets using 5-inch minimum mesh may fish continuously through 6:00 PM Saturday November 4th, and purse seines may fish continuously through 6:00 PM Saturday November 4th.
- * Area 8 – Gill nets using 6-inch minimum mesh may fish from 4 PM Tuesday October 31 to 8 AM Wednesday November 1, and purse seines using the 5-inch strip may fish from 5 AM to 8 PM Wednesday November 1.
- * Areas 8A and 8D – Gill nets using 6-inch minimum mesh may fish from 4 PM to 8 AM nightly, Sunday, Monday, and Tuesday, October 29, 30 and 31, and purse seines using the 5-inch strip may fish from 5 AM to 8 PM daily, Monday, Tuesday, and Wednesday, October 30 and 31, and November 1. The Area 8A opening excludes those waters north of a line extended true west from Kayak Point on the mainland to Camano Island.
- * Areas 10, 11, 12, and 12B – Gill nets using 6-inch minimum mesh may fish from 4 PM to 8

AM nightly, Sunday and Monday, October 29 and 30. Purse seines using the 5-inch strip may fish from 5 AM to 8 PM daily, Monday and Tuesday, October 30 and 31. This opening excludes those waters of Area 10 in Port Madison west of a line projected 178 degrees from the light at the end of the Indianola Dock to the landfall on the south shore of Port Madison, and those waters of Area 12B south and west of a line projected from Hood Point to Quatsap Point.

- * Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7C, 7D, 7E, 9, 9A, 10A, 10C, 10D, 10E, 10F, 10G, 11A, 12A, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas - Closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:59 PM Saturday, October 28th:

WAC 220-47-521 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY (89-128)

WSR 89-22-044

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Filed October 27, 1989, 4:46 p.m.]

Date of Adoption: October 27, 1989.

Purpose: Personal use fishing regulation.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The late coho run in the Columbia River is now estimated to be 425,000 fish, twice the size originally estimated. The recreational bag limit must be increased immediately in order for the sport fishery to share in the increased abundance of these fish.

Effective Date of Rule: 12:01 a.m., October 28, 1989.

October 27, 1989

Judith Merchant

Deputy Director

for Joseph R. Blum

Director

NEW SECTION

WAC 220-57-16000C COLUMBIA RIVER AND TRIBUTARIES, SPORT SALMON Notwithstanding the provisions of WAC 220-57-160, WAC 220-57-175, WAC 220-57-235, WAC 220-57-250, WAC 220-57-310, WAC 220-57-319, and WAC 220-57-495, effective 12:01 AM, October 28, 1989 until 11:59 PM

December 31, 1989, it is unlawful to fish for or possess salmon for personal use except:

OPEN TO SPORT ANGLING

(1) Columbia River - those waters downstream of a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse to the Megler-Astoria Bridge.

Special bag limit 6 fish no more than 3 of which may be adults.

(2) Cowlitz River - those waters downstream of fishing boundary markers approximately 400 feet below the barrier dam.

Special bag limit 6 fish no more than 3 of which may be adults, and all chinook salmon greater than 28 inches in length must be released

(3) Elochoman River -

(a) those waters downstream from the mouth of the west fork to Foster Road Bridge.

Special bag limit 6 fish no more than 3 of which may be adults, and all chinook salmon greater than 28 inches in length must be released immediately.

(b) those waters downstream from Foster Road Bridge.

Special bag limit 6 fish no more than 3 of which may be adults.

(4) Grays River - those waters downstream from the 7000-line bridge.

Special bag limit 6 fish no more than 3 of which may be adults, and all chinook salmon greater than 28 inches in length must be released immediately.

(5) Kalama River -

(a) those waters downstream from a point 1000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline crossing at Mahaffey's Campground.

Special bag limit 6 fish no more than 3 of which may be adults, and all chinook salmon greater than 28 inches in length must be released immediately.

(b) those waters downstream from the natural gas pipeline.

Special bag limit 6 fish no more than 3 of which may be adults.

(6) Lewis River -

(a) those waters of the east fork downstream from the La Center Bridge.

(b) those waters of the mainstem downstream of the mouth of the east fork.

(c) those waters of the east fork downstream from Lucia Falls to the La Center Bridge.

(d) those waters of the north fork downstream from the mouth of Colvin Creek to the mouth of the east fork.

Special bag limit 6 fish no more than 3 of which may be adults.

(7) Washougal River -

(a) those waters downstream from the bridge at Salmon Falls to the mouth of the Little Washougal River.

Special bag limit 6 fish no more than 3 of which may be adults, and all chinook salmon greater than 28 inches in length must be released immediately.

(b) those waters downstream from the mouth of the Little Washougal River.

Special bag limit 6 fish no more than 3 of which may be adults.

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

WSR 89-22-045
PERMANENT RULES
BOARD OF PHARMACY
[Filed October 30, 1989, 11:15 a.m.]

Date of Adoption: October 26, 1989.

Purpose: To revise the preparation required of applicants who fail the pharmacy jurisprudence three times.

Citation of Existing Rules Affected by this Order: Amending WAC 360-12-015.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 89-19-059 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 26, 1989
Donald Hobbs
Vice-Chair

AMENDATORY SECTION (Amending Order 207, filed 9/2/87)

WAC 360-12-015 EXAMINATIONS. (1) The examination for licensure as a pharmacist shall be known as the full board examination in such form as may be determined by the board.

(2) The score required to pass the ((~~overall~~)) examination shall be 75. In addition, the score achieved in the jurisprudence section of the exam shall be no lower than 75 ((~~percent~~)).

(3) An examinee failing the jurisprudence section of the full board examination shall be allowed to retake the jurisprudence section at a time and place to be specified by the board.

(4) An examinee who fails the jurisprudence examination three times shall not be eligible for further examination until he or she has satisfactorily completed ((~~additional preparation as directed and~~)) a pharmacy law course provided by a college of pharmacy or board directed study or tutorial program approved by the board.

WSR 89-22-046
PERMANENT RULES
BOARD OF PHARMACY
[Filed October 30, 1989, 11:18 a.m.]

Date of Adoption: October 26, 1989.

Purpose: To revise the prescription record storage requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 360-16-096.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 89-19-058 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 26, 1989

Donald Hobbs

Vice-Chairman

AMENDATORY SECTION (Amending Order 221, filed 11/15/88)

WAC 360-16-096 PRESCRIPTION RECORD REQUIREMENTS. (1) Records for the original prescription and refill records shall be maintained on the filled prescription or in a separate record book or patient medication record. Such records must be maintained for a period of at least ((~~five~~)) two years and shall be made available for inspection to representatives of the board of pharmacy((~~PROVIDED, That after two years a complete and accurate copy of the original and refill records may be maintained on microfilm, electromagnetic tape, or other board-approved record storage and retrieval system~~)).

(2) The pharmacist shall be required to insure that the following information be recorded:

(a) Original prescription—At the time of dispensing, a serial number, date of dispensing, and the initials of the responsible pharmacist shall be placed on the face of the prescription. The patient's address must be readily available to the pharmacist, either from the face of the prescription, a record book, patient medication record, or hospital or clinic record.

(b) Refill prescription authorization—Refills for prescription for legend drugs must be authorized by the prescriber prior to the dispensing of the refill prescription.

(c) Refill prescription—At the time of dispensing, the date of refilling, quantity of the drug (if other than original), the name of authorizing person (if other than original), and the initials of the responsible pharmacist shall be recorded on the back side of the prescription, or in a separate record book or patient medication record.

(d) Prescription refill limitations—No prescription may be refilled for a period longer than one year from the date of the original prescription. "PRN" prescriptions shall expire at the end of one year. Expired prescriptions require authorization before filling. If granted a new prescription shall be written and placed in the files.

(e) Prescription copies—Prescription copies and prescription labels presented for filling must be considered as informational only, and may not be used as the sole document. The prescriber shall be contacted for complete information and authorization. If granted, a new prescription shall be written and placed on file. Copies of prescriptions must be clearly identified as such on the face of the prescription. The transfer of original prescription information is permitted if the provisions of WAC 360-16-094 are met.

(f) Emergency refills—If the prescriber is not available and in the professional judgment of the pharmacist an emergency need for the medication has been demonstrated, the pharmacist may dispense enough medication to last until a prescriber can be contacted – but not to exceed 72 hours' supply. The prescriber shall be promptly notified of the emergency refill.

WSR 89-22-047
PERMANENT RULES
BOARD OF PHARMACY
 [Filed October 30, 1989, 11:20 a.m.]

Date of Adoption: October 26, 1989.

Purpose: To define which pharmacies may possess, distribute or dispense legend drug samples.

Citation of Existing Rules Affected by this Order: Amending WAC 360-20-100.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 89-19-055 on September 20, 1989.

Changes Other than Editing from Proposed to Adopted Version: The reference to a pharmacy was changed to a pharmacy "of" rather than "owned and operated by" a hospital and the term "authorized" was deleted in regards to a health care entity.

Effective Date of Rule: Thirty-one days after filing.

October 26, 1989

Donald Hobbs

Vice-Chair

AMENDATORY SECTION (Amending Order 114, filed 6/28/73)

WAC 360-20-100 DRUG SAMPLE PROHIBITIONS. (1) The possession, distribution or dispensing of legend drug samples by a pharmacy is hereby prohibited.

(2) This shall not apply to any pharmacy (~~owned and operated by~~) of a licensed hospital or health care entity which ((is nonprofit and charitable and which is entitled to receive a declaration of current tax exempt status from the government of the United States under section 501(c) of the Internal Revenue Code)) receives and distributes drug samples at the request of an authorized practitioner pursuant to RCW 69.45.050.

(3) A health care entity means any organization or business entity that provides diagnostic, medical, surgical, or dental treatment and/or rehabilitative care, but does not include any wholesale distributor or retail pharmacy licensed under state law.

WSR 89-22-048
PERMANENT RULES
BOARD OF PHARMACY
 [Filed October 30, 1989, 11:23 a.m.]

Date of Adoption: October 26, 1989.

Purpose: To regulate steroids to reduce the health risks that accompany the use of these drugs for non-medical purposes.

Statutory Authority for Adoption: RCW 18.64.005.

Pursuant to notice filed as WSR 89-19-056 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 26, 1989

Donald Hobbs

Vice-Chairman

NEW SECTION

WAC 360-32-060 REGULATED STEROIDS.

The board finds that the following drugs shall be classified as steroids for the purposes of section 1, chapter 369, Laws of 1989. The drugs designated shall include the following and any synthetic derivatives or any isomer, ester, salt, or derivative of the following that act in the same manner on the human body from the attached list:

- (1) Anabolicum
- (2) Anadrol
- (3) Anatrofin
- (4) Anavar
- (5) Androxon
- (6) Andriol
- (7) Android
- (8) bolandiol
- (9) bolasterone
- (10) boldenone
- (11) boldenone undecylenate
- (12) bolenol
- (13) Bolfortan
- (14) bolmantalate
- (15) Cheque
- (16) chlorotestosterone
- (17) clostebol
- (18) Deca Durabolin
- (19) dehydrochlormethyl-testosterone
- (20) Delatestyl
- (21) Dianabol
- (22) Dihydrolone
- (23) dihydrotestosterone
- (24) dimethazine
- (25) Drive
- (26) Drolban
- (27) drostanolone
- (28) Durabolin
- (29) Durateston
- (30) Equipoise
- (31) Esiclene
- (32) ethylestrenol
- (33) Exoboline
- (34) Finaject
- (35) Fluoxymesterone
- (36) formebolone
- (37) Halotestin
- (38) Halostein
- (39) Hombreol
- (40) Iontanyl
- (41) Laurabolin
- (42) Lipodex
- (43) Maxibolin
- (44) mesterolone
- (45) metanabol
- (46) methenolone acetate
- (47) methenolone enanthate
- (48) methandienone
- (49) methandranone
- (50) methandriol
- (51) methandrostenolone
- (52) methyltestosterone

- (53) mibolerone
- (54) Myagen
- (55) Nandrolin
- (56) nandrolone
- (57) nandrolone decanoate
- (58) nandrolone cyclotate
- (59) nandrolone phenpropionate
- (60) Nelavar
- (61) Nerobol
- (62) Nilevar
- (63) nisterime acetate
- (64) Norbolethone
- (65) Nor-Diethylin
- (66) norethandrolone
- (67) Normethazine
- (68) Omnifin
- (69) oxandrolone
- (70) oxymesterone
- (71) oxymetholone
- (72) Parabolan
- (73) Permastril
- (74) pizotyline
- (75) Primobolone/Primobolan depot
- (76) Primotestin/Primotestin depot
- (77) Proviron
- (78) Quinalone
- (79) Quinbolone
- (80) Restandol
- (81) silandrone
- (82) Sostanon
- (83) Spectriol
- (84) stanolone
- (85) stanozolol
- (86) stenbolone acetate
- (87) Stromba
- (88) Sustanon
- (89) Tes-10
- (90) Tes-20
- (91) Tes-30
- (92) Teslac
- (93) testolactone
- (94) testosterone
- (95) testosterone cypionate
- (96) testosterone enanthate
- (97) testosterone ketolaurate
- (98) testosterone phenylacetate
- (99) testosterone propionate
- (100) testosterone undecanoate
- (101) Thiomucase
- (102) tibolone
- (103) trenbolone
- (104) trenbolone acetate
- (105) trestolone acetate
- (106) Trophobolone
- (107) Winstrol

WSR 89-22-049**PROPOSED RULES****GAMBLING COMMISSION**

[Filed October 30, 1989, 1:42 p.m.]

Original Notice.

Title of Rule: Repealing WAC 230-60-020 Operations and procedures.

Purpose: Rule is included in WAC 230-02-010 and implements the new APA, chapter 34.05 RCW.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 34.05 RCW.

Summary: This rule is repealed because it is included in WAC 230-02-010.

Reasons Supporting Proposal: Necessary to carry out the regulatory function of the agency.

Name of Agency Personnel Responsible for Drafting: Frank L. Miller, Deputy Director, 4511 Woodview Drive S.E., 438-7640; **Implementation and Enforcement:** Ronald O. Bailey, Director.

Name of Proponent: Staff, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To implement new APA.

Proposal Changes the Following Existing Rules: This rule is repealed because it is included in WAC 230-02-010.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The agency has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it isn't because there is no impact to the businesses as a result of this filing.

Hearing Location: Execulodge Governor House, 621 Capitol Way South, Olympia, WA, on January 12, 1990, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, 4511 Woodview Drive S.E., Lacey, WA 98504-8121, by January 12, 1990.

Date of Intended Adoption: January 12, 1990.

October 25, 1989

Frank L. Miller

Deputy Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-60-020 OPERATIONS AND PROCEDURES

WSR 89-22-050**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Memorandum—October 27, 1989]

In addition to the regular commission meeting scheduled for November 15 and 16, 1989, the commissioners will hold a special commission meeting on November 15, 1989, in Olympia. The meeting will be held at the Evergreen Plaza Building, Second Floor Conference Room, 711 South Capitol Way, Olympia, beginning at 1:00

p.m. and will be held in executive session to interview finalists for the position of executive secretary of the Washington State Human Rights Commission.

WSR 89-22-051**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—October 30, 1989]

EWU Board of Trustees
9:00 a.m., EWU Spokane Center, 4th Floor Mall
October 31, 1989

Breakfast to be served to board members at 8:00 a.m.,
EWU Spokane Center, Room 406.

WSR 89-22-052**PROPOSED RULES
BIG BEND COMMUNITY COLLEGE**

[Filed October 30, 1989, 2:44 p.m.]

Original Notice.

Title of Rule: Chapters 132R-01, 132R-02 and 132R-05 WAC.

Purpose: To declare Big Bend Community College's organization, operation and information regarding educational offerings; to adopt model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250; and to adopt an immediate student athlete suspension for students found violating chapter 69.41 RCW.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: Update policies pursuant to RCW 34.05-.250 and chapter 69.41 RCW.

Reasons Supporting Proposal: RCW 34.05.250 and chapter 69.41 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Sorenson, Big Bend Community College, 28th and Chanute, Moses Lake, Washington 98837, (509) 762-6201.

Name of Proponent: Big Bend Community College, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To bring in line with current policies.

Proposal Changes the Following Existing Rules: To update policies dealing with student rights, traffic, designated authority, use of college facilities, equipment and supplies, bookstore operation, library operation, residence housing, Family Educational Rights and Privacy Act of 1974, and personnel files.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Big Bend Community College, Building 1400, Fireside Room, 28th and Chanute, Moses Lake, Washington, on December 18, 1989, at 7:00 p.m.

Submit Written Comments to: Robert Sorenson, by December 18, 1989.

Date of Intended Adoption: December 18, 1989.

October 26, 1989
Robert Sorenson
Vice-President
Administrative Services

CHAPTER 132R-01
ORGANIZATION

NEW SECTION

WAC 132R-01-010 ORGANIZATION—OPERATION—INFORMATION. (a) Organization. Big Bend Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(b) Rules Coordinator. The designated rules coordinator for Big Bend Community College is the Vice President, Administrative Services, located at the following address:

Vice President, Administrative Services
Big Bend Community College
Building 1400
28th & Chanute
Moses Lake, WA 98837

(c) Operation. The administrative office is located at the following address:

Big Bend Community College
Building 1400
28th & Chanute
Moses Lake, WA 98837

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(d) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Big Bend Community College – Admissions
Building 1400
28th & Chanute
Moses Lake, WA 98837

NEW SECTION

WAC 132R-02-010 ADOPTION OF MODEL RULES OF PROCEDURE. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at this institution. Those rules may be found at Chapter 10-08 Washington Administrative Code. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by this institution shall govern. Rules adopted at this institution prior to July 1, 1989, remain in full force and effect unless specifically repealed or amended.

NEW SECTION

WAC 132R-02-020 APPOINTMENT OF PRESIDING OFFICERS. The president or president's designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the president or his or her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the president or president's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

NEW SECTION

WAC 132R-02-030 METHOD OF RECORDING. Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

NEW SECTION

WAC 132R-02-040 APPLICATION FOR ADJUDICATIVE PROCEEDING. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address:

President's Office
Big Bend Community College
Building 1400
28th & Chanute
Moses Lake, WA 98837

Written application for an adjudicative proceeding should be submitted to the above address within 20 days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

NEW SECTION

WAC 132R-02-050 BRIEF ADJUDICATIVE PROCEDURES. This rule is adopted in accordance with RCW 34.05.482-494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Challenges to contents of education records;
- (3) Student conduct proceedings. The procedural rules in Chapter 132R-04 WAC apply to these proceedings.
- (4) Parking violations. The procedural rules in Chapter 132R-116 WAC and Chapter 132R-118 WAC apply to these proceedings.
- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in institution sponsored athletic events, pursuant to Chapter 132R-05 WAC.

NEW SECTION

WAC 132R-02-060 DISCOVERY. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

NEW SECTION

WAC 132R-02-070 PROCEDURE FOR CLOSING PARTS OF THE HEARINGS. A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request a written response to the request shall be made within 10 days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefor in writing within 20 days of receiving the request.

NEW SECTION

WAC 132R-02-080 RECORDING DEVICES. No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 132R-02-010, except for the method of official recording selected by the institution.

NEW SECTION

WAC 132R-02-090 PETITIONS FOR STAY OF EFFECTIVENESS. Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers, who entered the final order.

NEW SECTION

WAC 132R-05-010 IMMEDIATE SUSPENSION. Student athletes found to have violated Chapter 69.41 RCW, legend drugs—prescription drugs shall, upon conviction, be immediately suspended from participation in school-sponsored athletic events by the director of athletics. The period of loss of eligibility to participate will be determined by the director of athletics at the conclusion of a brief adjudicative hearing, to be commenced within twenty days of the suspension.

WSR 89-22-053

PROPOSED RULES

BIG BEND COMMUNITY COLLEGE

[Filed October 30, 1989, 2:49 p.m.]

Original Notice.

Title of Rule: Chapters 132R-08, 132R-17, 132R-130, 132R-132, 132R-140, 132R-156, 132R-160, 132R-185 and 132R-195 WAC.

Purpose: To repeal policies dealing with reduction in force of classified employees, elections, collective bargaining relating to tenure, academic transcripts, swimming pool and diving regulations, off-campus housing, food service, classified staff development and training, and State Environmental [Policy] Act.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: Repealing policies that no longer apply, or are covered by other policies.

Reasons Supporting Proposal: Repeal unnecessary or duplicated policies.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Sorenson, Vice-President, Administrative Services, Big Bend Community College, 28th and Chanute, Moses Lake, Washington, (509) 762-6201.

Name of Proponent: Big Bend Community College, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See above Summary.

Proposal does not change existing rules.

It will remove policies that no longer apply, or are covered by other policies.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Big Bend Community College, Building 1400, Fireside Room, 28th and Chanute, Moses Lake, Washington 98837, on December 18, 1989, at 7:00 p.m.

Submit Written Comments to: Robert Sorenson, by December 18, 1989.

Date of Intended Adoption: December 18, 1989.

October 26, 1989

Robert Sorenson

Vice-President

Administrative Services

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-08-010 PURPOSE OF RULES.
- WAC 132R-08-020 DEFINITIONS.
- WAC 132R-08-030 INITIAL PROCEDURES FOR REDUCTION IN FORCE.
- WAC 132R-08-040 INITIAL ORDER OF LAYOFF.
- WAC 132R-08-050 OPTIONS IN LIEU OF LAYOFF.
- WAC 132R-08-060 PROCEDURE FOR ESTABLISHING ORDER OF LAYOFF AND NOTICE REQUIREMENTS.
- WAC 132R-08-070 DISTRIBUTION OF LAYOFF NOTICE.
- WAC 132R-08-080 REEMPLOYMENT RIGHTS OF LAID OFF EMPLOYEES.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-17-010 PURPOSE.
- WAC 132R-17-020 REQUEST FOR ELECTION-CANVASS OF CERTIFICATED EMPLOYEES BY INDEPENDENT AND NEUTRAL PERSON OR ASSOCIATION.
- WAC 132R-17-030 NOTICE OF ELECTION—ORGANIZATIONS TO BE INCLUDED ON BALLOT—TIME FOR FILING.
- WAC 132R-17-040 CONTENTS OF NOTICE OF ELECTION—DESIGNATION OF CHIEF ELECTION OFFICER—DUTIES.
- WAC 132R-17-050 LIST OF CERTIFICATED EMPLOYEES—POSTING OF LIST.
- WAC 132R-17-060 ELECTION INSPECTORS—DUTIES—RIGHT TO CHALLENGE VOTER—IMPROPER CONDUCT.
- WAC 132R-17-070 BALLOTS.
- WAC 132R-17-080 RECORD OF VOTE—SIGNATURE—CHALLENGE.
- WAC 132R-17-090 INCORRECTLY MARKED BALLOT.
- WAC 132R-17-100 PRIVACY FOR VOTER—EQUIPMENT.
- WAC 132R-17-110 FOLDING BALLOT—BALLOT BOX.
- WAC 132R-17-120 CHALLENGED BALLOT—PROCEDURE.
- WAC 132R-17-130 EMPLOYEES PRESENT ENTITLED TO VOTE—SEALING BALLOT BOX—UNUSED BALLOTS.
- WAC 132R-17-140 ELECTION INSPECTORS DUTIES AFTER VOTING HAS TERMINATED.
- WAC 132R-17-150 DISPOSITION OF CHALLENGED BALLOTS—TALLY SHEETS—INVESTIGATION BY CHIEF ELECTION OFFICER.
- WAC 132R-17-160 COUNTING OF BALLOTS—PROCEDURE—CERTIFICATION OF RESULTS OF ELECTION—RETENTION OF BALLOTS—SIGNED VOTING LISTS.
- WAC 132R-17-170 ELECTIONEERING WITHIN THE POLLS FORBIDDEN.
- WAC 132R-17-180 CONTEST OF ELECTION—TIME FOR FILING OBJECTIONS—INVESTIGATION OF OBJECTIONS.
- WAC 132R-17-190 PERSONS ELIGIBLE TO VOTE—DEFINITION "CERTIFICATED EMPLOYEE."
- WAC 132R-17-200 ELECTION DETERMINED BY MAJORITY OF VALID VOTES CAST—RUN-OFF ELECTION.
- WAC 132R-17-210 TIME LAPSE FOR NEW ELECTION.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-130-010 TENURE.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-132-010 TRANSCRIPTS OF RECORDS.
- WAC 132R-132-020 USE OF STUDENT RECORDS.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-140-010 SWIMMING POOL REGULATIONS.
- WAC 132R-140-020 DIVING RULES.
- WAC 132R-140-030 PENALTY FOR VIOLATIONS OF THIS CHAPTER.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-156-010 LISTING.
- WAC 132R-156-020 POLICY OF NONDISCRIMINATION.
- WAC 132R-156-030 RESPONSIBILITY.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-160-010 MEAL TICKETS.
- WAC 132R-160-020 DINING ETIQUETTE.
- WAC 132R-160-030 SACK LUNCHES.
- WAC 132R-160-040 SICK TRAYS.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-185-010 PURPOSE.
- WAC 132R-185-020 DEFINITIONS.
- WAC 132R-185-030 TRAINING ACTIVITIES.
- WAC 132R-185-040 TRAINING OFFICER.
- WAC 132R-185-050 TRAINING COMMITTEE.
- WAC 132R-185-060 ADMINISTRATIVE UNITS.
- WAC 132R-185-070 CLASSIFIED EMPLOYEES.
- WAC 132R-185-080 EMPLOYEE TRAINING RECORDS.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132R-195-010 COMPLIANCE WITH SEPA—GUIDELINES.

WSR 89-22-054**PROPOSED RULES****BIG BEND COMMUNITY COLLEGE**

[Filed October 30, 1989, 2:51 p.m.]

Original Notice.

Title of Rule: Chapters 132R-04, 132R-12, 132R-116, 132R-118, 132R-136, 132R-144, 132R-150, 132R-158, 132R-190 and 132R-200 WAC.

Purpose: To update policies dealing with student rights, traffic, designated authority, use of college facilities, equipment and supplies, bookstore operation, library operation, residence housing, Family Educational Rights and Privacy Act of 1974, and personnel files.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: Bringing above rules in line with current policies.

Reasons Supporting Proposal: To bring in line with current policies.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Sorenson, Big Bend Community College, 28th and Chanute, Moses Lake, Washington 98837, (509) 762-6201.

Name of Proponent: Big Bend Community College, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See above Summary.

Proposal Changes the Following Existing Rules: New policies designating a rules coordinator, and imposing an immediate suspension to student athletes found to have violated chapter 69.41 RCW.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Big Bend Community College, Building 1400, Fireside Room, 28th and Chanute, Moses Lake, Washington, on December 18, 1989, at 7:00 p.m.

Submit Written Comments to: Robert Sorenson, by December 18, 1989.

Date of Intended Adoption: December 18, 1989.

October 26, 1989

Robert Sorenson

Vice-President

Administrative Services

AMENDATORY SECTION (Amending Order 69-4, filed 12/5/69)

WAC 132R-04-010 ((~~DEFINITIONS~~)) STUDENT RIGHTS AND RESPONSIBILITIES. ((As used in this chapter 132R-04 WAC, the following words and phrases shall mean:

(1) "Board" shall mean the board of trustees of Community College District No. 18, state of Washington.

(2) "College" shall mean Big Bend Community College, or any additional community college hereafter established within Community College District No. 18, state of Washington.

(3) "Liquor" shall mean the definition of liquor as contained within RCW 66.04.010(16) as now law or hereafter amended.

(4) "Drugs" shall mean and include any narcotic drug as defined in RCW 69.33.230(14) as now law or hereafter amended and shall include any dangerous drug as defined in RCW 69.40.060 as now law or hereafter amended and shall include any dangerous drug as defined in RCW 69.40.060 as now law or hereafter amended.

(5) "College facilities" shall mean and include any or all real property controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "Demonstration" shall mean any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or group of persons.

(7) "Disciplinary action" shall mean and include the expulsion, suspension or reprimand of any student by the college president pursuant to WAC 132R-04-150 for the violation of any designated rule or regulation of the rules of student conduct for which a student is subject to disciplinary action.

(8) "Student" shall mean and include any person who is regularly enrolled at the college.

(9) "President" shall mean the president appointed by the board or in such president's absence, the acting president.

(10) "Rules of student conduct" shall mean the rules contained within chapter 132R-04 WAC as now exist or which may be hereafter amended, the violation of which subject a student to disciplinary action.

(11) "Disciplinary committee" shall mean the hearing committee as denominated in WAC 132R-04-120.)) Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges, and property of other members of the college community, and will not interfere with legitimate college affairs.

The rights and responsibilities of students are further defined and listed in the "student rights and responsibilities" policy adopted by the board of trustees of Big Bend Community College. Policies and procedures are fully explained in the handbook which is on file in the office of the dean, student services.

AMENDATORY SECTION (Amending Order 70-4, filed 3/5/70)

WAC 132R-12-010 DESIGNATION OF APPOINTING AUTHORITY. Pursuant to WAC 251-04-020(2), the position of "appointing authority" at Big Bend Community College is designated:

(1) The president or the person occupying the position of president at Big Bend Community College is ((denominated)) designated as the "appointing authority" for purposes of ((chapter 28.75 RCW [chapter 28B-16 RCW] at Big Bend Community College)) RCW 28B.50.140(14).

(2) The president of Big Bend Community College is delegated authority by written order of the board of trustees ((to terminate, suspend, reduce or demote any classified employee at Big Bend Community College without the prior approval of the board of trustees. Additionally, the president of Big Bend Community College, as the appointing authority, is authorized to make such appointments of eligible persons to classified positions at Big Bend Community College)). The power and duties vested in the board may be transferred in accordance with this chapter. Such delegated powers and duties may be exercised in the name of the district board.

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

WAC 132R-116-040 ((~~PERMITS REQUIRED TO PARK ON COLLEGE PROPERTY~~)) HANDICAPPED PARKING. ((Except as provided in subsections (1), (2) and (4) of this section, no student, faculty or staff member shall park upon the campus of Big Bend Community College without a permit issued by Big Bend Community College.

(1) Visitors to the campus may park in college parking lots in spaces provided for their use and marked accordingly. Visitors shall secure a guest parking permit from the office of the president, vice president, dean of administration, dean of students, director of student activities, supervisor of adult and occupational education or their designee. These permits shall be issued without charge.

(2) Vehicles owned by the government of the United States of America, the state of Washington, or any of its political subdivisions, may be parked in any college parking lot without a permit, except that they may not be parked in reserved or handicapped parking spaces.

(3) No vehicle shall be parked on campus except in those areas set aside as parking places or areas.

(4) Any vehicles, parking in a college parking lot which requires cash payment to park or which has been set aside for free parking, is not required to display a college parking permit.)) Spaces shall be set aside in certain parking lots adjacent to campus buildings for the exclusive use of handicapped faculty, staff, and students. Persons must have a valid state handicapped parking sticker on their vehicle when parking in a "handicapped space."

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

WAC 132R-116-050 ((~~DEFINITION OF VALID PARKING PERMIT~~)) PROHIBITED AREAS. ((A parking permit is a certification of permission to park in designated lots on the Big Bend Community College campus.

(1) The parking permit shall consist of a decal denoting the academic year the vehicle is registered to park.

(2) A guest permit shall consist of a permit issued in accordance with WAC 132R-116-040(1).

(3) Any parking permit shall be issued subject to the rules and regulations stated herein and shall be displayed on the vehicle in accordance with such rules and regulations.)) No vehicle shall be parked in any driveway, emergency access, sidewalk, lawn, or any other area not designated as a parking lot. Nor shall any vehicle be parked within fifteen feet either side of a fire hydrant.

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

WAC 132R-116-060 ((~~WHERE TO PURCHASE PERMITS~~)) ABANDONED, DISABLED, OR INOPERATIVE VEHICLES.

((Permits will be sold at a place to be designated at the beginning of each quarter. Subsequent to the registration period, students and staff may acquire parking permits from the registrar's office during normal working hours. Such fees shall be as established from time to time by the board of trustees of Big Bend Community College.)) No abandoned, disabled, or inoperative vehicle shall be parked on the campus for a period in excess of seventy-two hours. Vehicles which have been parked for periods in excess of seventy-two hours and which appear to be abandoned, disabled, or inoperative may be impounded and stored at the expense of either or both the owner and operator thereof. Neither the college nor its employees shall be liable for loss or damage of any kind resulting from such impounding and storage.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-116-070 ((~~DISPLAY OF PERMITS~~)) IMPOUNDING OF ILLEGALLY PARKED VEHICLES. ((The parking permit shall be placed as directed. Expired permits shall be removed before the new permit is attached.

(1) Permits not displayed in accordance with the provisions of this section shall not be valid.

(2) Vehicles using straight-in or diagonal parking spaces shall park with the front of the vehicle headed in said spaces or toward the curb.) The president or his designee(s) may order the impound and storage of any vehicle parked in areas where parking is not allowed, or parked in a space reserved for another vehicle, or illegally parked in a handicapped space. The impounding and storage shall be at the expense of either or both the owner and operator of the impounded vehicle. Neither the college nor its employees shall be liable for loss or damage of any kind resulting from such impounding and storage.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

~~WAC 132R-116-080 ((RESPONSIBILITY OF PERSONS TO WHOM PERMITS ARE ISSUED)) LIABILITY OF COLLEGE.~~ ((The person to whom a permit is issued pursuant to these regulations shall be responsible for all violations of these regulations involving the vehicle for which the permit was issued and to which it was affixed; provided, however, that such responsibility shall not relieve other persons who violate these rules and regulations.) The college assumes no liability for vehicles parked on college properties. The college provides space to individuals desiring to park on campus while attending college classes, college functions, or noncollege functions of agencies or organizations renting college facilities, while employed at the college, or visitors to the college.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

~~WAC 132R-116-090 ((FACULTY AND STAFF PERMITS)) PARKING VIOLATIONS.~~ ((Any member of the faculty and any staff member shall be eligible for a faculty and staff parking permit.

(1) Faculty and staff members are restricted to parking in the assigned areas.

(2) Faculty and staff members owning more than one vehicle and wishing to park more than one vehicle on campus will, at the time of original purchase and upon request, be issued more than one parking permit.) Parking violations may occur and may result in the issuance of a parking violation citation, impound, or both.

(1) Vehicles parked in a space reserved for handicapped parking and not displaying a handicapped parking permit shall be subject to citation.

(2) Vehicles parked in such a manner as to occupy more than one space shall be subject to citation.

(3) Vehicles parked in an area not specifically posted for parking shall be subject to citation. Vehicles parked in service areas, driveways, loading zones, or areas with yellow curb shall be subject to citation, impound, or both.

(4) Vehicles parked in a posted area specifically prohibiting parking shall be subject to citation, impound, or both.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

~~WAC 132R-116-100 ((STUDENT PERMITS)) REGULATORY SIGNS.~~ ((Students who commute to campus and student[s] living in campus dormitories who wish to park their vehicles on campus must purchase a student permit.) Drivers of vehicles shall obey regulatory signs posted by the college. Drivers of vehicles shall also comply with directions given them by campus security or other representatives of the office of campus security in the control and regulation of traffic and parking.

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

~~WAC 132R-116-110 ((HANDICAPPED PARKING)) RULES AND REGULATIONS AVAILABLE.~~ ((Spaces or stalls shall be set aside in certain parking lots adjacent to campus buildings for the exclusive use of handicapped faculty members, administrative staff, and students whose physical condition makes it difficult to go to and from classes and buildings.

(1) Persons wishing to utilize handicapped parking spaces must register as a handicapped person at the time that the parking permit is issued. The applicant may be required to secure a written statement from a qualified physician outlining the nature of the handicap and recommending preferred parking. Permission to use handicapped parking on a temporary basis shall be extended only for the period of the handicap, and shall be revoked when the person returns to normal health.) These rules and regulations shall be made available at appropriate locations on campus and shall be available in abbreviated form

to all persons parking at Big Bend Community College. Not being familiar with, or ignorance of one or more of these rules and regulations shall not constitute a defense for violation of a rule or regulation and shall not limit the culpability of a person to whom the violation citation is issued.

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

~~WAC 132R-116-120 ((VISITORS' PERMITS)) SPECIAL TRAFFIC AND PARKING REGULATIONS AND RESTRICTIONS AUTHORIZED.~~ ((Guests, visitors, salesmen, servicemen, vendor representatives, and others doing business with the institution may be issued visitors' permits allowing them to park in designated lots on campus. Such permits are issued without charge in accordance with ~~WAC 132R-116-040(1)~~ upon request by the owner/operator of the parking vehicle.

(1) Parking on the campus will not be provided to persons intending to make personal solicitations from or personal sales to college employees or students.

(2) Visitors' permits shall not allow the user to park in reserved or handicapped spaces or stalls.

(3) Visitors' permits shall be in the form provided in ~~WAC 132R-116-050(2)~~.) Upon special occasions causing additional heavy traffic, during emergencies, or during construction of campus facilities, the president of the college or his authorized designee, is authorized to impose additional traffic and parking regulations or modify the existing rules and regulations for achievement of the general objectives provided in ~~WAC 132R-116-020~~.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

~~WAC 132R-116-130 ((PERMIT REVOCATIONS)) EFFECTIVE HOURS OF OPERATION.~~ ((Parking permits are the property of the college and may be recalled, revoked, or suspended for violation of any provision of these parking regulations and without right to prior notice or hearing for the following reasons:

(1) When the purpose for which the permit was issued changes or not longer exists, the permit may be revoked.

(2) When a permit is used on an unregistered vehicle or by an unauthorized individual, the permit may be revoked, and the vehicle and/or permit holder shall be subject to citation.

(3) Falsification on a parking permit application shall be grounds for permit revocation.

(4) Continued violations of parking regulations shall be grounds for permit revocation.

(5) Counterfeiting or altering of parking permits shall be grounds for permit revocation.) The traffic and parking regulations shall be effective at all times.

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

~~WAC 132R-116-140 ((HEARING PROVIDED)) FINES.~~ ((Cancellation or revocation of any parking permit because of any of the causes stated in ~~WAC 132R-116-130~~ through ~~132R-116-130(5)~~ may be appealed to the traffic control board for a hearing within 10 days. The hearing shall conform to the due process requirements of the Big Bend Community College student code and the decision of the traffic control board shall be final.) Citations issued to faculty, staff, or students of Big Bend Community College shall be payable in accordance with posted rates. Failure to pay shall be grounds for disciplinary action.

AMENDATORY SECTION (Amending Order 76-8, filed 3/9/76)

~~WAC 132R-116-150 ((ACTIVITY PARKING)) DISPOSITION OF FEES AND FINES.~~ ((Persons attending scheduled activities at Big Bend Community College may park in college parking lots during the event, on a "space available" basis and subject to any posted limitations, but no vehicle so parked shall occupy a reserved or handicapped space or stall.) The cashier shall deposit all proceeds from fees and fines collected pursuant to these regulations in the general parking fund of the college.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132R-116-160 PROHIBITED AREAS.

- WAC 132R-116-170 PARKING WITHIN DESIGNATED SPACES.
- WAC 132R-116-180 ABANDONED, DISABLED, AND IN-OPERATIVE VEHICLES.
- WAC 132R-116-190 IMPOUNDING OF ILLEGALLY PARKED VEHICLES.
- WAC 132R-116-200 LIABILITY OF COLLEGE.
- WAC 132R-116-210 PARKING VIOLATIONS.
- WAC 132R-116-220 REGULATORY SIGNS.
- WAC 132R-116-230 RULES AND REGULATIONS AVAILABLE.
- WAC 132R-116-240 SPECIAL TRAFFIC AND PARKING REGULATIONS AND RESTRICTIONS AUTHORIZED.
- WAC 132R-116-250 EFFECTIVE HOURS OF OPERATION.
- WAC 132R-116-260 FEES.
- WAC 132R-116-270 FINES.
- WAC 132R-116-280 DISPOSITION OF FEES AND FINES.
- WAC 132R-116-290 BICYCLES.

Chapter 132R-118 WAC
TRAFFIC AND PARKING REGULATIONS FOR BICYCLES,
MOTORCYCLES AND MOTORSCOOTERS

WAC

- 132R-118-010 Purpose.
- 132R-118-020 Bicycles, motorcycles, ~~((and))~~ motorscooters, snowmobiles, skateboards, and all-terrain vehicles defined.
- 132R-118-030 Applicable rules and regulations.
- 132R-118-040 Operation of bicycles, motorcycles, ~~((and))~~ motorscooters, snowmobiles, skateboards, and all-terrain vehicles.
- 132R-118-050 Parking regulations.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-118-010 PURPOSE. The primary objective of the rules and regulations set forth in this chapter is to provide safety, traffic, and parking controls for the use of bicycles, motorcycles, ~~((and))~~ motorscooters, snowmobiles, skateboards, and all-terrain vehicles upon all state lands devoted to the educational, recreational, and living activities of Big Bend Community College.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-118-020 BICYCLES, MOTORCYCLES, ~~((AND))~~ MOTORSCOOTERS, SNOWMOBILES, SKATEBOARDS, AND ALL-TERRAIN VEHICLES DEFINED. A bicycle shall be, for the purposes of this section, any vehicle with three or less wheels and containing a saddle seat, and which is not motor driven. Any vehicle with three or less wheels and containing a saddle seat, and which is motor driven is considered a motorcycle or motorscooter for the purposes of this section. Any vehicle with ski(s) and a track-type drive designed for travel over snow is considered a snowmobile for the purposes of this section. Any unit consisting of a board with two or more wheels attached to the underside that is propelled by the use of a persons foot is considered a skateboard for this section. Any vehicle with three or four wheels and containing a saddle-type seat, which is motor driven is considered an all-terrain vehicle for the purpose of this section.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-118-030 APPLICABLE RULES AND REGULATIONS. The safety, traffic, and parking regulations for bicycles, motorcycles, ~~((and))~~ motorscooters, snowmobiles, skateboards, and all-terrain vehicles which are applicable upon the campus of Big Bend Community College are as follows:

- (1) The motor vehicle and other traffic laws of the state of Washington;
- (2) Special regulations set forth in this chapter.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-118-040 OPERATION OF BICYCLES, MOTORCYCLES, ~~((AND))~~ MOTORSCOOTERS, SNOWMOBILES, SKATEBOARDS, AND ALL-TERRAIN VEHICLES. (1) No bicycle, motorcycle, or motorscooter may be operated on sidewalks, walkways, lawns, or other property not set aside for such purposes on the

Big Bend Community College campus(~~(-except that all bicycles, motorcycles, and motorscooters owned and operated by the college shall be exempt from this provision)).~~)

(2) Bicycles, motorcycles, ~~((and))~~ motorscooters, and all-terrain vehicles may be operated any place where automobiles or other motor vehicles are permitted.

(3) Snowmobiles and skateboards are prohibited as a means of transportation or recreation on campus property.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-118-050 PARKING REGULATIONS. (1) Motorcycles ~~((and))~~, motorscooters, and all-terrain vehicles may be parked(~~(-with permit,))~~ in any parking lot on the campus of the college.

~~((+))~~ (2) Bicycles must be parked in bicycle racks. At times, rack space may not be available and parking on the grass off the pavement will be permitted ~~((if all racks in the vicinity are full)).~~

~~((+))~~ (3) Bicycles, motorcycles, ~~((and))~~ motorscooters, and all-terrain vehicles may be parked in triangular spaces caused by angular parking in a lot.

~~((+))~~ (4) Bicycles, motorcycles, ~~((and))~~ motorscooters, and all-terrain vehicles may not be parked on any lawn, sidewalk, walkway, driveway, service area, against any building, building entrances or exits, nor in a building on the college campus, except as provided in ~~((WAC 132R-118-050(+)))~~ subsection (2) of this section.

~~((+))~~ (5) Bicycles, motorcycles, ~~((and))~~ motorscooters, and all-terrain vehicles not conforming to these regulations are subject to citation as are all other vehicles, and may be impounded as provided in WAC ~~((132R-116-200))~~ 132R-116-070 and 132R-116-080.

~~((+))~~ (6) Bicycle, motorcycle, ~~((and))~~ motorscooter, and all-terrain vehicle regulations will be in effect at all times.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132R-118-060 UNAUTHORIZED USE.

Chapter 132R-136 WAC
USE OF COLLEGE FACILITIES, EQUIPMENT AND SUPPLIES
WAC

- 132R-136-010 ~~((Policies for))~~ Philosophy and purpose concerning the use of college facilities(~~(-equipment and supplies)).~~)
- 132R-136-020 ~~((Groups eligible to use))~~ Availability of college facilities(~~(-equipment and supplies)).~~)
- 132R-136-030 ~~((Placement service))~~ Eligibility for use of college facilities.
- 132R-136-040 ~~((Application for use of college facilities))~~ Use of college equipment and supplies.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-136-010 ~~((POLICIES FOR))~~ PHILOSOPHY AND PURPOSE CONCERNING THE USE OF COLLEGE FACILITIES(~~(-EQUIPMENT AND SUPPLIES)).~~ The Big Bend Community College (~~(seeks to make its facilities available for community use as long as such activities do not interfere with the regular functions of the college))~~ board of trustees has determined that college facilities shall be made available for community use. College facilities shall be used for those activities which are related directly to its educational mission or are justifiable on the basis of their contributions to the cultural, social, or economic development of the community and state.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-136-020 ~~((GROUPS ELIGIBLE TO USE))~~ AVAILABILITY OF COLLEGE FACILITIES(~~(-EQUIPMENT AND SUPPLIES)).~~ ~~((College facilities may be available for convention and professional meetings of private corporations, businesses, or nonschool professional groups. Appropriate charges will be made for the use of all college facilities, equipment and supplies, as indicated on the current fee schedule, provided that college facilities may not be used for public dances, and further provided that, college facilities may not be used by religious groups or political groups if such use interferes with the educational process))~~ All events, activities, parties, etc., must

have the prior approval of the college president or his/her designee(s) before they will be permitted to occur on college property. College facilities may be made available for use by organizations conducting public educational, research, cultural, civic, or community activities as limited by board policy and provided that these activities do not interfere with the educational priorities of the institution.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-136-030 ((PLACEMENT SERVICE)) ELIGIBILITY FOR USE OF COLLEGE FACILITIES. ((+)) Big Bend Community College attempts to assist students in finding employment both on campus and off campus. Prospective employers may list vacancies in the placement office providing the employer complies with the Fair Employment Act. The placement service is also available to alumni of Big Bend Community College.

((2)) The placement office is a service of both employees and employers. Big Bend Community College assumes no responsibility beyond providing for the opportunity for contact between the employees and employers.)) Application for use of college facilities can be made by contacting the college. Contracts for the use of college facilities shall be completed and returned by the group representative prior to final approval. Information concerning facility rental regulations, procedures, fees, and liabilities may be found in the board policy.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-136-040 ((APPLICATION FOR USE OF COLLEGE FACILITIES)) USE OF COLLEGE EQUIPMENT AND SUPPLIES. ((Applications for use of college facilities are available through the office of the dean of student personnel services and must be completed and returned to this office at least two weeks prior to the event. Approval of any rental request will depend in part on the amount of space available.)) College equipment and supplies may be available to noncollege sponsored organizations as part of the facilities rental contract.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132R-136-050 USE OF COLLEGE SUPPLIES.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-144-010 BIG BEND COMMUNITY COLLEGE BOOKSTORE OPERATING PROCEDURES. ((+)) The bookstore at Big Bend Community College is operated primarily for the convenience of the students at Big Bend Community College, but will also serve the needs of the faculty, staff, and community.

((2)) The opening and closing hours of the college bookstore are established by the bookstore manager. Changes in operating hours or schedules will be preceded by notices posted conspicuously in the bookstore for seven calendar days before the change takes effect.

((3)) Entering customers are required to leave their books and brief cases at the entrance to the bookstore on the shelves provided.)) Big Bend Community College bookstore is operated for the support and use of students and staff of Big Bend Community College. Big Bend Community College bookstore may engage in the direct sale of goods and services to individuals, groups, or external agencies for fees only when those services or goods are directly and substantially related to the educational mission of the college as outlined in Big Bend Community College's business competition policy.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-150-010 BIG BEND COMMUNITY COLLEGE LIBRARY. The library at Big Bend Community College exists first and foremost to serve the students and faculty. It also serves the rest of the college community, the regional needs of eastern Washington and the general scholarly community. Use of the library may be denied to anyone for continuing abuse of library services and resources.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-150-020 ((LIBRARY HOURS)) INSPECTION. ((The library is generally open from 8:00 a.m. to 9:00 p.m. Monday

through Thursday, and 8:00 a.m. to 4:00 p.m. on Friday's. The library will be closed on holidays. These hours are subject to change with advance notice.)) The library shall have the right to inspect packages, briefcases, containers, articles, materials, etc., leaving the building to prevent unauthorized removal of library resources. The inspection may be done by persons or devices designed to detect unauthorized removals.

Chapter 132R-158 WAC
RESIDENCE HOUSING POLICIES

WAC

132R-158-010 ((Big Bend Community College dormitory)) Resident housing policies.

AMENDATORY SECTION (Amending Order 73-4, filed 3/23/73)

WAC 132R-158-010 ((BIG BEND COMMUNITY COLLEGE DORMITORY)) RESIDENT HOUSING POLICIES. ((All residents in Big Bend Community College dormitories are subject to the rules and regulations found herein. Authorized persons in college-hosted programs (e.g. Japanese agriculture training program, upward bound, workshops, etc.) may establish further regulations subject to approval of the resident director and/or dean of students. When visiting a special program dorm area, all residents and guests are expected to abide by the rules established by that program.)) In addition to the rules, regulations, and responsibilities as defined in the "Student Rights and Responsibilities" handbook, residence hall students are also subject to the rules and regulations as printed in both the residence hall handbook and the residence hall contract. Copies are available from the director of housing at Big Bend Community College.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132R-158-020 APPLICATIONS TO BIG BEND COMMUNITY COLLEGE DORMITORIES.

WAC 132R-158-030 LINEN EXCHANGE.

WAC 132R-158-040 CHECK OUT PROCEDURE.

WAC 132R-158-050 VACATING DORMS BETWEEN QUARTERS.

WAC 132R-158-060 SINGLE ROOM.

WAC 132R-158-070 GENERAL RESPONSIBILITY FOR DISCIPLINE.

WAC 132R-158-080 COMMUNITY OR GROUP DAMAGE.

WAC 132R-158-090 POSSIBLE DISCIPLINARY PENALTIES.

WAC 132R-158-100 OVERNIGHT AND WEEKEND PERMISSION.

WAC 132R-158-110 GUESTS.

WAC 132R-158-120 FIREARMS.

WAC 132R-158-130 ROOM INSPECTION.

WAC 132R-158-140 ROOM KEY.

WAC 132R-158-150 PETS.

WAC 132R-158-160 MOVING FROM ONE ROOM TO ANOTHER.

WAC 132R-158-170 QUIET HOURS.

WAC 132R-158-180 LAUNDRY FACILITIES.

WAC 132R-158-190 VIOLATIONS.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-010 PURPOSE. The purpose of this chapter is to comply with the requirements of Public Law 93-380, § 513, of 1974, also annotated as 20 U.S.C.A. 1232, which law represents amendments to the General Education Provisions Act. As indicated in the aforesaid law, its purpose is to assure the students attending institutions of higher education such as Big Bend Community College shall have a right to inspect certain records and files intended for school use or made available to parties outside the college.

Further information on policies and procedures relative to student records is available in the "Student Rights and Responsibilities" handbook section 300 Student Records and section 509 Maintenance of Records, as adopted by the Big Bend Community College board of trustees.

AMENDATORY SECTION (Amending Order 76-30, filed 12/23/76)

WAC 132R-200-010 POLICY ON PERSONNEL FILES. ((The district)) Big Bend Community College shall maintain one personnel file for each ((academic)) employee. This file shall be in the ((district)) college's personnel office. No other personnel file shall be maintained by any other officer or administrator of the ((district)) college. This shall not preclude the maintenance of all lawful payroll records by the business office nor maintenance of other essential records by appropriate personnel for the operation of the institution.

WSR 89-22-055
RULES COORDINATOR
BELLEVUE COMMUNITY COLLEGE

[Filed October 30, 1989, 2:54 p.m.]

As required by RCW 34.05.310(3), the designated Rules Coordinator for Bellevue Community College, Community College District VIII, will be Phyllis C. Hudson, Executive Assistant and Secretary to the President, Bellevue Community College, A201, 3000 Landerholm Circle S.E., Bellevue, WA 98007.

B. Jean Floten
 President

WSR 89-22-056
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 89-133—Filed October 30, 1989, 4:52 p.m.]

Date of Adoption: October 30, 1989.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-36-02100G.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There are only 600 coho salmon available for harvest during the remainder of the chum salmon fishery. This is not enough to support a 24-hour opening of the commercial fishery and a reduction to a 12-hour opening is necessary to stay within the coho constraint.

Effective Date of Rule: Immediately.

October 30, 1989
 R. Kahler Martinson
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-36-02100H GRAYS HARBOR GILL NET SEASON Notwithstanding the provisions of WAC 220-36-021, and WAC 220-36-031, effective immediately until further notice, it is unlawful to fish for, or

possess salmon and sturgeon taken for commercial purposes from any Grays Harbor Salmon Management and Catch Reporting Areas except as provided for in this section:

Open to gill net gear:

8 PM October 30 to 8 AM October 31 in SMCRA 2B

Gill net gear shall be used as provided for in WAC 220-36-015

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-36-02100G GRAYS HARBOR GILL NET SEASON. (89-129)

WSR 89-22-057
PROPOSED RULES
MARINE EMPLOYEES' COMMISSION

[Filed October 31, 1989, 12:09 p.m.]

Original Notice.

Title of Rule: Chapter 316-25 WAC, Marine employees' representation case rules. Governs proceedings before the Marine Employees' Commission on petitions for investigation of questions concerning representation of Washington state ferry system employees.

Purpose: Chapter 47.64 RCW charges Marine Employees' Commission with administration of labor management relations between WSF management and the units certified as representing employees. Chapter 316-25 WAC prescribes the manner in which employee units become certified.

Statutory Authority for Adoption: RCW 47.64.280.

Statute Being Implemented: RCW 34.05.250, 47.64-.120, [47.64].140, [47.64].150, [47.64].170, [47.64].190 and [47.64].280.

Summary: Chapter 316-25 WAC is being amended and/or readopted to comply with RCW 34.05.250. Each section is harmonious with the model rules of procedure except those sections specifically listed as being supplanted in WAC 316-02-001.

Reasons Supporting Proposal: RCW 34.05.010 exempts labor relations type agencies from the APA. However, most of the individual rules are harmonious.

Name of Agency Personnel Responsible for Drafting: Louis O. Stewart, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354; Implementation and Enforcement: Janis Lien, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above; no fiscal impact.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is basically a re-adoption of chapter 316-25 WAC in accordance with RCW 34.05.250. The

rule provides a procedure for adjudicating disputes, for the investigation of petitions for employee representation unit recognition, expression of free choice by election, and certification or rejection.

Proposal Changes the Following Existing Rules: As stated above, this proposal is basically a readoption of rules filed in 1984, but some clarification and "house-keeping" amendments are included. Although WAC 316-25-001 lists several model rules of procedure, chapter 10-08 WAC, as being supplanted, the indicated rules in chapter 316-25 WAC are simply more specific and apply more directly to employee representation cases. We believe there is no conflict with the model rules in this chapter.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: "Spike" Eikum Conference Room, Washington State Ferries Terminal, Colman Dock, Pier 52, Seattle, Washington, on December 5, 1989, at 9:00 a.m.

Submit Written Comments to: Louis O. Stewart, Commissioner, Mailstop FJ-11, Olympia, Washington 98504, by December 1, 1989.

Date of Intended Adoption: December 5, 1989.

October 31, 1989

Louis O. Stewart

Commissioner

Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission on petitions for investigation of questions concerning representation of Washington state ferry system employees. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-25 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 316-25-070;

(b) WAC 10-08-211, which is supplanted by WAC 316-25-390, 316-25-590, 316-25-630, and 316-25-670; and

(c) WAC 10-08-230, which is supplanted by WAC 316-25-005, 316-25-150, 316-25-220, 316-25-230, 316-25-250, and 316-25-270.

(2) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

~~((2))~~ (3) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

~~((3))~~ (4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

~~((4))~~ (5) Chapter 316-55 WAC, which contains rules relating to resolution of impasses occurring in ferry system collective bargaining.

~~((5))~~ (6) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

~~((6))~~ (7) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-010 PETITION FOR INVESTIGATION OF A QUESTION CONCERNING REPRESENTATION OF EMPLOYEES—WHO MAY FILE. A petition for investigation of a question concerning representation of employees, hereinafter referred to as a "petition," may be filed by any employee of the Washington state ferry system, group of employees, employee organization, department of transportation, or their agents.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-030 PETITION—TIME FOR FILING. In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition (~~(must)~~) may be filed during the period not more than ninety nor less than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof.

(2) Where a certification has been issued by the commission covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition (~~(must)~~) may be filed not less than twelve months following the date of the certification.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-050 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition shall be prepared on a form furnished by the commission or (~~on a facsimile thereof~~) shall be prepared in conformance with WAC 316-25-070. The original (~~and three copies of the~~) petition shall be filed with the commission at its Olympia office. The party filing the petition shall serve a copy on the department and on each employee organization named in the petition as having an interest in the proceedings.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-070 CONTENTS OF PETITION. Each petition shall contain:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in matters concerning relationships between the department and its ferry system employees.

(2) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and (~~(if known)~~) the approximate number of employees in such bargaining unit.

(3) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(4) A statement that: (a) The department declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate, or (b) the employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative, or (c) the employees in the bargaining unit do not wish to be represented by an employee organization.

(5) Any other relevant facts.

(6) The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

(7) The signature and, if any, the title of the petitioner or its representative.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-090 CONTENTS OF PETITION FILED BY DEPARTMENT. Each petition filed by the department shall contain all of the information required by WAC 316-25-070, except for that

required by WAC 316-25-070(4)(:)), and shall conform to the following additional requirements:

(1) Each petition filed by the department shall contain a statement that the department has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition.

(2) WAC 316-25-110 shall not be applicable to such petitions.

(3) Where the status of an incumbent exclusive bargaining representative is questioned, the department shall attach such affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees. To constitute a basis for a good faith doubt under this subsection, signature documents provided to the department by employees must be in a form which would qualify as supporting evidence under WAC 316-25-110 if filed by the employees directly with the commission.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-110 SUPPORTING EVIDENCE. The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the petition or the filing of such evidence with the commission, whichever is later.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-130 LIST OF EMPLOYEES. The department shall submit to the commission a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition. Following administrative determination that the petition is supported by a sufficient showing of interest, the department shall, upon request, provide a copy of the list of names and addresses to the petitioner. Following granting of a motion for intervention, the department shall, upon request, provide a copy of the list of names and addresses to the intervenor.

NEW SECTION

WAC 316-25-140 NOTICE TO EMPLOYEES. The department shall post copies of a notice, specified by and furnished by the commission, advising of the existence of proceedings under this chapter, in conspicuous places on its premises where notices to affected employees are usually posted.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-150 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner under such conditions as the commission may impose.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-170 INTERVENTION—BY INCUMBENT REPRESENTATIVE. An organization which demonstrates that it has been the exclusive representative of all or any part of the bargaining unit involved in proceedings under this chapter during the year preceding the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-190 INTERVENTION—BY ORGANIZATION OTHER THAN INCUMBENT. An organization not covered by WAC 316-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of such evidence with the commission. The showing of interest shall be made confidentially to the commission at or before the time the motion for intervention is made: PROVIDED, HOWEVER, That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the commission may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-210 SHOWING OF INTEREST CONFIDENTIAL. The question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the commission and may not be litigated at any hearing. The commission shall not disclose the identities of employees whose authorization cards or letters are filed in support of a petition or motion for intervention. In order to preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the commission shall not honor any attempt to withdraw or diminish a showing of interest.

NEW SECTION

WAC 316-25-220 PREHEARING CONFERENCES. The commission may conduct prehearing conferences to discuss with the parties all contested issues of law and fact which may arise in representation cases. The parties are encouraged to reach binding stipulations on all issues during the course of the prehearing conference. Such stipulations are to be embodied in election agreements, cross-check agreements, and/or supplemental agreements provided for in this chapter.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-230 ELECTION AGREEMENTS. Where the department and all other parties agree on a representation election, they may file an election agreement with the commission. Such election agreement shall contain:

(1) The name and address of the department and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in such unit.

(4) A statement by all parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c) the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by all parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that all parties agree that a question concerning representation exists; that a hearing is waived; and that the commission is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut-off date for the election. If the parties request that the election be conducted by mail ballot, the list shall include the last known address of each of the employees eligible to vote. If no eligibility cut-off date is specified by the parties, the eligibility cut-off date shall be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the location, the day or days of the week and the time or times of day for the conduct of the election, or that the election be conducted by mail ballot.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement shall be filed with the commission at its Olympia office, and copies shall be posted by the department in conspicuous places on the department's premises where notices to affected employees are usually posted. The election agreement shall remain posted for at least seven days after it is filed with the commission (ten days after it is deposited in the United States mail addressed to the commission).

Upon the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the commission representative(s) shall proceed to conduct an election. Objections to the election by a party to the election agreement shall be limited to matters relating to specific conduct affecting the results of the election.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-250 CROSS-CHECK AGREEMENTS. Where only one organization is seeking certification as the representative of unrepresented employees, the department and the organization may file a cross-check agreement with the commission. Such cross-check agreement shall contain:

(1) The name and address of the department and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) The description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions and the number of employees in such unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the commission is requested to conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the department.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the time and place where the records to be cross-checked can be made available to the commission.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement shall be filed with the commission at its Olympia office, and copies thereof shall be posted by the department in conspicuous places on the department's premises where notices to affected employees are usually posted. The cross-check agreement shall remain posted for at least seven days after it is filed with the commission (ten days after it is deposited in the United States mail addressed to the commission).

Upon the filing of a cross-check agreement conforming to the foregoing requirements and seeking a cross-check in an appropriate bargaining unit, the commission shall proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification shall be issued until seven days have elapsed following the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification shall be issued on the basis of the cross-check.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-270 SUPPLEMENTAL AGREEMENTS. Where the parties are able to agree generally on the matters to be set forth in

an election agreement under WAC 316-25-230 or a cross-check agreement under WAC 316-25-250, but are unable to agree on limited issues concerning the definition of the bargaining unit or employee eligibility, they may expedite the determination of the question concerning representation while reserving their disagreement for subsequent determination by filing a supplemental agreement under this rule together with an agreement under WAC 316-25-230 or 316-25-250. Such supplemental agreement shall contain:

(1) The names of all parties to the election agreement or cross-check agreement and the case number of the proceedings.

(2) Identification of the employees or classifications as to which a dispute exists, together with the identification of the position taken by each party on the dispute.

(3) A statement by all parties requesting that employees affected by the supplemental agreement be permitted to vote by challenged ballot or be challenged for purposes of a cross-check, subject to a subsequent determination of the dispute; and that the certification of the results of the election or cross-check not be withheld pending the determination of the dispute unless the challenges are sufficient in number to affect the outcome.

(4) The signatures and, if any, the titles, of the representatives of the parties.

The original and one copy of the supplemental agreement shall be filed with the commission together with the agreement filed under WAC 316-25-230 or 316-25-250, and shall be posted with such agreement.

Upon the filing of a supplemental agreement, the commission shall proceed with the determination of the question concerning representation. If the challenges are sufficient in number to affect the outcome, they shall be determined prior to the issuance of a certification. Otherwise, a conditional certification shall be issued which shall be amended upon final disposition of the issues framed in the supplemental agreement.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-290 NOTICE OF HEARING. After a petition has been filed, if it appears to the commission that there is reasonable cause to believe that a question concerning representation exists, there shall be issued and served on the department and on all organizations listed in the petition and on any organization having theretofore intervened, a notice of hearing before (~~a hearing officer~~) the commission or an assigned commissioner at a time and place fixed therein. The commission shall furnish the department with copies of such notice, and the department shall post them in conspicuous places on its premises where notices to affected employees are usually posted. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-310 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission(;) or by a member of the commission (~~or by any other individual designated by the commission~~) assigned as a hearing officer. At any time, (~~a hearing officer~~) the commission or another commissioner may be substituted for the hearing officer previously presiding.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-330 AUTHORITY OF HEARING OFFICER. The hearing officer shall have authority:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the commission;
- (3) To rule on objections to evidence and offers of proof, receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;
- (4) To question witnesses;
- (5) To regulate the time, place and course of the hearing;
- (6) To dispose of procedural requests or other similar matters;
- (7) To hold conferences for the settlement, simplification or adjustment of issues; and
- (8) To take any other action authorized by these rules.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-350 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record upon which the commission may discharge its duties under ~~((the pertinent statutes))~~ chapter 47.64 RCW and these rules.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-370 BLOCKING CHARGES—SUSPENSION OF PROCEEDINGS—REQUEST TO PROCEED. (1) Where representation proceedings have been commenced under this chapter and:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 316-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the commission may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the commission. Such request to proceed shall identify, by case number, the representation proceedings for which it is made, shall request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and shall acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed conforming to the foregoing requirements the commission shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the filing of an election agreement or issuance of a direction of election, the commission shall proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 316-25-590.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-390 PROCEEDINGS BEFORE A HEARING OFFICER. The hearing officer may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The hearing officer shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the department is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 316-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 316-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the hearing officer shall have the same force and effect as if issued by the commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-410 CROSS-CHECK OF RECORDS. Where a cross-check of records is to be conducted to determine a question concerning representation, the organization shall submit to the commission original individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that such employees authorize the named organization to represent them for the purposes of collective bargaining, or shall submit to the commission membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing. The department shall make available to the commission

original employment records maintained as a part of its business records containing the names and signatures of the employees in the bargaining unit. Prior to the commencement of the cross-check, the organization may file a request that the question concerning representation be determined by a representation election and such requests shall be honored. Where the organization files a disclaimer or a request for election after the commencement of the cross-check, the cross-check shall be terminated and the organization shall not seek to be certified in the bargaining unit for a period of at least one year thereafter. All cross-checks shall be by actual comparison of records submitted by the parties. The commission shall not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. Upon the conclusion of the comparison of records, the commission officer conducting the cross-check shall prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-430 NOTICE OF ELECTION. When an election is to be conducted, the commission shall furnish the department with appropriate notices, and the department shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

(1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.

(2) The date(s), hours and polling place(s) for the election.

(3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.

(4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least seven days prior to the opening of the polls. In computing such period, the day of posting shall be counted, but the day on which the polls are opened shall not be counted. The reproduction of any document purporting to suggest, either directly or indirectly, that the commission endorses a particular choice may constitute grounds for setting aside an election upon objections properly filed.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-450 DISCLAIMERS. An organization may file a disclaimer and have its name removed from the ballot: PROVIDED, HOWEVER, That if such a disclaimer is filed after the issuance of a notice of election, the organization filing the disclaimer shall not seek to be certified in that bargaining unit for a period of at least one year thereafter.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-470 ELECTIONEERING. (1) The department and employee organizations are prohibited from making election speeches on the department's time to massed assemblies of employees within twenty-four hours before the scheduled time for the opening of the polls for an election conducted under "in person" voting procedures, or within the time period beginning with the issuance of ballots to employees for an election conducted under "mail ballot" voting procedures and ending with the tally of ballots.

(2) There shall be no electioneering at or about the polling place during the hours of voting.

Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-490 ELECTION PROCEDURES—BALLOTING. All elections shall be by secret ballot. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting shall not be allowed. Each party may be represented by observers of its own choosing, subject to such limitations as the commission may prescribe:

PROVIDED, HOWEVER, That no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-510 CHALLENGED BALLOTS. Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person shall be denied the right to cast a challenged ballot. The election officer shall not have authority to resolve challenges at the polls, and the ballot of the challenged voter shall be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot shall not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge shall thereby be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they shall be impounded and no ruling shall be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer shall, after the close of the polls, ascertain the position of each party as to each challenged ballot and shall include such information in his report. If challenges raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before the commission or ~~((a hearing officer))~~ assigned commissioner. The rules relating to the conduct of hearings on petitions shall govern hearings on challenges, except that the scope of the hearing shall be limited to matters relevant to the disposition of the challenged ballots. ~~((The hearing officer))~~ An assigned commissioner shall have authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the commission as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the ~~((hearing officer))~~ commissioner are sufficient in number to affect the results of the election, the matter shall be transferred to the commission for its determination under the provisions of WAC 316-25-670.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-530 VOTES NEEDED TO DETERMINE ELECTION. (1) Unit determination elections shall be decided by a majority of those eligible to vote in the election.

(2) Representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote shall result in a certification of no representative.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-550 TALLY SHEET. Upon closing the polls, the election officer shall prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally shall be issued and furnished to the parties. The tally shall indicate whether the results of the election were conclusive or inconclusive.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-570 PROCEDURE FOLLOWING INCONCLUSIVE ELECTION. In any election in which there are more than two choices on the ballot, if none of the choices receives the number of votes necessary to determine the election, a run-off election shall be held providing for selection between the two choices receiving the largest numbers of valid ballots cast in the inconclusive election. Any organization ~~((to))~~ which would be excluded from a run-off election may file objections to specific conduct affecting the results of the inconclusive election. Where the choice of "no representative" is to be excluded from a run-off election, the department or decertification petitioner may file objections to specific conduct affecting the results of the inconclusive election. Such objections shall be resolved prior to the conduct of a run-off election. All run-off elections shall be determined as provided in WAC 316-25-530.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-590 FILING AND SERVICE OF OBJECTIONS. Within seven days after the tally has been served under WAC 316-25-410 or under WAC 316-25-550, any party may file objections with the commission. Objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters; and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

Objections shall contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed. The original ~~((and three copies))~~ copy of the objections shall be filed with the commission at its Olympia office, and the party filing the objections shall serve a copy on each of the other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-610 PROCEDURE WHERE NO OBJECTIONS ARE FILED. If no objections are filed within the time set forth above, and if any challenged ballots are insufficient in number to affect the determination of the question concerning representation, and if no run-off election is to be held, the election officer shall forthwith certify the results of the proceedings, with the same force and effect as if issued by the commission. The proceedings will thereupon be closed.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-630 PROCEDURE WHERE OBJECTIONS ARE FILED. (1) Objections to conduct improperly affecting the results of an election ~~((may))~~ shall be referred to a ~~((hearing officer))~~ commissioner for investigation. If the objections raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before ~~((said hearing officer))~~ the commissioner. Hearings on objections to conduct affecting the results of an election may be consolidated with hearings on challenged ballots in the same proceeding. The rules relating to the conduct of hearings on petitions shall govern hearings on objections, except that the scope of the hearing shall be limited to matters relevant to the disposition of the objections.

(2) Objections to prior rulings and/or directions in the matter shall be referred directly to the commission.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-25-650 BRIEFS AND WRITTEN ARGUMENTS ON OBJECTIONS. All parties shall be entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties shall be due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments shall be fourteen days following the ~~((later))~~ latter of:

(a) The close of an investigation under WAC 316-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 316-25-630(1); or

(c) The filing of objections under WAC 316-25-590(2).

(2) The commission or ~~((its designee))~~ assigned commissioner may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established.

The original ~~((and three copies of any))~~ brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-25-670 COMMISSION ACTION ON OBJECTIONS. In all cases where objections have been filed, the entire record in the proceedings shall be transferred to the commission. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. The commission shall determine the objections and any challenged ballots referred to the commission pursuant to WAC 316-25-510, and shall issue appropriate orders.

WSR 89-22-058

PROPOSED RULES

MARINE EMPLOYEES' COMMISSION

[Filed October 31, 1989, 12:15 p.m.]

Original Notice.

Title of Rule: Chapter 316-35 WAC, Marine employees' unit clarification case rules. Chapter 316-35 WAC governs proceedings before the Marine Employees' Commission on petitions for clarification of existing bargaining units.

Purpose: When and if ferry employees want to be included in existing bargaining units, or excluded therefrom, or recognized as members of different units, chapter 316-35 WAC provides the procedure, including mechanism for resolving disputes.

Statutory Authority for Adoption: RCW 47.64.280.

Statute Being Implemented: RCW 34.05.250, 47.64-.170 and [47.64].280.

Summary: Chapter 316-35 WAC is being amended and/or readopted to comply with RCW 34.05.250. Each section is harmonious with the model rules of procedure, chapter 10-08 WAC, except those specifically listed in WAC 316-35-001.

Reasons Supporting Proposal: RCW 34.05.010 exempts labor relations type agencies from the APA. However, most of the individual rules are harmonious.

Name of Agency Personnel Responsible for Drafting: Louis O. Stewart, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354; Implementation and Enforcement: Janis Lien, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above; no fiscal impact.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is basically a readoption of chapter 316-35 WAC in accordance with RCW 34.05.250. The rule provides a procedure, including adjudication of disputes, for a petition by and for employees who want to be included or excluded from an existing bargaining unit, or who want to be included in a different existing bargaining unit.

Proposal Changes the Following Existing Rules: As stated above, this proposal is basically a readoption of

rules filed in 1984, but some clarification and "house-keeping" amendments are included. Although WAC 316-35-001 lists several model rules of procedure, chapter 10-08 WAC, as being supplanted, the indicated rules in chapter 316-35 WAC are simply more specific and apply more directly to employees' unit clarification cases. We believe there is no conflict with the model rules in this chapter.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: "Spike" Eikum Conference Room, Washington State Ferry Building, Colman Dock, Pier 52, Seattle, Washington, on December 5, 1989, at 9:00 a.m.

Submit Written Comments to: Louis O. Stewart, Commissioner, Mailstop FJ-11, Olympia, Washington 98504, by December 1, 1989.

Date of Intended Adoption: December 5, 1989.

October 31, 1989

Louis O. Stewart

Commissioner

Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-35 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 316-35-050;

(b) WAC 10-08-211, which is supplanted by WAC 316-35-210 and 316-35-230; and

(c) WAC 10-08-230, which is supplanted by WAC 316-35-070 and 316-35-160.

(2) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

~~((2))~~ (3) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

~~((3))~~ (4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

~~((4) Chapter 316-55 WAC, which contains rules relating to resolution of impasses occurring in ferry system collective bargaining;))~~

(5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-010 PETITION FOR CLARIFICATION OF AN EXISTING BARGAINING UNIT—WHO MAY FILE. In the absence of a question concerning representation, a petition for clarification of an existing bargaining unit(s) may be filed by a ferry system employee, the department of transportation, (an) exclusive representative(s) of ferry system employees or its/their agents, or by the parties jointly.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-030 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for clarification of (an) existing bargaining unit(s) shall be prepared on a form furnished by the commission or shall be prepared in conformance with WAC 316-35-050. The original (~~and three copies of the~~) petition shall be filed with the (~~agency~~) commission at its Olympia office. If the petition is filed other than as a jointly filed petition, the party filing the petition shall serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-050 CONTENTS OF PETITION. Each petition for clarification of (an) existing bargaining unit(s) shall contain:

(1) The name and address of the department and the name and title, if known, address and telephone number of the person designated by the department (~~'s principal~~) as the official representative for (~~the purposes of collective bargaining~~) adjudicatory proceedings under chapter 47.64 RCW.

(2) The name(s), address(es) and affiliation(s), if any, of the exclusive representative(s), and the name(s), address(es) and telephone number(s) of its/their principal representative(s).

(3) The description of the existing bargaining unit, specifying inclusions and exclusions and the number of employees in such bargaining unit(s).

(4) Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement(s), and the history of any modifications of the bargaining unit(s) subsequent thereto.

(5) A description of the proposed clarification, including the position(s), classification(s) or group(s) in issue, the number of employees in each such position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group, and identification of the party proposing that the present status be changed.

(6) The names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the (~~contracts~~) collective bargaining agreement(s), if any, covering such employees.

(7) A statement of the reasons for the proposed clarification.

(8) Any other relevant facts.

(9) The signature(s) and (~~if any;~~) the title(s), if any, of the (~~representative(s) of the~~) petitioner(s) and/or his/their representative(s) and his/their title(s).

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-35-070 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner(s) under such conditions as the commission may impose.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-090 NOTICE OF HEARING. After a petition for clarification of an existing bargaining unit has been filed, if it appears to the commission that a disagreement exists which might appropriately be the subject of an order clarifying an existing bargaining unit, there shall be issued and served on the employer and on the exclusive representative a notice of hearing (~~(before a hearing officer at a time and place fixed therein)~~). The hearing notice shall contain:

(1) The name(s), address(es) and telephone number(s) of the person(s) who filed the petition, and their representative(s) or counsel and their title(s), if known, and their address(es) and telephone number(s);

(2) The name(s), address(es) and telephone number(s) of the exclusive bargaining unit(s) which the petitioner(s) want(s) clarified, and its/their principal representative(s) and titles, if known, and their addresses and telephone numbers;

(3) The name, title, address, and telephone number of the person designated by the department as the official recipient of notices involving adjudicatory proceedings under chapter 47.64 RCW;

(4) The official case number for the proceeding;

(5) The name, mailing address, and telephone number of the commissioner who is to be the presiding officer in the hearing;

(6) A statement of the time, place, and nature of the hearing;

(7) A statement of the legal authority under which the hearing is to be held;

(8) A reference to the particular sections of the statute(s) and/or rule(s) involved;

(9) A short and plain statement of the matter to be heard, as asserted by the commission;

(10) An enumeration of the organizations and/or persons to whom copies of the notice are being provided;

(11) A statement that the commission(er) will take official notice of the applicable collective bargaining agreement(s), if any, in effect at the time of the petition;

(12) Notice of other specific evidence known by the commission(er) to be required, and which party will be required to submit such evidence; and

(13) A statement that a party who fails to attend or participate, personally or by agent or counsel, in the hearing or other stage of the proceeding may be held in default.

Any such notice may be amended or withdrawn prior to the close of the hearing.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-110 CONSOLIDATION OF PROCEEDINGS. If a proceeding initiated by a petition for unit clarification under WAC 316-35-010 is pending at the same time as (~~a proceeding~~) another petition involving all or any part of the same bargaining units (~~(initiated by)~~) and/or a petition for investigation of a question concerning representation filed pursuant to WAC 316-25-010 is/are filed, the proceedings shall be consolidated and all issues concerning the description of the bargaining units shall be resolved in the consolidated proceedings.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-130 HEARINGS—WHO SHALL CONDUCT: Hearings may be conducted by the commission(;) or by a member of the commission(~~;~~ or by any other individual) designated by the commission as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-35-150 AUTHORITY OF HEARING OFFICER. The hearing officer shall have the authority:

(1) To administer oaths and affirmations;

(2) To issue subpoenas in the name of the commission;

(3) To rule upon objections to evidence and offers of proof, receive relevant evidence, and to exclude irrelevant, immaterial or unduly repetitious evidence;

(4) To question witnesses;

(5) To regulate the time, place and course of the hearing;

(6) To dispose of procedural requests or other procedural matters;

(7) To hold conferences for the settlement, simplification or adjustment of issues; and

(8) To take any other action authorized by these rules.

NEW SECTION

WAC 316-35-160 PREHEARING CONFERENCES. The commission may conduct prehearing conferences to discuss with the parties all contested issues of law and fact which may arise in unit clarification cases. The parties are encouraged to reach binding stipulations on all issues during the course of a prehearing conference. Such stipulations are to be embodied in proposed commission unit clarification orders, amendments to collective bargaining agreement security clauses, or other appropriate agreements.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-170 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the petition for clarification of an existing bargaining

unit unless the proceeding has been consolidated with another petition in accordance with WAC 316-35-110. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a full and complete factual record upon which the commission may discharge its duties under ~~((the pertinent statutes))~~ chapter 47.64 RCW and these rules.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-190 PROCEEDINGS BEFORE A HEARING OFFICER. ~~((The hearing officer))~~ An assigned commissioner may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The hearing officer shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-210 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of ~~((the hearing officer))~~ an assigned commissioner shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original ~~((and three copies of the))~~ petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the department and on any other parties. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original ~~((and three copies of any))~~ brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on the other party. The commission or ~~((a designee of the commission))~~ or assigned commissioner may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-35-230 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 316-35-210, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-35-250 COMMISSION ACTION. The ~~((hearing officer))~~ assigned commissioner shall transfer the entire record in the proceeding to the commission. The commission shall determine the status of each position, classification or group covered by the petition for review, and shall ~~((issue))~~ enter appropriate orders, which shall be final and binding upon the parties in accordance with RCW 47.64.280.

complaints charging unfair labor practices in the Washington state ferry system.

Purpose: RCW 47.64.130 sets forth in general terms the kinds of labor practices which are statutorily "unfair." Chapter 316-45 WAC provides a process for determining whether certain facts alleged against either ferry employee organizations or ferry system management constitute unfair acts in the meaning of that statute.

Statutory Authority for Adoption: RCW 47.64.280.

Statute Being Implemented: RCW 34.05.250, 47.64.130 and [47.64].280.

Summary: Chapter 316-45 WAC is being readopted and/or amended to comply with RCW 34.05.250. Each section is harmonious with the model rules of procedure except those sections listed as exempted or supplanted in WAC 316-45-001.

Reasons Supporting Proposal: RCW 34.05.010 exempts labor relations type agencies from the adjudicative parts of the APA. However, most of the rules are harmonious with the model rules.

Name of Agency Personnel Responsible for Drafting: Louis O. Stewart, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354; Implementation and Enforcement: Janis Lien, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above; no fiscal impact.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is basically a readoption of chapter 316-45 WAC in accordance with RCW 34.05.250. The rule provides a procedure, including process for adjudicating disputes, for investigation of allegations of violation of RCW 47.64.130 (unfair labor practices) by either ferry system employee organizations or by ferry system management.

Proposal Changes the Following Existing Rules: As stated above, this proposal is basically a readoption of rules filed in 1984, but some clarification and "house-keeping" amendments are included. Although WAC 316-45-001 lists several model rules of procedure, chapter 10-08 WAC, as being supplanted, the indicated rules in chapter 316-45 WAC are simply more specific and apply more directly to unfair labor practice cases. We believe there is no conflict with the model rules in this chapter.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: "Spike" Eikum Conference Room, Washington State Ferry Building, Colman Dock, Pier 52, Seattle, Washington, on December 5, 1989, at 9:00 a.m.

Submit Written Comments to: Louis O. Stewart, Marine Employees' Commission, Mailstop FJ-11, Olympia, 98504, by December 1, 1989.

WSR 89-22-059

PROPOSED RULES

MARINE EMPLOYEES' COMMISSION

[Filed October 31, 1989, 12:21 p.m.]

Original Notice.

Title of Rule: Chapter 316-45 WAC, Unfair labor practice case rules. Chapter 316-45 WAC governs proceedings before the Marine Employees' Commission on

Date of Intended Adoption: December 5, 1989.

October 31, 1989

Louis O. Stewart

Commissioner

Rules Coordinator

Chapter 316-45 WAC
UNFAIR LABOR PRACTICE CASE RULES

WAC

316-45-001	Scope—Contents—Other rules.
316-45-003	Unfair labor practices—Defined.
316-45-010	Complaint charging unfair labor practices—Who may file.
316-45-030	((Form)) <u>Complaint</u> —Number of copies—Filing—Service.
316-45-050	Contents of complaint charging unfair labor practices.
316-45-070	Amendment.
316-45-090	Withdrawal.
316-45-110	Initial processing of complaint.
316-45-130	Examiner—Who may act.
316-45-150	Authority of examiner.
316-45-170	Notice of hearing.
316-45-190	Answer—Filing and service.
316-45-210	Answer—Contents and effect of failure to answer.
316-45-230	Amendment of answer.
316-45-250	Motion to make complaint more definite and certain.
316-45-270	Hearings—Nature and scope.
316-45-290	Briefs and proposed findings.
316-45-310	((Examiner)) <u>Unfair labor practice—Decision.</u>
316-45-330	Withdrawal or modification of examiner decision.
316-45-350	Petition for review of examiner decision.
316-45-370	Filing and service of cross-petition for review.
316-45-390	Commission action.
316-45-410	Unfair labor practice remedies.
316-45-430	Motion for temporary relief.
316-45-550	Collective bargaining— ((Policy)) <u>Mandatory subjects.</u>

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-45 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 316-45-050;

(b) WAC 10-08-211, which is supplanted by WAC 316-45-350 and 316-45-370; and

(c) WAC 10-08-230, which is supplanted by WAC 316-45-070, 316-45-090, and 316-45-260.

(2) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

~~((2))~~ (3) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

~~((3))~~ (4) Chapter 316-35 WAC, which contains rules relating to petitions for clarification of existing ferry system employees' bargaining units.

~~((4))~~ (5) Chapter 316-55 WAC, which contains rules relating to resolution of impasses occurring in ferry system collective bargaining.

~~((5))~~ (6) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

~~((6))~~ (7) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(8) Chapter 316-85 WAC, which contains rules relating to surveys of compensation, benefits and conditions of employment required by chapter 47.64 RCW.

NEW SECTION

WAC 316-45-003 UNFAIR LABOR PRACTICES—DEFINED. (1) It is an unfair labor practice for ferry system management or its representatives:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by chapter 47.64 RCW;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules made by the commission pursuant to RCW 47.64.130 and 47.64.280 an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure of employment, or any term or condition of employment, but nothing contained in this subsection prevents an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 47.64.160: PROVIDED, That nothing prohibits ferry system management from agreeing to obtain employees by referral from a lawful hiring hall operated by or participated in by a labor organization;

(d) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony concerning subjects covered by chapter 47.64 RCW;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed by this chapter: PROVIDED, That this paragraph does not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein, or (ii) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, when it is the representative of employees subject to RCW 47.64.170.

(3) The expression of any view, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-010 COMPLAINT CHARGING UNFAIR LABOR PRACTICES—WHO MAY FILE. A complaint charging that any person has engaged in or is engaging in an unfair labor practice, hereinafter referred to as a "complaint" may be filed by any employee, group of employees, employee organization, the department of transportation, or their agents.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-030 ~~((FORM))~~ COMPLAINT—NUMBER OF COPIES—FILING—SERVICE. Charges shall be in writing, in the form of a complaint of unfair labor practices. The original (~~and three copies~~) copy of the complaint shall be filed with the commission at its Olympia office. The party filing the complaint shall serve a copy on each party named as a respondent.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-050 CONTENTS OF COMPLAINT CHARGING UNFAIR LABOR PRACTICES. Each complaint shall contain, in separate numbered paragraphs:

(1) The name and address of the party filing the complaint, hereinafter referred to as the complainant, and the name, address and telephone number of its principal representative.

(2) The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, hereinafter referred to as the respondent(s), and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).

(3) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(4) A listing of ~~((the sections of the Revised Code of Washington (RCW)))~~ RCW 47.64.130 and/or WAC 316-45-003 alleged to have been violated.

(5) A statement of the relief sought by the complainant.

(6) The signature and, if any, the title of the person filing the complaint.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-070 AMENDMENT. Any complaint may be amended upon motion made by the complainant.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-090 WITHDRAWAL. Any complaint may be withdrawn by the complainant under such conditions as the commission may impose.

AMENDATORY SECTION (Amending Order 88-1, filed 4/29/88)

WAC 316-45-110 INITIAL PROCESSING OF COMPLAINT. The commission or ~~((its designee))~~ an assigned commissioner shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of RCW 47.64.130 and WAC 316-45-003. If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the commission or ~~((designee))~~ commissioner shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the commission or ~~((designee))~~ commissioner shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices ~~((shall assign the matter to an examiner and shall notify the parties of such assignment))~~. An order of dismissal issued pursuant to this section by an examiner other than the commission shall be subject to a petition for review as provided in WAC 316-45-350.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-130 EXAMINER—WHO MAY ACT. The examiner may be the commission or a member of the commission ~~((or any other individual))~~ designated by the commission. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-150 AUTHORITY OF EXAMINER. The examiner shall have the authority:

- (1) To administer oaths and affirmations;
- (2) To issue subpoenas in the name of the commission;
- (3) To rule upon objections to evidence and offers of proof, receive relevant evidence and to exclude irrelevant, immaterial or unduly repetitive evidence;
- (4) To question witnesses;
- (5) To regulate the time, place, and course of the hearing;
- (6) To dispose of procedural requests or other similar matters;
- (7) To hold conferences for the settlement, simplification or adjustment of issues;
- (8) To make and issue findings of fact, conclusions of law and orders;
- (9) To take any other action authorized by these rules.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-170 NOTICE OF HEARING. Notwithstanding WAC 316-02-170, at least twenty days prior to a hearing, the examiner shall issue and cause to be served on the parties a notice of hearing at a time and place specified therein. Attached to the notice of hearing shall be a copy of the complaint as approved under WAC 316-45-110. The notice of hearing shall specify the date for the filing of an answer, which shall be not less than ten days prior to the date set for hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-190 ANSWER—FILING AND SERVICE. ~~((The))~~ Each respondent ~~((ts))~~ shall, on or before the date specified therein in the notice of hearing, file with the examiner the original ~~((and three copies))~~ copy of its answer to the complaint, and shall serve a copy on the complainant.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-210 ANSWER—CONTENTS AND EFFECT OF FAILURE TO ANSWER. An answer filed by a respondent shall specifically admit, deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. The failure of a respondent to file an answer or the failure to specifically deny or explain in the answer a fact alleged in the complaint shall, except for good cause shown, be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of the respondent of a hearing as to the facts so admitted.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-230 AMENDMENT OF ANSWER. The respondent may amend its answer at any time prior to the hearing. During the hearing or subsequent thereto, it may amend its answer in any case where the complaint has been amended, within such period as may be fixed by the examiner or the commission. Whether or not the complaint has been amended, the answer may, in the discretion of the examiner or the commission, be amended upon motion under such terms and within such period as may be fixed by the examiner or the commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-250 MOTION TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN. If a complaint is alleged by a respondent to be so indefinite as to hamper the respondent in the preparation of its answer, such respondent may, on or before the date specified for the filing of an answer, file a motion requesting an order directing that the complaint be made more definite and certain. Such motion shall be filed with the examiner and served by the moving party on the complainant and on any other parties. The filing of such motion will extend the time during which the respondent must file and serve an answer until such date as the commission or examiner may set. The examiner may require the complainant to file and serve a statement supplying information necessary to make the complaint definite and certain.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-270 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its own complaint and shall have the burden of proof. It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: PROVIDED, HOWEVER, That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with

respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-290 BRIEFS AND PROPOSED FINDINGS. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of fact, conclusions of law and order, or both, at such time as may be fixed by the examiner. The ~~((examiner))~~ commission or assigned commissioner may direct the filing of briefs when he or she deems such filing warranted by the nature of the proceeding or of particular issues therein. The original copy of a brief or proposed finding shall be filed with the commission or commissioner and a copy shall be served upon all other parties.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-310 ~~((EXAMINER))~~ UNFAIR LABOR PRACTICE—DECISION. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law and order. If the examiner is a single member of the commission, he/she shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties. Any party may file a petition for review thereof with the commission. If the commission is the examiner, the decision and order shall be entered and shall be served on all parties and the commission decision shall be final and binding upon the parties in accordance with RCW 47.64.280.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-330 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: PROVIDED, HOWEVER, That this section shall be inoperative after the filing of a petition for review with the commission.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-350 PETITION FOR REVIEW OF EXAMINER DECISION. The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original ~~((and three copies of the))~~ petition for review shall be filed with the commission at its Olympia office, and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission or its designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-370 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 316-45-350, any party who has not previously filed a petition for review may, within seven days after the last date on

which a petition for review may be filed, file a cross-petition for review. Such cross-petition shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-45-390 COMMISSION ACTION. On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the record and any briefs or arguments submitted to it on review, determine the matter.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-410 UNFAIR LABOR PRACTICE REMEDIES. ~~((If an unfair labor practice is found to have been committed, the commission or its examiner shall issue a remedial order.))~~ If upon the preponderance of evidence the commission or commissioner shall conclude that any person named in the complaint has engaged in or is engaging in any unfair labor practice, then the commission or commissioner shall state its findings of fact and cause to be served on such person an order requiring him or her to cease and desist from such unfair labor practice and to take such affirmative and corrective action as necessary to effectuate the policies of RCW 47.64.005 and 47.64.006, including but not limited to reinstatement of employees with or without back pay. In calculating back pay orders, the following shall apply:

(1) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee(s) may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee(s) may have received during the period of the violation, and the employer shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as credit to the benefit record of the employee(s).

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-45-430 MOTION FOR TEMPORARY RELIEF. In addition to the remedies available under WAC 316-45-410, any complainant in an unfair labor practice proceeding may file a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

(1) The complainant shall, at the time its complaint is filed or as soon thereafter as facts giving rise to the request for temporary relief become known, provide written notice to the commission ~~((or its designee))~~ of its intent to make a motion for temporary relief and shall, at the same time, serve a copy of such notice on each of the other parties to the proceedings.

(2) Upon the filing of a notice of intent to make a motion for temporary relief, the commission ~~((or its designee))~~ shall expedite the processing of the matter under WAC 316-45-110.

(3) After the determination of the commission ~~((or designee))~~ that the complaint states a cause of action, any complainant desiring temporary relief may file with the commission ~~((or designee))~~ a motion for temporary relief together with affidavits as to the risk of irreparable harm and the adequacy of legal remedies, and shall serve a copy of such motion and affidavits on all other parties to the proceedings. The other parties shall have seven calendar days thereafter to file and serve counter-affidavits.

(4) The ~~((designee shall forward all such motions and affidavits to the))~~ ~~((which))~~ commission shall determine whether an injunction

pendente lite should be sought. In making such determination, the commission shall adhere to the following policy:

"The name and authority of the marine employees' commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 316-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the commission (~~or its designee~~) with the assistance of the attorney general, shall petition the superior court of Thurston county or the county wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been procured, the complaint which has been the basis for such temporary relief shall be heard expeditiously and the case shall be given priority over all other cases except cases of like character.

(c) If the commission concludes that temporary relief should not be sought prior to the conclusion of administrative proceedings in the matter, such determination shall not bar renewal of the request for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

AMENDATORY SECTION (Amending Order 88-1, filed 4/29/88)

WAC 316-45-550 COLLECTIVE BARGAINING—(~~POLICY~~) MANDATORY SUBJECTS. (~~It is the policy of the commission to promote bilateral collective bargaining negotiations between the department and the exclusive representatives of its employees in accordance with RCW 47.64.006 and 47.64.130. Such parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into the dispute between them.~~) The commission deems the determination as to whether a particular subject is mandatory or nonmandatory to be a question of law and fact to be determined by the commission, and which is not subject to waiver by the parties by their action or inaction. It is the policy of the commission that a party which engages in collective bargaining with respect to any particular issue does not and cannot thereby confer the status of a mandatory subject on a nonmandatory subject.

WSR 89-22-060

PROPOSED RULES

MARINE EMPLOYEES' COMMISSION

[Filed October 31, 1989, 12:35 p.m.]

Original Notice.

Title of Rule: Chapter 316-75 WAC, Marine employees' union security disputes. Chapter 316-75 WAC governs proceedings before the Marine Employees' Commission relating to union security disputes between employees and employee organizations certified or recognized as their bargaining representatives.

Purpose: When and if an employee asserts a right not to pay dues to the union representing him or her, based upon religious scruples, and the union protests, chapter 316-75 WAC provides the procedure for adjudicating the dispute.

Statutory Authority for Adoption: RCW 47.64.280.

Statute Being Implemented: RCW 34.05.250 and 47.64.160.

Summary: Chapter 316-75 WAC is being amended and/or readopted to comply with RCW 34.05.250. Each section is harmonious with the model rules of procedure,

chapter 10-08 WAC, except those specifically noted in WAC 316-75-001.

Reasons Supporting Proposal: RCW 34.05.010 exempts labor relations type agencies from the APA. However, most of the individual sections are harmonious with APA.

Name of Agency Personnel Responsible for Drafting: Louis O. Stewart, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354; Implementation and Enforcement: Janis Lien, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 98504, 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above; no fiscal impact.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is basically a readoption of chapter 316-75 WAC in accordance with RCW 34.05.250. Chapter 316-75 WAC provides a procedure, including adjudication of disputes, for a petition by and for employees who want to donate money to a charity instead of paying dues to the union which is certified or recognized as being their exclusive representative.

Proposal Changes the Following Existing Rules: As stated above, this proposal is basically a readoption of rules filed in 1984, but some clarification and "house-keeping" amendments are included. Although WAC 316-75-001 lists several model rules of procedure, chapter 10-08 WAC, as being supplanted, the indicated rules in chapter 316-75 WAC are simply more specific and apply more directly to employees' union security dispute cases. We believe there is no conflict with the model rules in this chapter.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: "Spike" Eikum Conference Room, Washington State Ferries Building, Colman Dock, Pier 52, Seattle, Washington, on December 5, 1989, at 9:00 a.m.

Submit Written Comments to: Louis O. Stewart, Commissioner, Mailstop FJ-11, Olympia, Washington 98504, by December 1, 1989.

Date of Intended Adoption: December 5, 1989.

October 31, 1989

Louis O. Stewart

Commissioner

Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission relating to union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-75 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 316-75-050;

(b) WAC 10-08-211, which is supplanted by WAC 316-75-270; and

(c) WAC 10-08-230, which is supplanted by WAC 316-75-150.

(2) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

((2)) (3) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

((3)) (4) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

((4)) (5) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

((5) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining.)

(6) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-75-010 UNION SECURITY—OBLIGATION OF EXCLUSIVE BARGAINING REPRESENTATIVE. An exclusive bargaining representative which desires to enforce a union security provision contained in a collective bargaining agreement negotiated under the provisions of chapter 47.64 RCW shall provide each affected employee with a copy of the collective bargaining agreement containing the union security provision and shall specifically advise each employee of his or her obligation under that agreement, including informing the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-75-030 UNION SECURITY—ASSERTION OF RIGHT OF NONASSOCIATION. An employee who, pursuant to RCW 47.64.160, asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall notify the exclusive bargaining representative, in writing, of the claim of a right of nonassociation and shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-050 UNION SECURITY—RESPONSE BY EXCLUSIVE BARGAINING REPRESENTATIVE. Within ((sixty)) thirty days after it is served with written notice of a claimed right of nonassociation under WAC 316-75-030, the exclusive bargaining representative shall respond to the employee, in writing, both as to the eligibility of the employee to make alternative payments and as to the charitable organization(s) suggested by the employee. If a dispute exists concerning whether the employee is within a class of employees obligated under the terms of the union security provision, all such matters of contractual interpretation shall be resolved under such procedures as may be available for unit clarification, under chapter 316-35 WAC, or resolution of disputes concerning the interpretation or application of the collective bargaining agreement, under chapter 316-65 WAC.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-75-070 UNION SECURITY—FILING OF DISPUTE WITH COMMISSION. In the event of a disagreement between an employee and his or her exclusive bargaining representative

as to the eligibility of such employee to make alternative payments or as to the organization which is to receive such payments, either the employee or the exclusive bargaining representative may file with the commission a petition for a declaratory ruling on the union security obligations of the affected employee.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-090 UNION SECURITY—PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for declaratory ruling on union security obligations shall be prepared in conformance with WAC 316-75-110. The original ((and three copies of the)) petition shall be filed with the commission at its Olympia office, and the party filing the petition shall serve a copy on the other party to the dispute and on the ((employer)) department.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-110 UNION SECURITY—CONTENTS OF PETITION. Each petition shall be headed "In the matter of the petition of (name of petitioning party) for a declaratory ruling concerning the union security obligations of (name of affected employee(s)) under a collective bargaining agreement between ((name of employer)) Washington state department of transportation, marine division, and (name of exclusive bargaining representative)," and shall contain:

(1) The name and address of the department and the name, address and telephone number of the ((department's principal representative for the purposes of collective bargaining)) person(s) designated by the department as its representative(s) for adjudicatory proceedings under chapter 47.64 RCW.

(2) The name, address and affiliation, if any, of ((the)) petitioner's exclusive representative, and the name, address and telephone number of its principal representative, if any.

(3) The name, address and telephone number of the affected employee(s) and the name, address and telephone number of his ((or)) her/their representative.

(4) Statements, in additional numbered paragraphs, of the matters in dispute.

(5) A copy, attached to the petition as an exhibit, of the union security provision under which the dispute arises.

(6) Any other relevant facts.

(7) The signature(s) and, if any, the title(s) of the petitioner(s) and/or his/her/their representative(s) ((of the petitioner(s))).

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-75-130 UNION SECURITY—ESCROW OF DISPUTED FUNDS BY DEPARTMENT. Upon being served with a copy of a petition filed under WAC 316-75-070, the department shall preserve the status quo by withholding and retaining the disputed dues for periods during the pendency of the proceedings before the commission. Said funds shall draw interest at the rate provided by commercial banks for regular passbook savings accounts. While the proceedings remain pending before the commission, the department shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-150 UNION SECURITY—INVESTIGATION—SETTLEMENT. The commission shall refer the petition under dispute to one of its members ((or other designee)), who shall conduct an investigation and such prehearing conferences as may be necessary to determine the relative positions of the parties and the facts and authorities relied upon by them ((; and shall issue a report in conformance with WAC 316-02-220)). He/she shall encourage the parties to reach agreement, expressed in stipulations binding on all parties. If the parties do not reach agreement, the commissioner shall issue a declaratory order which either grants or denies the petition, subject to commission review under WAC 316-02-230, or shall order a hearing under WAC 316-75-170.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-170 UNION SECURITY—NOTICE OF HEARING. If the petition raises material questions of fact which cannot be resolved without a hearing, and if summary disposition under WAC 316-02-230 is not appropriate, there shall be issued and served on each of the parties to the dispute and on the department a notice of hearing before ~~((a hearing officer at a time and place fixed therein))~~ the commission or a commissioner. Any such notice and hearing and further proceedings shall be in accordance with chapter 316-35 or 316-65 WAC and WAC 316-75-050, as the commission directs. Any such notice may be amended or withdrawn prior to the close of the hearing.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-190 UNION SECURITY—HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission or ~~((by any other person designated by))~~ a member of the commission assigned as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-210 AUTHORITY OF HEARING OFFICER. The hearing officer shall have the authority(~~(:~~
~~(1) To administer oaths and affirmations;~~
~~(2) To issue subpoenas in the name of the commission;~~
~~(3) To rule upon objections to evidence and offers of proof, receive relevant evidence, and to exclude irrelevant, immaterial or unduly repetitious evidence;~~
~~(4) To question witnesses;~~
~~(5) To regulate the time, place and course of the hearing;~~
~~(6) To dispose of procedural requests or other procedural matters;~~
~~(7) To hold conferences for the settlement, simplification or adjustment of issues; and~~
~~(8) To take any other action authorized by these rules)) granted by WAC 316-35-150 or 316-65-515, whichever is applicable.~~

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-75-230 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative payments.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-250 PROCEEDINGS BEFORE THE HEARING OFFICER. After the close of the hearing, the ~~((hearing officer))~~ assigned commissioner may proceed forthwith upon the record, after submission of briefs or after further hearing, as may be appropriate, ~~((to determine))~~ and shall issue and serve on the parties an order determining the matter, or shall refer the matter back to the commission. Thereupon he/she shall transfer the entire record in the proceeding to the commission.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-75-270 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the hearing officer shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the hearing officer. The original ~~((and three copies of the))~~ petition for review shall be filed with the commission at its Olympia office, and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original ~~((and three copies of any))~~ brief or written argument shall be filed with the commission at its Olympia office

and a copy shall be served upon the other party. The commission or the ~~((designee of the commission))~~ assigned commissioner may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-75-310 IMPLEMENTATION. Where alternative payments in lieu of payments under a union security agreement have been agreed upon by the parties or ordered by the commission, the department shall release any funds (together with accumulated interest) held in escrow under WAC 316-75-130 to the designated charitable organization and the employee shall thereafter make payments and shall furnish written proof to the exclusive bargaining representative that such payments have been made to the designated charitable organization. Where the employee is found ineligible to make alternative payments, the department shall release any funds (together with accumulated interest) held in escrow to the exclusive bargaining representative and shall enforce the union security provision according to its terms. The department and the exclusive bargaining representative shall allow the affected employee a grace period of not less than thirty days following the agreement or final order of the commission to correct any arrearages.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 316-75-290 COMMISSION ACTION.

WSR 89-22-061**NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY**

[Memorandum—October 6, 1989]

The board of trustees of Western Washington University approve the proposed schedule of board meetings for 1990.

February 1 and 2, 1990	Bellingham	Old Main 340
April 5 and 6, 1990	Bellingham	Old Main 340
June 7 and 8, 1990	Bellingham	Old Main 340
August 2 and 3, 1990	Out of town	
October 4 and 5, 1990	Bellingham	Old Main 340
December 6 and 7, 1990	Bellingham	Old Main 340

WSR 89-22-062**NOTICE OF PUBLIC MEETINGS
PUGET SOUND
WATER QUALITY AUTHORITY**

[Memorandum—October 30, 1989]

The Puget Sound Water Quality Authority has determined the dates and cities for meetings of the authority through our termination date of June 1991 and are listed below.

All meetings will begin at 9:30 a.m. The specific locations of meetings through next February are also shown below. I will notify you of the addresses of other meetings as they are determined.

November 15, 1989
 Commissioners Meeting Room
 Clallam County Court House
 223 East Fourth
 Port Angeles

December 20, 1989
 Third Floor Auditorium
 Seattle Public Library
 1000 Fourth Avenue
 Seattle

January 17, 1990
 Almendinger Center
 Washington State University
 Research and Extension Center
 7612 Pioneer Way East
 Puyallup

February 21, 1990
 Commissioners Hearing Room
 Thurston County Courthouse
 Building 1
 2000 Lakeridge Drive S.W.
 Olympia

March 21, 1990
 Des Moines

April 18, 1990
 Tacoma

May 16, 1990
 Port Orchard

June 20, 1990
 Seattle

July 18, 1990
 Friday Harbor

August 15, 1990
 Olympia

September 19, 1990
 Federal Way

October 17, 1990
 Everett

November 21, 1990
 Seattle

December 19, 1990
 Coupeville

January 16, 1991
 Bellevue

February 20, 1991
 Tacoma

March 20, 1991
 Olympia

April 17, 1991
 Seattle

May 15, 1991
 Vashon Island

June 19, 1991
 Olympia

WSR 89-22-063
PERMANENT RULES
BOARD FOR
COMMUNITY COLLEGE EDUCATION
 [Order 117—Filed October 31, 1989, 1:23 p.m.]

Date of Adoption: October 26, 1989.

Purpose: To comply with statutory requirement for publishing annual schedule of regular meetings.

Citation of Existing Rules Affected by this Order: Amending WAC 131-08-010.

Statutory Authority for Adoption: RCW 42.30.075 and 28B.50.070.

Pursuant to notice filed as WSR 89-19-022 on September 12, 1989.

Effective Date of Rule: Thirty days after filing.

October 30, 1989
 Gilbert J. Carbone
 Assistant Director

AMENDATORY SECTION (Amending Order 115, Resolution No. 88-37, filed 12/7/88)

WAC 131-08-010 REGULAR MEETINGS OF THE STATE BOARD. The time and place of the regular meetings of the state board for calendar year ((1989)) 1990 are:

- ~~((January 18-19 South Puget Sound Community College, Olympia~~
- ~~March 1-2 Pierce Community College, Tacoma~~
- ~~April 12-13 South Puget Sound Community College, Olympia~~
- ~~May 17-18 Olympic Community College, Bremerton~~
- ~~June 21-22 Peninsula Community College, Port Angeles~~
- ~~September 13-14 Wenatchee Valley Community College, Wenatchee~~
- ~~October 25-26 Spokane Community College, Spokane~~
- ~~December 6-7 Clark Community College, Vancouver))~~
- January 31-February 1 Pierce College, Tacoma
- March 21-22 Seattle Central Community College, Seattle
- May 9-10 Wenatchee Valley College, Wenatchee
- June 20-21 Everett Community College, Everett
- September 12-13 Bellevue Community College, Bellevue
- October 24-25 Skagit Valley Community College, Mount Vernon
- December 5-6 North Seattle Community, Seattle

WSR 89-22-064
PROPOSED RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 31, 1989, 2:30 p.m.]

Continuance of WSR 89-17-121.

Title of Rule: Chapter 192-42 WAC, Family independence program employment, training, and education rules.

Purpose: To provide clearer interpretive rules for implementing statutory requirements.

Other Identifying Information: This will supersede current agency policy.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040 and chapter 74.21 RCW.

Statute Being Implemented: Chapter 74.21 RCW.

Summary: Technical and substantive amendments to employment and training rules for family independence program.

Reasons Supporting Proposal: Clarification and modification of existing rules based on program experience and legislative mandate.

Name of Agency Personnel Responsible for Drafting: Sue Langley, 212 Maple Park, Olympia, WA 98504, (206) 438-4042; Implementation and Enforcement: Charlotte Beeler, Assistant Commissioner, ES, 212 Maple Park, Olympia, WA 98504, (206) 438-4000.

Name of Proponent: Employment Security Department, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule amends, adds or repeals sections of chapter 192-42 WAC to make aspects of the program more clear. The effect of the changes will be to provide clear interpretive rules for implementing the program.

Amending WAC 192-42-010 Definitions and 192-42-030 Employability plan; new sections WAC 192-42-021 Orientation, 192-42-056 Criteria for approval of employment and training activities and funding, 192-42-057 Notice of decisions, 192-42-058 Job search allowance and 192-42-081 Dispute resolution process; and repealing WAC 192-42-020 FIP employment and training, 192-42-040 Job search allowance, 192-42-050 Regional funding priorities, 192-42-070 Grievance procedure and appeals and 192-42-080 Dispute resolution process.

These rules make clear who shall be offered orientation; what will be the minimum content of orientation and the employability plan; what criteria shall be applied to determine which employability plan activities will be approved and funded; how enrollees are notified of decisions regarding employability plans; and employer and third party access to complaint procedure.

Proposal Changes the Following Existing Rules: WAC 192-42-010, amends definition [of] employability plan, adds definition of employability assessment, self-sufficiency, supported work, and job search plan and deletes definition of administrative review, applicant, appropriate plan, approved funding, assessment, enrollee, fair hearing, family independence program services, job search skills training, long term education or training,

self sufficiency plan, transitional employment and short term education or training; WAC 192-42-020, repealed and rewritten as WAC 192-42-021 which provides for who shall be offered orientation and its minimum content; WAC 192-42-030, provides for minimum content of employability plans; WAC 192-42-040, repealed and rewritten as WAC 192-42-058 provides that households in which an individual enrollee is receiving job search allowance may also be entitled to incentives based on participation of other enrollees in the household; and WAC 192-42-080, repealed and rewritten as WAC 192-42-081 which sets forth the procedure for employers and third parties aggrieved by the program to access the grievance process.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The proposed rules have a minor or negligible economic impact on businesses. The rules make no requirements of business and provide easy access to grievance procedure for the family independence program.

Hearing Location: Training Room #2, Employment Security Training Facility, 106 Maple Park, Olympia, WA 98504, on Wednesday, December 6, 1989, at 2:00 p.m.

Submit Written Comments to: Wm. Eric Jordan, Rules Coordinator, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504, by December 5, 1989.

Date of Intended Adoption: December 6, 1989.

October 31, 1989
 Ernest F. LaPalm
 Deputy Commissioner

AMENDATORY SECTION (Amending Order 5-88, filed 5/31/88)

WAC 192-42-010 DEFINITIONS. The following definitions apply for this chapter and for family independence program employment, training, and education functions in chapter 74.21 RCW. Throughout this chapter "FIP" means family independence program. The definitions contained in Chapter 388-77 WAC apply to this chapter unless redefined below.

(1) (~~"Administrative review" means the informal appeal process available to enrollees who feel they are aggrieved by a decision of the department related to the employability plan.~~

(2) (~~"Applicant" means any person or a member of a family unit who requests FIP cash assistance.~~

(3) (~~"Appropriate plan" means an employability plan which is designed to lead to employment and self-sufficiency as determined by department staff.~~

(4) ~~"Approved funding" means FIP resources allotted to fund employability plans determined by FIP staff as appropriate.~~

(5) ~~"Assessment" means both a FIP orientation and the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.~~

(6) ~~"Department" means the employment security department.~~

(7) (2) ~~"Dispute resolution" means the appeal process available to nonenrollees for resolving disagreements arising from employment of enrollees.~~

(3) "Employability assessment" means an evaluation of factors which indicate the likelihood of successful attainment of the enrollee's employment goal. These factors may include the enrollee's:

- (a) Competencies;
- (b) Previous education and training;
- (c) Employment history;
- (d) Skills;
- (e) Test results;
- (f) Aptitudes and abilities;
- (g) Limitations;
- (h) Desires and interests; and

(i) The prevailing local labor market conditions
~~((8))~~ (4) "Employability plan" means the component of the self-sufficiency plan as defined in WAC 388-77-010(17) designed by the enrollee with the assistance of department staff ~~(which specifies)~~ specifying the enrollee's employment goal and the activities which support achievement of the goal ~~((and is signed by the enrollee))~~.

~~((9))~~ "Enrollee" means the head of household or family member of a family eligible to receive financial assistance or other services under the family independence program.

~~(10)~~ "Fair hearing" means an administrative proceeding under chapter 34.04 RCW by which the office of administrative hearings hears and decides the appeal of an enrollee from an action or decision of the department.

~~(11)~~ "Family independence program services" include job readiness programs, job development, employment, job search skills training, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training in the management of finances and use of credit.

~~(12)~~ "Job search skills training" means group or individual training activity that aids the enrollee to identify, acquire, and sustain employment.

~~(13)~~ "Long-term education or training" means education or training, including degree programs, which exceeds nine months in duration.

~~(14))~~ (5) "On-the-job-training" means training provided by any employer who hires and then instructs the enrollee in the duties required of the enrollee at the work site. The employer pays the enrollee's wages, but will be reimbursed through a contract for the cost of employment training based on a percentage of the enrollee's gross salary, not to exceed fifty percent of the total of the enrollee's wages.

~~((15))~~ "Transitional employment" means fully subsidized employment.

~~(16))~~ (6) "Self-sufficiency for purposes of this section means the non-exempt family income less deductions is in excess of the FIP benchmark standard, plus applicable incentives, plus child care and medical benefits if not otherwise provided. ~~((Self-sufficiency plan"~~ means a written agreement between the department of social and health services or the department and the enrollee that may include activities specifically undertaken for self support, and other items outlined in the employability plan or the social services plan.

~~(17)~~ "Short-term education or training" means education or training which does not exceed nine months in duration.)

(7) "Supported work" means fully subsidized employment.

~~((18))~~ (8) "Work experience" means unsalaried training in a supervised employment site which instructs the enrollee in essential work practices, as well as providing an opportunity for the exercise of skills specific to employment procedures.

(9) "Job search plan" means a plan mutually agreed to by the department and the enrollee which sets forth the number and types of job search contacts the enrollee will make in a given period of time. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-010, filed 5/31/88, effective 7/1/88.]

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 in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

NEW SECTION

WAC 192-42-021 ORIENTATION. The department shall offer FIP orientation to all referred applicants and enrollees, including but not limited to:

- (1) An explanation of FIP benefits and services and enrollee responsibilities;
- (2) An explanation of how an enrollee can be linked with employment and training activities;
- (3) Current labor market information; and

- (4) Information and referral, as appropriate, to family opportunity councils.

AMENDATORY SECTION (Amending Order 5-88, filed 5/31/88)

WAC 192-42-030 EMPLOYABILITY PLAN. (1) The department shall offer enrollees ~~((who))~~ seeking to pursue employment, training, or education ~~((shall be offered))~~ an assessment of employment, training, and education opportunities, and the opportunity to develop an individual employability plan. Department staff shall assist the enrollee in developing the employability plan based on an ~~((evaluation of the enrollee's assessed competencies, interests, skills, and aptitudes))~~ employability assessment.

(2) ~~((Department staff shall determine if the employability plan is appropriate considering the following criteria))~~ The employability plan shall indicate:

(a) ~~((The availability of suitable training activities to meet the enrollee's employment goal))~~ enrollee's occupational goal;

(b) ~~((The likelihood that the training goal leads to employment which meets the financial requirements for the family to become self-sufficient))~~ range of wage needed for the family to be self-sufficient taking into account variables such as medical and child care costs;

(c) ~~((The documentation of the enrollee's acceptance into education or training institutions, or other programs if applicable))~~ An appraisal of the enrollee's current level of education or training, work experience, or other factors related to achieving the occupational goal; and

(d) ~~((The assessment and appraisal of competencies, previous education and training, local labor market information and local wage levels, enrollee skills, employment history, aptitudes, abilities, barriers, limitations, desires, and interests which indicate the enrollee can attain the employment goal; and~~

~~((Other factors which, in individual circumstances or conditions, demonstrate likelihood for successful completion of training))~~ Activities required for the enrollee to achieve the occupational goal.

(3) At any time during the FIP enrollment, the enrollee may request modification of the employability plan.

~~((4))~~ Determination that an employability plan is appropriate does not guarantee that the employability plan will be funded. [Statutory Authority: Chapter 74.21 RCW, RCW 50.12.010 and 51.12.040. 88-12-051 (Order 5-88), § 192-42-030, filed 5/31/88, effective 7/1/88.]

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 in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

NEW SECTION

WAC 192-42-056 CRITERIA FOR APPROVAL OF EMPLOYMENT AND TRAINING ACTIVITIES AND FUNDING

(1) The department shall approve the FIP employment and training activities included in an employability plan except when the employability assessment does not support the plan for any of the following reasons:

(a) The enrollee is determined to lack the aptitude, skills, or abilities to complete the training requested;

(b) The enrollee currently possesses viable and relevant skills required to be self-sufficient as defined in WAC 192-42-010(6)) in the current labor market as demonstrated through previous employment or completion of education or training.

(c) The occupational goal does not lead to self-sufficiency based on available labor market information relating to projected earnings or job openings;

(d) Comparable training that meets the needs of local employers is available at a total lower cost to FIP from another institution or employer;

(e) The training goal requires the enrollee to attain a post-baccalaureate degree;

(f) The training or occupational goal is religious in nature.

(g) The planned activities do not meet the minimum time participation requirement established by the regional management committee.

(h) The following training may be approved without regard to application of the above reasons for denial:

- (i) English as a Second Language;
- (ii) General Equivalency Diploma; or
- (iii) Adult Basic Education.

(2) Notwithstanding the criteria above, regional management committees or the designated departmental representatives are authorized to approve employment and training activities when such approval would be consistent with the purposes of FIP.

(3) Enrollees may independently pursue plans which are not approved by the department.

(4) Enrollees in approved training or education activities shall be entitled to 5% benefit incentive and funded as set forth below.

(5) The department will fund approved employability plans and plan modifications on a first-come first-served basis. First-come first-served will be determined by the date the employability plan was initially approved. The following conditions must be met for funding to be obligated:

(a) Where applicable, other funding resources (such as Pell grants) are applied against training and education services.

(b) Adequate FIP funds are available to support the remaining costs for the approved activities.

(c) Total FIP costs do not exceed the maximum set by the department or the regional management committee.

(6) The department may provide the following services to support an approved employability plan:

- (a) Tuition, books, supplies and fees for training;
- (b) Transportation reimbursement;
- (c) Employer reimbursement for salary, wages and other specified costs of on-the job training;
- (d) Child care; and
- (e) Other support services which may include, but are not limited to, clothing, tools, and professional licenses and certificates.

(7) Once the plan has begun, the department may terminate incentive and services in support of an approved activity if the enrollee does not participate in the planned activity. Participation requirements shall be specified as part of the employability plan.

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

NEW SECTION

WAC 192-42-057 NOTICE OF DECISIONS. (1) The department shall notify enrollees in writing of decisions regarding denial of employability plans including intentions to terminate services to support a plan. Such notification shall include:

- (a) Activities denied;
- (b) Specific reason for each denial; and
- (c) Amount of funds, level of incentives or other services denied.

(2) The department shall notify enrollees within 10 days of the decision of denial.

(3) The department shall notify enrollees 10 days prior to termination of ongoing services.

(4) The department shall inform enrollees of their right to appeal any part of the decision as a part of the written notification.

NEW SECTION

WAC 192-42-058 JOB SEARCH ALLOWANCE. Individual enrollees who participate in job search skills development or job search activities as a part of an approved employability plan may receive an allowance of up to thirty dollars per month for a maximum of one hundred twenty dollars in a consecutive twelve month period. Individual enrollees are eligible for the higher of the FIP grant incentive benefits or the job search allowance: PROVIDED, That other enrollees in the household may be entitled to incentive benefits based on their participation. Enrollees must meet the terms of the job search plan to receive the job search allowance.

NEW SECTION

WAC 192-42-081 DISPUTE RESOLUTION PROCESS. To the extent that RCW 74.21.120(4) requires a dispute resolution process for resolving disagreements relating to that section and other employment-related sections of chapter 74.21 RCW (as listed in subsection (2) below), this provision will govern the resolution of such disputes.

(1) Nonenrollees who are affected by the family independence program and who have disagreements relating to the employment-related sections of the family independence program may use the dispute resolution process.

(2) The department shall accept a written complaint from any employee or former employee, or employer aggrieved by a decision by the department relating to an employment related issue.

(3) Aggrieved nonenrollees must submit complaints to the local department staff within thirty working days of the date of the grievance or within thirty working days of the date the aggrieved should have become aware of the grievance, whichever is later.

(4) The local office manager or designee shall conduct an investigation of all complaints. Within thirty working days of the receipt of the complaint, the local department staff shall submit a written report to the assistant commissioner for FIP or the assistant commissioner's delegate detailing the results of its investigations. The assistant commissioner shall enter an order disposing of the complaint within thirty working days after receipt of the investigative report.

(5) The order shall provide an opportunity for the employer or other persons or entities to rectify the situation and shall state the actions to be taken by the department, if any. The department's actions may include but are not limited to:

- (a) Removing the enrollee from the place of employment;
- (b) Establishing an overpayment for the amount of the subsidy;
- (c) Removal of the employer from involvement in the program for a specified period of time; or
- (d) Prohibition of future referrals or placements with the employer.

(6) The order shall also include the effective date of implementation and methods for extending the date. At the discretion of the assistant commissioner, the order may be made effective the date of delivery or of mailing, be retroactive, or remedial in nature. An appeal of the decision does not in itself delay implementation of the order.

(7) Any party aggrieved by the decision of the assistant commissioner for FIP may request a hearing within thirty working days of the finding or order. The hearing will be held pursuant to Chapters 34.05 and 34.12 RCW.

(8) Following the issuance of a decision by the office of administrative hearings, an aggrieved party may file a petition for review with the commissioner of employment security in accordance with chapter 50.32 RCW.

(9) In any case in which a contract has been terminated, the enrollee's continued employment with that employer is at the sole discretion of the enrollee and the employer. However, in all cases, enrollees in subsidized and unsubsidized employment shall not continue participation at a place of employment that is involved in a strike, lockout, or other bona fide labor dispute.

(10) Any enrollee, aggrieved by the decision of the assistant commissioner for FIP may file a request for a fair hearing in accordance with RCW 74.21.100.

REPEALER

The following sections are repealed:

- (1) WAC 192-42-020 FIP Employment and Training
- (2) WAC 192-42-040 Job Search Allowance
- (3) WAC 192-42-050 Funding Criteria
- (4) WAC 192-42-070 Grievance Procedure and Appeals
- (5) WAC 192-42-080 Dispute Resolution Process

WSR 89-22-065

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Order PM 863—Filed October 31, 1989, 2:47 p.m.]

Be it resolved by the Washington State Board of Osteopathic Medicine and Surgery, acting at Seattle, Washington, that it does adopt the annexed rules relating to new sections WAC 308-138A-070, 308-138A-080 and 308-138A-090; and amending WAC 308-138A-020.

WAC 308-138A-020 provides for a process of reapproval, and deletes portions of WAC 308-138A-020 covered by new WAC 308-138A-080; WAC 308-138A-070 sets forth the procedure, by which an osteopathic physician's assistant applies to the board, and authorizes the board to place restrictions on the assistant's tasks; WAC 308-138A-080 sets forth the limitations of utilization for osteopathic physicians' assistants; and WAC 308-138A-090 sets forth the procedure for the registration of osteopathic physicians' assistants.

This action is taken pursuant to Notice No. WSR 89-13-051 filed with the code reviser on June 19, 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 18.57.005(2) 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 October 31, 1989.

By Joseph Palermo, D.O., Chair
Board of Osteopathic
Medicine and Surgery

AMENDATORY SECTION (Amending Order 745, filed 7/6/88)

WAC 308-138A-020 OSTEOPATHIC PHYSICIANS' ASSISTANTS PROGRAM APPROVAL. (1) Program approval required. No osteopathic physician shall be entitled to register an osteopathic physicians' assistant who has not successfully completed a program of training approved by the Board in accordance with these rules.

(2) Program approval procedures. In order for a program for training osteopathic physicians' assistants to be considered for approval by the board it must meet the minimal criteria for such programs established by the committee on allied health education and Accreditation Association of the American Medical Association as of 1985. The director of the program shall submit to the board a description of the course of training offered, including subjects taught and methods of teaching, entrance requirements, clinical experience provided, etc. The director shall also advise the board concerning the basic medical skills which are attained in such course, and the method by which the proficiency of the students in those skills was tested or ascertained. The board may require such additional information from program sponsors as it desires.

(3) Approved programs. The board shall approve programs in terms of skills attained by its graduates. A registry of approved programs shall be maintained by the board at the division of professional licensing in Olympia, Washington, which shall be available upon request to interested persons.

(4) Reapproval. Programs maintaining standards as defined in the "essentials" of the council of medical education of the American Medical Association will continue to be approved by the board without further review. Each approved program not maintaining the standards as defined in the "essentials" of the council of medical education of the American Medical Association will be reexamined at intervals, not to exceed three years. Approval will be continued or withdrawn following each reexamination.

(5) Additional skills. No osteopathic physician's assistant shall be registered to perform skills not contained in the program approved by the board unless the osteopathic physician's assistant submits with his or her application a certificate by the program director or other acceptable evidence showing that he or she was trained in the additional skill for which authorization is requested, and the board is satisfied that the applicant has the additional skill and has been properly and adequately tested thereon.

~~((5) Applications. All applications shall be made to the board on forms supplied by the board. All applications shall be submitted at least thirty days prior to the meeting of the board in which consideration is desired. Applications shall be made jointly by the physician and assistant.~~

~~(6) Authorization by board, powers. In granting authorizations for the utilization of the osteopathic physician's assistant, the board may limit the authority for utilizing an osteopathic physician's assistant to a specific task or tasks, or may grant specific approval in conformity with the program approved and on file with the board.~~

~~(7) Limitations, number. No osteopathic physician shall supervise more than one osteopathic physician's assistant.~~

~~(8) Limitations—Geographic limitations. No osteopathic physician's assistant shall ordinarily be utilized in a place other than the supervising osteopathic physician's regular place for meeting patients, unless personally accompanied by the supervising osteopathic physician. The "regular place for meeting patients" shall be defined to include the physician's office, the institution(s) in which his or her patients are hospitalized or confined, or the homes of patients for whom a physician-patient relationship has already been established.~~

~~(9) Limitations—Remote practice. Special permission may be granted to utilize an osteopathic physician assistant in a place remote from the physician's regular place for meeting patients if:~~

- ~~(a) There is a demonstrated need for such utilization;~~
- ~~(b) Adequate provision for immediate communication between the physician and his physician assistant exists;~~
- ~~(c) A mechanism has been developed to provide for the establishment of a direct patient-physician relationship between the supervising osteopathic physician and patients who may be seen initially by the osteopathic physician assistant;~~

~~(d) The responsible physician spends at least one-half day per week in the remote office.~~

~~(10) Limitations, hospital functions. An osteopathic physician assistant working in or for a hospital, clinic or~~

~~other health organization shall be registered in the same manner as any other osteopathic physician assistant and his/her functions shall be limited to those specifically approved by the board. His/her responsibilities, if any, to other physicians must be defined in the application for registration:~~

~~(11) Limitations, trainees. An individual enrolled in a training program for physician assistants may function only in direct association with his/her preceptorship physician or a delegated alternate physician in the immediate clinical setting or, as in the case of specialized training in a specific area, an alternate preceptor approved by the program. They may not function in a remote location or in the absence of the preceptor.~~

~~(12) Supervising osteopathic physician, responsibility. It shall be the responsibility of the supervising osteopathic physician to see to it that:~~

~~(a) Any osteopathic physician's assistant employed by him or her at all times when meeting or treating patient(s) wears a placard or other identifying plate in a prominent place upon his or her person identifying him or her as a physician's assistant;~~

~~(b) No osteopathic physician's assistant in his employ represents himself or herself in any manner which would tend to mislead anyone that he or she is a physician;~~

~~(c) That the osteopathic physician's assistant in his or her employ performs only those tasks which he or she is authorized to perform under the authorization granted by the board;~~

~~(d) All EKG's and x-rays and all abnormal laboratory tests shall be reviewed by the physician within twenty-four hours;~~

~~(e) The charts of all patients seen by the physician's assistant shall be reviewed and countersigned by the supervising physician within one week;~~

~~(f) All telephone advice given by the supervising physician through the physician's assistant shall be documented, reviewed, and countersigned by the physician within one week.~~

~~(13) Alternate physician, supervisor—Approved by board. In the temporary absence of the supervising osteopathic physician, the osteopathic physician assistant may carry out those tasks for which he is registered, if the supervisory and review mechanisms are provided by a delegated alternate osteopathic physician supervisor. If an alternate osteopathic physician is not available in the community, the board may authorize a physician licensed under chapter 18.71 RCW to act as the alternate physician supervisor.~~

~~(14) Reregistration. The annual reregistration fee shall be paid by the first day of July of each year by the supervising osteopathic physician. Any failure to reregister and pay the annual registration fee shall render the registration invalid but registration may be reinstated by payment of a penalty fee together with all delinquent annual registration fees.))~~

NEW SECTION

WAC 308-138A-070 OSTEOPATHIC PHYSICIANS' ASSISTANTS REGISTRATION. (1) Applications. All applications shall be made to the board on forms supplied by the board. All applications shall be

submitted at least thirty days prior to the meeting of the board in which consideration is desired. Applications shall be made jointly by the physician and assistant.

(2) Authorization by board, powers. In granting authorizations for the utilization of the osteopathic physician's assistant, the board may limit the authority for utilizing an osteopathic physician's assistant to a specific task or tasks, or may grant specific approval in conformity with the program approved and on file with the board.

NEW SECTION

WAC 308-138A-080 OSTEOPATHIC PHYSICIANS' ASSISTANTS UTILIZATION. (1) Limitations, number. No osteopathic physician shall supervise more than one osteopathic physician's assistant without specific authorization by the board. The board shall consider the individual qualifications and experience of the physician and physician assistant, community need, and review mechanisms available in making their determination.

(2) Limitations—Geographic limitations. No osteopathic physician's assistant shall ordinarily be utilized in a place other than the supervising osteopathic physician's regular place for meeting patients, unless personally accompanied by the supervising osteopathic physician. The "regular place for meeting patients" shall be defined to include the physician's office, the institution(s) in which his or her patients are hospitalized or confined, or the homes of patients for whom a physician-patient relationship has already been established.

(3) Limitations—Remote practice. Special permission may be granted to utilize an osteopathic physician assistant in a place remote from the physician's regular place for meeting patients if:

(a) There is a demonstrated need for such utilization;

(b) Adequate provision for immediate communication between the physician and his physician assistant exists;

(c) A mechanism has been developed to provide for the establishment of a direct patient-physician relationship between the supervising osteopathic physician and patients who may be seen initially by the osteopathic physician assistant;

(d) The responsible physician spends at least one-half day per week in the remote office.

(4) Limitations, hospital functions. An osteopathic physician assistant working in or for a hospital, clinic or other health organization shall be registered in the same manner as any other osteopathic physician assistant and his/her functions shall be limited to those specifically approved by the board. His/her responsibilities, if any, to other physicians must be defined in the application for registration.

(5) Limitations, trainees. An individual enrolled in a training program for physician assistants may function only in direct association with his/her preceptorship physician or a delegated alternate physician in the immediate clinical setting or, as in the case of specialized training in a specific area, an alternate preceptor approved by the program. They may not function in a remote location or in the absence of the preceptor.

(6) Supervising osteopathic physician, responsibility. It shall be the responsibility of the supervising osteopathic physician to see to it that:

(a) Any osteopathic physician's assistant employed by him or her at all times when meeting or treating patient(s) wears a placard or other identifying plate in a prominent place upon his or her person identifying him or her as a physician's assistant;

(b) No osteopathic physician's assistant in his employ represents himself or herself in any manner which would tend to mislead anyone that he or she is a physician;

(c) That the osteopathic physician's assistant in his or her employ performs only those tasks which he or she is authorized to perform under the authorization granted by the board;

(d) All EKG's and x-rays and all abnormal laboratory tests shall be reviewed by the physician within twenty-four hours;

(e) The charts of all patients seen by the physician's assistant shall be reviewed and countersigned by the supervising physician within one week;

(f) All telephone advice given by the supervising physician through the physician's assistant shall be documented, reviewed, and countersigned by the physician within one week.

(7) Alternate physician, supervisor—Approved by board. In the temporary absence of the supervising osteopathic physician, the osteopathic physician assistant may carry out those tasks for which he is registered, if the supervisory and review mechanisms are provided by a delegated alternate osteopathic physician supervisor. If an alternate osteopathic physician is not available in the community, the board may authorize a physician licensed under chapter 18.71 RCW to act as the alternate physician supervisor.

NEW SECTION

WAC 308-138A-090 OSTEOPATHIC PHYSICIANS' ASSISTANTS REREGISTRATION. Reregistration. The annual reregistration fee shall be paid by the first day of July of each year by the supervising osteopathic physician. Any failure to reregister and pay the annual registration fee shall render the registration invalid but registration may be reinstated by payment of a penalty fee together with all delinquent annual registration fees.

WSR 89-22-066
PROPOSED RULES
BOARD OF PHARMACY
 [Filed October 31, 1989, 2:49 p.m.]

Original Notice.

Title of Rule: Impaired pharmacist rehabilitation.

Purpose: These rules are to assist the board in the rehabilitation of pharmacists and others whose ability to practice pharmacy or pharmacy support services is impaired.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.130.175.

Summary: These rules will establish procedures for the approval of substance abuse monitoring programs for pharmacists and others and for their rehabilitation through such program attendance.

Reasons Supporting Proposal: These rules implement RCW 18.130.175.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 319 East Seventh Avenue, Olympia, WA 98504, (206) 753-6834.

Name of Proponent: Washington State Board of Pharmacy, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 360-15-010 defines purpose and scope; WAC 360-15-020 defines terms used in the rules; WAC 360-15-030 limits the applicability of the rules to pharmacists, and pharmacy externs, interns and assistants; WAC 360-15-040 provides for reporting of impaired practitioners; WAC 360-15-050 establishes procedures for substance abuse program approval; WAC 360-15-060 provides for the referral of impaired pharmacy practitioners to approved monitoring programs; and WAC 360-15-070 provides for certain treatment records to be confidential.

These rules will implement the voluntary substance abuse monitoring provisions of RCW 18.130.175 and will provide direction and assistance for the recovery of pharmacy practitioners who are impaired by a substance abuse problem.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing, Wright Building, 3rd Floor Conference Room, 464 12th Avenue, Seattle, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, 319 East Seventh Avenue, Olympia, WA 98504, by December 13, 1989.

Date of Intended Adoption: December 14, 1989.

October 30, 1989

John H. Keith
 Assistant Attorney General
 Board Counsel

Chapter 360-15 WAC
IMPAIRED PHARMACIST REHABILITATION

WAC	
360-15-010	Purpose and scope.
360-15-020	Definitions.
360-15-030	Applicability.
360-15-040	Reporting and freedom from liability.
360-15-050	Approval of substance abuse monitoring programs.
360-15-060	Participation in approved substance abuse monitoring program.
360-15-070	Confidentiality.

NEW SECTION

WAC 360-15-010 PURPOSE AND SCOPE. These rules are designed to assist the board of pharmacy regarding a registrant/licensee whose competency may be impaired due to the abuse of alcohol and/or drugs. The board intends that such registrants/licensees be treated and their treatment monitored so that they can return or continue to practice pharmacy with judgment, skill, competence, and safety to the

public. To accomplish this, the board shall approve voluntary substance abuse monitoring programs and shall refer registrants/licensed impaired by substance abuse to approved programs.

NEW SECTION

WAC 360-15-020 DEFINITIONS. For the purpose of this chapter:

(1) "Chemical dependence - Substance abuse" means a chronic progressive illness which involves the use of alcohol and/or other drugs to a degree that it interferes in the functional life of the registrant/licensee, as manifested by health, family, job (professional services), legal, financial, or emotional problems.

(2) "Board" means the Washington state board of pharmacy.

(3) "Diversion" means illicit dispensing, distribution, or administration of a scheduled controlled substance or other legend drug not in the normal course of professional practice.

(4) "Drug" means a chemical substance alone or in combination, including alcohol.

(5) "Impaired pharmacist" means a pharmacist who is unable to practice pharmacy with judgment, skill, competence, or safety to the public due to chemical dependence, mental illness, the aging process, loss of motor skills, or any other mental or physical condition.

(6) "Approved substance abuse monitoring program" means a pharmacy recovery assistance program or program which the board has determined meets the requirement of the law and the criteria established by the board in WAC 360-15-050 which enters into a contract with pharmacists who have substance abuse problems regarding the required components of the pharmacists recovery activity and oversees the pharmacist's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating pharmacists.

(7) "Contract" means a comprehensive, structured agreement between the recovering pharmacist and the approved monitoring program stipulating the pharmacist's consent to comply with the monitoring program and its required components of the pharmacist's recovery program.

(8) "Approved treatment facility" means a facility approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 70.96A.020(3) to provide concentrated alcoholism or drug addiction treatment if located within Washington state. Drug and alcohol addiction treatment programs located out-of-state must be equivalent to the standards required for approval under RCW 70.96A.020(3).

(9) "Aftercare" means that period of time after intensive treatment that provides the pharmacist and the pharmacist's family with group, or individualized counseling sessions, discussions with other families, ongoing contact and participation in self-help groups, and ongoing continued support of treatment program staff.

(10) "Twelve-step groups" means groups such as Alcoholics Anonymous, Narcotics Anonymous, Cocaine Anonymous, and related organizations based on a philosophy of anonymity, peer group associations, self-help belief in a power outside of oneself which offer support to the recovering individual to maintain a chemically free lifestyle.

(11) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person to be tested. The collection of the body fluid must be observed by a treatment or health care professional or other board or monitoring program-approved observer.

(12) "Recovering" means that a chemically dependent pharmacist is in compliance with a treatment plan of rehabilitation in accordance with criteria established by an approved treatment facility and an approved substance abuse monitoring program.

(13) "Rehabilitation" means the process of restoring a chemically dependent pharmacist to a level of professional performance consistent with public health and safety.

(14) "Reinstatement" means the process whereby a recovering pharmacist is permitted to resume the practice of pharmacy.

(15) "Pharmacist support group" means a group of pharmacists meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced pharmacist facilitator in which pharmacists may safely discuss drug diversion, licensure issues, return to work, and other issues related to recovery.

NEW SECTION

WAC 360-15-030 APPLICABILITY. This chapter is applicable to all registered/licensed externs, interns, pharmacists, and any pharmacy assistants. For the purpose of this chapter, the word "pharmacist" shall include externs, interns and pharmacy assistants, as defined under chapter 18.64A RCW.

NEW SECTION

WAC 360-15-040 REPORTING AND FREEDOM FROM LIABILITY. (1) Reporting.

(a) If any pharmacist or pharmacy owner knows or suspects that a pharmacist is impaired by chemical dependence, mental illness, physical incapacity, or other factors, that person shall report any relevant information to a pharmacy recovery assistance program or to the board.

(b) If a person is required by law to report an alleged impaired pharmacist to the board, the requirement is satisfied when the person reports the pharmacist to a board-approved and contracted pharmacist recovery assistance program.

(2) Any person who in good faith reports information concerning a suspected impaired pharmacist to a pharmacy recovery assistance program or to the board shall be immune from civil liability.

NEW SECTION

WAC 360-15-050 APPROVAL OF SUBSTANCE ABUSE MONITORING PROGRAMS. The board will approve a pharmacist recovery, assistance, and monitoring program which will participate in the board's substance abuse monitoring program. A monitoring program approved by the board may be contracted with an entity outside the department but within the state, out-of-state, or a separate structure within the department.

(1) The approved monitoring program will not provide evaluation or treatment to participating pharmacists.

(2) The approved monitoring program/recovery assistance staff must have the qualifications and knowledge of both substance abuse and the practice of pharmacy as defined in this chapter to be able to evaluate:

(a) Clinical laboratories.

(b) Laboratory results.

(c) Providers of substance abuse treatment, both individuals and facilities.

(d) Pharmacist support groups.

(e) The pharmacist's work environment.

(f) The ability of the pharmacist to practice with reasonable skill and safety.

(3) The approved monitoring program will enter into a contract with the pharmacist and the board to oversee the pharmacists' compliance with the requirements of the program.

(4) The approved monitoring program may make exceptions to individual components of the contract on an individual basis.

(5) The approved monitoring program staff will determine, on an individual basis, whether a pharmacist will be prohibited from engaging in the practice of pharmacy for a period of time and restrictions, if any, on the pharmacist's access to controlled substances in the work place.

(6) The approved monitoring program shall maintain records on participants.

(7) The approved monitoring program will be responsible for providing feedback to the pharmacist as to whether treatment progress is acceptable.

(8) The approved monitoring program shall report to the board any pharmacist who fails to comply with the requirements of the monitoring program.

(9) The approved monitoring program shall provide the board with a statistical report on the program, including progress of participants, at least annually.

(10) The approved monitoring program shall receive from the board guidelines on treatment, monitoring, and limitations on the practice of pharmacy for those participating in the program.

NEW SECTION

WAC 360-15-060 PARTICIPATION IN APPROVED SUBSTANCE ABUSE MONITORING PROGRAM. (1) The pharmacist who has been investigated by the board may accept board referral into

the approved substance abuse monitoring program. This may be part of disciplinary action.

(a) The pharmacist shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professionals with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The pharmacist shall enter into a contract with the board and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The pharmacist will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The pharmacist will agree to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within fourteen days of the date care was provided.

(iii) The pharmacist must complete the prescribed aftercare program of the intensive treatment facility. This may include individual and/or group psychotherapy.

(iv) The pharmacist must cause the treatment counselor(s) and authorized prescriber(s) to provide reports to the appropriate monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc.

(v) The pharmacist shall submit to random drug screening, with observed specimen collection, as specified by the approved monitoring program.

(vi) The pharmacist will attend pharmacist support groups facilitated by a pharmacist and/or twelve-step group meetings as specified by the contract.

(vii) The pharmacist will comply with specified employment conditions and restrictions as defined by the contract.

(viii) The pharmacist shall sign a waiver allowing the approved monitoring program to release information to the board if the pharmacist does not comply with the requirements of this contract.

(c) The pharmacist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, random urine screens, and other personal expenses incurred in compliance with this contract.

(d) The pharmacist may be subject to disciplinary action under RCW 18.64.160 if the pharmacist does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A pharmacist who is not being investigated by the board or subject to current disciplinary action or currently being monitored by the board for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.64.160 for their substance abuse and shall not have their participation known to the board if they meet the requirements of the approved monitoring program:

(a) The pharmacist shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by a health care professional with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The pharmacist shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The pharmacist will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The pharmacist will agree to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within fourteen days of the date care was provided.

(iii) The pharmacist must cause the treatment counselor(s) and authorized prescriber(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc.

(v) The pharmacist shall submit to random drug screening, with observed specimen collection, as specified by the approved monitoring program.

(vi) The pharmacist will attend pharmacist support groups facilitated by a pharmacist and/or twelve-step group meetings as specified by the contract.

(vii) The pharmacist will comply with specified employment conditions and restrictions as defined by the contract.

(viii) The pharmacist shall sign a waiver allowing the approved monitoring program to release information to the board if the pharmacist does not comply with the requirements of this contract.

(c) The pharmacist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, random urine screens, and other personal expenses incurred in compliance with this contract.

NEW SECTION

WAC 360-15-070 CONFIDENTIALITY. (1) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in WAC 360-15-060 (1) and (2). Records held by the board under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(2) All board orders may be subject to public record.

WSR 89-22-067
PROPOSED RULES
BOARD OF PHARMACY
[Filed October 31, 1989, 2:50 p.m.]

Original Notice.

Title of Rule: Outpatient parenteral products.

Purpose: To regulate the preparation, labeling and distribution of parenteral products by nonhospital pharmacies.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005(11).

Summary: These rules will establish policy and procedures for the safe preparation, storage and disposition of parenteral drug products.

Reasons Supporting Proposal: These rules will improve the standards for the proper preparation of sterile drug products.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 319 East Seventh Avenue, Olympia, WA 98504, (206) 753-6834.

Name of Proponent: Washington State Board of Pharmacy, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will require policies and procedures for the outpatient pharmacy production of parenteral drug products, define the physical requirements for the product production area, provide for emergency access to parenteral drugs, define the necessary personnel for parenteral drug preparation, define the system for parenteral distribution and control, establish safety requirements for antineoplastic medications and define the range of clinical services and quality assurance methods necessary to provide parenteral products to the public with reasonable skill and safety. The rules are intended to provide necessary safeguards to ensure that parenteral products are prepared, stored and delivered in a safe and

effective manner for the protection of the patient and the personnel involved in the product preparation.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing, Wright Building, 3rd Floor Conference Room, 464 12th Avenue, Seattle, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, 319 East Seventh Avenue, Olympia, WA 98504, by December 13, 1989.

Date of Intended Adoption: December 14, 1989.

October 30, 1989

John H. Keith

Assistant Attorney General

Board Counsel

Chapter 360-16A WAC OUTPATIENT PARENTERAL PRODUCTS

WAC

360-16A-010	Scope and purpose.
360-16A-020	Definitions.
360-16A-030	Policy and procedure manual.
360-16A-040	Physical requirements.
360-16A-050	Absence of a pharmacist.
360-16A-060	Personnel.
360-16A-070	Drug distribution and control.
360-16A-080	Antineoplastic medications.
360-16A-090	Clinical services.
360-16A-100	Quality assurance.

NEW SECTION

WAC 360-16A-010 SCOPE AND PURPOSE. The purpose of this chapter is to provide standards for the preparation, labeling, and distribution of parenteral products by licensed pharmacies, pursuant to an order or prescription. These standards are intended to apply to all parenteral products not administered in a hospital.

NEW SECTION

WAC 360-16A-020 DEFINITIONS. (1) Biological safety cabinet - A containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment according to National Sanitation Foundation (NSF) Standard 49.

(2) Class 100 environment - An atmospheric environment which contains less than 100 particles 0.5 microns in diameter per cubic foot of air, according to Federal Standard 209B.

(3) Antineoplastic - A pharmaceutical that has the capability of killing malignant cells.

(4) Parenteral - Sterile preparations of drugs for injection through one or more layers of skin.

NEW SECTION

WAC 360-16A-030 POLICY AND PROCEDURE MANUAL.

(1) A policy and procedure manual as it relates to parenteral products shall be available for inspection at the pharmacy. The manual shall be reviewed and revised on an annual basis by the on-site pharmacist-in-charge.

(2) The manual shall include policies and procedures for:

- Clinical services;
- Parenteral product handling, preparation, dating, storage, and disposal;
- Major and minor spills of antineoplastic agents, if applicable;
- Disposal of unused supplies and medications;
- Drug destruction and returns;
- Drug dispensing;
- Drug labeling—relabeling;
- Duties and qualifications for professional and nonprofessional staff;
- Equipment;
- Handling of infectious waste pertaining to drug administration;

- Infusion devices and drug delivery systems;
- Dispensing of investigational medications;
- Training and orientation of professional and nonprofessional staff commensurate with the services provided;
- Quality assurance;
- Recall procedures;
- Infection control:
- Suspected contamination of parenteral products;
- Orientation of employees to sterile technique;
- Sanitation;
- Security;
- Transportation; and
- Absence of a pharmacist.

NEW SECTION

WAC 360-16A-040 PHYSICAL REQUIREMENTS. (1) Space. The pharmacy shall have a designated area with entry restricted to designated personnel for preparing compounded parenteral products. This area shall be designed to minimize traffic and airflow disturbances. It shall be used only for the preparation of these specialty products. It shall be of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

(2) Equipment. The pharmacy preparing parenteral products shall have:

(a) Appropriate environmental control devices capable of maintaining at least a Class 100 environment condition in the workspace where critical objects are exposed and critical activities are performed; furthermore, these devices are capable of maintaining Class 100 environment conditions during normal activity;

(b) Clean room and laminar flow hood certification shall be conducted annually by an independent contractor according to Federal Standard 209B or National Sanitation Foundation 49 for operational efficiency. These reports shall be maintained for at least two years;

(c) Prefilters. Prefilters for the clean air source shall be replaced on a regular basis and the replacement date documented;

(d) Sink with hot and cold running water which is convenient to the compounding area for the purpose of hand scrubs prior to compounding;

(e) Appropriate disposal containers for used needles, syringes, etc., and if applicable, antineoplastic agents;

(f) Refrigerator/freezer with thermometer;

(g) Temperature controlled delivery container, if appropriate;

(h) Infusion devices, if appropriate.

(3) Reference library. The pharmacy shall have current reference materials related to parenteral products. These reference materials will contain information on stability, incompatibilities, mixing guidelines, and the handling of antineoplastic products.

NEW SECTION

WAC 360-16A-050 ABSENCE OF A PHARMACIST. (1) On an emergency basis after regularly scheduled business hours, arrangements shall be made in advance by the pharmacist-in-charge to provide a parenteral product.

(2) The pharmacist-in-charge shall establish written policy and procedures for when a pharmacist is not present.

(3) Whenever a parenteral product is required to treat an emergent need and the pharmacy is closed, a designated registered nurse, who shall be accountable for his/her actions, shall prepare the needed parenteral product.

(4) In the absence of a pharmacist, only a sufficient quantity, not to exceed twenty-four hours, shall be prepared in order to sustain the patient.

(5) The stock container of the parenteral product or similar package of the parenteral product shall be retained. When the pharmacy reopens, the stock container of the parenteral product or similar package of the parenteral product, along with a copy of the order from the authorizing practitioner, shall be checked by the pharmacist.

(6) All parenteral products removed shall be completely labeled in accordance with written policy and procedures, in accordance with state and federal rules and regulations and current standards of practice.

(7) A log of all emergency parenteral products that are prepared by the registered nurse shall be maintained. The log shall include, but not

be limited to, the patient name, prescription number, name of medication, number of doses, date, time, and preparing registered nurse's name. The pharmacist shall time/date/initial the entry when checked.

NEW SECTION

WAC 360-16A-060 PERSONNEL. (1) Pharmacist-in-charge. Each pharmacy shall be managed on site by a pharmacist who is licensed to practice pharmacy in this state and who has been trained in the specialized functions of preparing and dispensing compounded parenteral products, including the principles of aseptic technique and quality assurance. This training may be obtained through residency training programs, continuing education programs, or experience in an IV admixture facility. The pharmacist-in-charge shall be responsible for the purchasing, storage, compounding, repackaging, dispensing, and distribution of all parenteral products. He/she shall also be responsible for the development and continuing review of all policies and procedures, training manuals, and the quality assurance programs. The pharmacist-in-charge may be assisted by additional pharmacists trained in this area of practice.

(2) Supportive personnel. The pharmacist-in-charge may be assisted by a level A pharmacy assistant. The level A pharmacy assistant shall have specialized training in this field and shall work under the immediate supervision of a pharmacist. The training provided to these personnel shall be described in writing in a training manual pursuant to chapter 360-52 WAC and chapter 18.64A RCW. The duties and responsibilities of the level A pharmacy assistant must be consistent with his/her training and experience.

(3) Staffing. A pharmacist shall be accessible twenty-four hours per day for each pharmacy to respond to patient's and other health professionals' questions and needs.

NEW SECTION

WAC 360-16A-070 DRUG DISTRIBUTION AND CONTROL. (1) Prescription. The pharmacist, or pharmacy intern acting under the immediate supervision of a pharmacist, must receive a written or verbal prescription from an authorized prescriber before dispensing any parenteral product. Prescriptions may be filed within the pharmacy by patient-assigned consecutive numbers. A new prescription is required every twelve months or upon any prescription change. These prescriptions shall, at a minimum, contain the following:

- (a) Patient name;
- (b) Patient address;
- (c) Drug name, strength, and dispensing quantity;
- (d) Patient directions for use;
- (e) Date written;
- (f) Authorizing prescriber's name;
- (g) Physician's address and Drug Enforcement Administration identification code, if applicable;
- (h) Refill instructions, if applicable; and
- (i) Provision for generic substitution.

(2) Profile or medication record system. A pharmacy-generated profile or medication record system must be separated from the oral prescription file. The patient profile or medication record system shall be maintained under the control of the pharmacist-in-charge for a period of two years after the last dispensing activity. The patient profile or medication record system shall contain, at a minimum:

- (a) Patient's full name;
- (b) Date of birth or age;
- (c) Weight, if applicable;
- (d) Sex, if applicable;
- (e) Parenteral products dispensed;
- (f) Date dispensed;
- (g) Drug content and quantity;
- (h) Patient directions;
- (i) Prescription identifying number;
- (j) Identification of dispensing pharmacist and preparing level A pharmacy assistant, if applicable;
- (k) Other drugs patient is receiving;
- (l) Known drug sensitivities and allergies to drugs and foods;
- (m) Primary diagnosis, chronic conditions; and
- (n) Name of manufacturer and lot numbers of components or a policy for return of recalled product if lot numbers are not recorded.

(3) Labeling. Parenteral products dispensed to patients shall be labeled with the following information with a permanent label:

- (a) Name, address, and telephone number of the pharmacy;
- (b) Date and prescription identifying number;

- (c) Patient's full name;
 - (d) Name of each component, strength, and amount;
 - (e) Directions for use including infusion rate;
 - (f) Prescriber's name;
 - (g) Required transfer warnings;
 - (h) Date of compounding;
 - (i) Expiration date and expiration time, if applicable;
 - (j) Identity of pharmacist compounding and dispensing or other authorized individual;
 - (k) Storage requirements;
 - (l) Auxiliary labels, where applicable;
 - (m) Antineoplastic drug auxiliary labels, where applicable; and
 - (n) On all parenteral products, a twenty-four hour phone number where a pharmacist can be contacted.
- (4) Records and reports. The pharmacist-in-charge shall maintain access to and submit, as appropriate, such records and reports as are required to ensure patient's health, safety, and welfare. Such records shall be readily available, maintained for two years, and subject to inspections by the board of pharmacy. These shall include, as a minimum, the following:
- (a) Patient profile/medication record system;
 - (b) Policy and procedure manual;
 - (c) Training manuals; and
 - (d) Such other records and reports as may be required by law and rules of the board of pharmacy.

Information regarding individual patients shall be maintained in a manner to assure confidentiality of the patient's record. Release of this information shall be in accordance with federal and/or state laws or rules.

(5) Delivery service. There will be a provision for the timely delivery of parenteral products from a pharmacy so a practitioner's order for drug therapy can be implemented without undue delay. The pharmacist-in-charge shall assure the environmental control of all parenteral products shipped. Therefore, any parenteral products must be shipped or delivered to a patient in appropriate temperature controlled delivery containers (as defined by USP Standards) and stored appropriately in the patient's home. Chain of possession for the delivery of controlled substances via contracted courier must be documented, and a receipt required. The pharmacy, on request, will provide instruction for the destruction of unused parenteral products and supplies in the event a parenteral product is being discontinued or a patient dies.

(6) Disposal of infectious wastes. The pharmacist-in-charge is responsible for assuring that there is a system for the disposal of infectious waste pertaining to drug administration in a manner so as not to endanger the public health.

(7) Emergency kit. When parenteral products are provided to home care patients, the dispensing pharmacy may supply the registered nurse with emergency drugs if the physician has authorized the use of these drugs by a protocol for use in an emergency situation, e.g., anaphylactic shock. A protocol for the emergency kit must be submitted to and approved by the board of pharmacy.

NEW SECTION

WAC 360-16A-080 ANTINEOPLASTIC MEDICATIONS. The following additional requirements are necessary for those pharmacies that prepare antineoplastic medications to assure the protection of the personnel involved.

(1) All antineoplastic medications shall be compounded within a certified Class II type A or Class II type B vertical laminar airflow hood.

Policy and procedures shall be developed for the cleaning of the laminar airflow hood between compounding antineoplastic medications and other parenteral products, if applicable.

(2) Protective apparel shall be worn by personnel compounding antineoplastic medications. This shall include disposable gloves, gowns with tight cuffs, masks, and protective eye shields if the safety cabinet is not equipped with splash guards.

(3) Appropriate safety containment techniques for compounding antineoplastic medications shall be used in conjunction with the aseptic techniques required for preparing parenteral products.

(4) Disposal of antineoplastic waste shall comply with all applicable local, state, and federal requirements, i.e., Occupational Safety and Health Administration (OSHA) and Washington Industrial Safety and Health Administration (WISHA).

(5) Written procedures for handling both major and minor spills of antineoplastic medications must be developed and must be included in

the policy and procedure manual. These procedures will include providing spill kits along with directions for use to those persons receiving therapy.

(6) Prepared doses of antineoplastic medications must be dispensed and shipped in a manner to minimize the risk of accidental rupture of the primary container.

(7) Documentation that personnel have been trained in compounding, handling, and destruction of antineoplastic medications.

NEW SECTION

WAC 360-16A-090 CLINICAL SERVICES. (1) Primary provider. There shall be an authorizing practitioner primarily responsible for the patient's medical care. There shall be a clear understanding between the authorizing practitioner, the patient, the home health care agency, and the pharmacy of the responsibilities of each in the areas of the delivery of care and the monitoring of the patient. This shall be documented in the patient's medication record system.

(2) A systematic process of medication use review must be designed, followed, and documented on an ongoing basis.

(3) Pharmacist-patient relationship. The pharmacist is responsible for seeing that the patient's compliance and adherence to a medication regimen is followed.

(4) Patient monitoring. The pharmacist will have access to clinical and laboratory data concerning each patient. Any abnormal values will be reported to the authorizing practitioner in a timely manner.

(5) Documentation. There must be documentation of ongoing drug therapy monitoring and assessment shall include but not be limited to:

(a) Therapeutic duplication in the patient's drug regimen;

(b) The appropriateness of the dose, frequency, and route of administration;

(c) Clinical laboratory or clinical monitoring methods to detect side effects, toxicity, or adverse effects and whether the findings have been reported to the authorizing practitioner.

(6) Patient training. The patient, the patient's agent, the authorizing practitioner, the home health care agency, or the pharmacy must demonstrate or document the patient's training and competency in managing this type of therapy in the home environment. A pharmacist is responsible for the patient training process in any area that relates to medication compounding, labeling, storage, stability, or incompatibility. The pharmacist must be responsible for seeing that the patient's competency in the above areas is reassessed on an ongoing basis.

(7) A pharmacist will verify that any parenteral product a patient has not received before will be administered under the supervision of a person authorized to manage anaphylaxis.

NEW SECTION

WAC 360-16A-100 QUALITY ASSURANCE. There shall be a documented, ongoing quality assurance program that is reviewed at least annually.

(1) The quality assurance program shall include but not be limited to methods to document:

(a) Medication errors;

(b) Adverse drug reactions;

(c) Patient satisfaction;

(d) Product sterility.

There shall be written documentation that the end product has been tested on a sampling basis for microbial contamination by the employee responsible for compounding parenteral products. Documentation shall be on a quarterly basis at a minimum.

(2) Nonsterile compounding. If bulk compounding of parenteral solutions is performed utilizing nonsterile chemicals, extensive end product testing, as referenced in Remington, must be documented prior to the release of the product from quarantine. This process must include appropriate testing for particulate matter and testing for pyrogens.

(3) Expiration dates. There shall be written justification of the chosen expiration dates for compounded parenteral products.

WSR 89-22-068

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 31, 1989, 2:51 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-124C-040 Suit or complaint notification.

Purpose: The purpose of the proposed rule changes is to clarify the notification requirements by licensees.

Statutory Authority for Adoption: RCW 18.85.040.

Statute Being Implemented: RCW 18.85.230.

Summary: WAC 308-124C-040 Suit or complaint notification.

Reasons Supporting Proposal: See above Purpose.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, WA 98504, (206) 753-6974.

Name of Proponent: Department of Licensing, Real Estate Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule more clearly identifies for licensees the types of complaints and lawsuits against licensees that must be reported by the licensee to the Department of Licensing.

Proposal Changes the Following Existing Rules: It clarifies the notification requirements.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Red Lion, Bellevue Center, Rainier Room, 818 112th N.E., Bellevue, WA 98004, phone (206) 455-1515, on December 8, 1989, at 9:00 a.m.

Submit Written Comments to: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, by 5:00 p.m. December 1, 1989.

Date of Intended Adoption: December 8, 1989.

October 27, 1989

Linda M. Moran

Assistant Attorney General

AMENDATORY SECTION (Amending Order PM 683, filed 10/7/87)

WAC 308-124C-040 SUIT OR COMPLAINT NOTIFICATION. Every licensee shall, within twenty days after service or knowledge thereof, notify the real estate program manager of ~~((any suit, complaint, counterclaim or cross complaint served or filed in any court of competent jurisdiction, civil or criminal, in which the licensee is named as a defendant, and in which the subject matter, thereof, involves any real estate or business activity of the defendants therein named))~~ the following:

(1) Any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

(2) Entry of a civil court order, verdict, or judgment, against the licensee in any court of competent jurisdiction in which the subject matter therein involves any real estate or business-related activity by the licensee. Notification is required regardless of any pending appeal.

WSR 89-22-069
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed October 31, 1989, 2:52 p.m.]

WSR 89-22-070
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed October 31, 1989, 2:53 p.m.]

Original Notice.

Title of Rule: New Section WAC 308-124D-061
 Broker supervision of affiliated licensees.

Purpose: To define broker responsibilities for supervision of affiliated licensees.

Statutory Authority for Adoption: RCW 18.85.040.

Statute Being Implemented: RCW 18.85.230(25).

Reasons Supporting Proposal: See above Purpose.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, (206) 753-6974.

Name of Proponent: Department of Licensing, Real Estate Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This new section identifies broker supervision responsibilities and clarifies when the Department of Licensing will take disciplinary action against a broker under RCW 18.85.230(25).

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Red Lion, Bellevue Center, Rainier Room, 818 112th N.E., Bellevue, WA 98004, phone (206) 455-1515, on December 8, 1989, at 9:00 a.m.

Submit Written Comments to: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, by 5:00 p.m., December 1, 1989.

Date of Intended Adoption: December 8, 1989.

October 27, 1989
 Linda M. Moran
 Assistant Attorney General

NEW SECTION

WAC 308-124D-061 **BROKER SUPERVISION OF AFFILIATED LICENSEES.** (1) Individual and designated brokers shall be responsible for supervising the conduct of all associate brokers and salespersons licensed to them, whether in an individual capacity or through a corporate entity. A broker shall not be held responsible for inadequate supervision if:

(a) An associate broker or salesperson violates a provision of chapter 18.85 RCW, or the rules promulgated thereunder, in contravention of the supervising broker's specific written policies or instructions;

(b) Reasonable procedures had been established to verify that adequate supervision was being performed;

(c) Upon learning of the violation, the broker attempted to prevent or mitigate the damage;

(d) The broker did not participate in the violation;

(e) The broker did not ratify the violation; and

(f) The broker did not attempt to avoid learning of the violation.

(2) The existence of an independent contractor relationship or any other special compensation arrangement between the broker and affiliated licensees shall not release the broker and licensee of any duties, obligations, or responsibilities.

Original Notice.

Title of Rule: Amending WAC 308-124E-012 (5) and (7) Administration of funds held in trust.

Purpose: Housekeeping.

Statutory Authority for Adoption: RCW 18.85.040.

Statute Being Implemented: RCW 18.85.310.

Summary: The amendments to the WAC clarify existing procedures and requirements.

Reasons Supporting Proposal: See above Purpose.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, (206) 753-6974.

Name of Proponent: Department of Licensing, Real Estate Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Proposal Changes the Following Existing Rules: The changes clarify the time period for depositing trust funds and the acceptable marks to show deposit into trust accounts.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Red Lion, Bellevue Center, Rainier Room, 818 112th N.E., Bellevue, WA 98004, phone (206) 455-1515, on December 8, 1989, at 9:00 a.m.

Submit Written Comments to: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, by 5:00 p.m., December 1, 1989.

Date of Intended Adoption: December 8, 1989.

October 27, 1989
 Linda M. Moran
 Assistant Attorney General

AMENDATORY SECTION (Amending Order PM 811, filed 12/7/88)

WAC 308-124E-012 **ADMINISTRATION OF FUNDS HELD IN TRUST—GENERAL PROCEDURES.** Any real estate broker who receives funds or moneys from any principal or any party to a real estate or business opportunity transaction, property management agreement, or contract/mortgage collection agreement shall hold the funds or moneys in trust for the purposes of the transaction or agreement, and shall not utilize such funds or moneys for the benefit of the broker or any person not entitled to such benefit. Except as specifically provided in this section, funds or moneys received in trust shall be deposited in a Washington state banking institution approved by the banking division, department of general administration, state of Washington, or successor. The broker is responsible for depositing, holding, disbursing and accounting for funds in trust as provided herein.

(1) Bank accounts shall be designated as trust accounts in the firm name of the real estate broker as licensed.

(2) Interest credited to a clients account must be recorded as a liability on client ledger. Interest assigned or credited by written assignment agreement to the broker may not be maintained in the trust account. The broker is responsible to make arrangements with the financial institution to credit this interest to the general account of the firm.

(3) The broker shall establish and maintain a system of records and procedures approved by the director that provide an audit trail accounting for all funds received and disbursed, identified to the account of each individual client. Records and procedures described herein meet approval requirements. Any alternative records or procedures

proposed for use by a broker shall be approved in advance by the department.

(4) The real estate broker shall be responsible for deposits, disbursements or transfers of clients' funds received and held in trust, whether disbursed by personal signature, signature plate or signature of another person authorized to act on the broker's behalf.

(5) All funds or moneys received for any reason pertaining to the sale, renting, leasing or option of real estate or business opportunities or contract or mortgage collections shall be deposited in the broker's real estate trust bank account not later than the first banking day following receipt thereof; except:

(a) Checks received as earnest money deposits when the earnest money agreement states that a check is to be held for a specified length of time or until the occurrence of a specific event; and

(b) Checks, funds or moneys received as rent, contract payments or mortgage payments on real estate or business opportunities, owned exclusively by the real estate broker or the broker's real estate firm.

(c) For purposes of this section, Saturday shall not be considered a banking day.

(6) All checks, funds or moneys received shall be identified by the day received and by the amount, source and purpose on either a cash receipts journal or duplicate receipt retained as a permanent record.

(7) All deposits to the trust bank account shall be documented by duplicate deposit slip, validated by bank imprint, teller's stamp, or electronic transfer memo identifying the source of funds and transaction to which it applies. Receipt of funds by wire transfer are to be posted in the same manner as other receipts provided there is a traceable identifying number provided by the financial institution or transferring entity. The broker must also make arrangements for a follow-up "hard-copy" receipt for the deposit.

(8) An individual client's ledger sheet shall be established and maintained for each client for whom funds are received in trust, to which ledger sheet all receipts and disbursements shall be posted. The credit entries must show the date of deposit, amount of deposit, and item covered including, but not limited to "earnest money deposit," "down payment," "rent," "damage deposit," "rent deposit" "interest." The debit entries must show the date of the check, check number, amount of the check, name of payee and item covered. The "item covered" entry may indicate a code number per chart of accounts, or may be documented by entry in a cash receipts journal, cash disbursements journal, or check voucher.

(9) The real estate trust bank account balance must be equal at all times to the outstanding trust liability to clients. The balance shown in the check register or bank control account must equal the total liability to clients.

(10) The broker shall be responsible for preparation of a monthly trial balance of the client's ledger, reconciling the ledger with both the trust account bank statement and the trust account check register or bank control account.

(11) All disbursements of trust funds shall be made by check, or electronic transfer, drawn on the real estate trust bank account and identified thereon to a specific real estate or business opportunity transaction, or collection/management agreement. The number of each check, amount, date, payee, items covered and the specific client's ledger sheet debited must be shown on the check stub or check register and all data must agree exactly with the check as written.

(a) No disbursement from the trust account shall be made based upon wire transfer receipts until the deposit has been verified.

(b) The broker must make arrangements with the financial institution in which the trust account is located to provide a follow-up "hard-copy" debit memo when funds are disbursed via wire transfer.

(c) The broker shall retain in the transaction file a copy of instructions signed by the owner of funds to be wire-transferred which identifies the receiving entity and account number.

(12) Voided checks written on the trust bank account shall be permanently defaced and shall be retained.

(13) Commissions owed to another real estate broker may be paid from the real estate trust bank account. Those commissions shall be paid promptly upon receipt of funds. Commissions shared with another broker are a reduction of the gross commissions received.

(14) No deposits to the real estate trust bank account shall be made of funds:

(a) That belong to the real estate broker or the real estate firm, including funds to "open" the bank account or to keep the account from being "closed"; or

(b) That do not pertain to a client's real estate or business opportunity sales transaction or are not received in connection with a client's rental, contract or mortgage collection account.

(15) No disbursements from the real estate trust bank account shall be made:

(a) For items not pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account;

(b) Pertaining to a specific real estate or business opportunity transaction or a rental, contract or mortgage collection account in excess of the actual amount held in the real estate trust bank account in connection with that transaction or collection account;

(c) In payment of a commission owed to any person licensed to the real estate broker or in payment of any business expense of the broker. Payment of commissions to persons licensed to the broker or of any business expense of the broker shall be paid from the regular business bank account of the broker.

(d) For bank charges of any nature, including bank services, checks or other items, except as specified in WAC 308-124E-013 (1)(a) and (d). Bank charges are business overhead expenses of the broker. Arrangements must be made with the bank to have any such charges applicable to the real estate trust bank account charged to the regular business bank account, or to provide a separate monthly statement of bank charges so that they may be paid from the brokers business bank account.

(16) The provisions of this chapter are applicable to manual or computerized accounting systems. For clarity, the following is addressed for computer systems:

(a) The system must provide for a capability to back-up all data files.

(b) Receipt and check registers will be printed at least once monthly and retained as a permanent record. Reconciliation and trial balance will be accomplished at least once monthly, printed and retained as a permanent record.

(c) The broker will maintain a printed, dated source document file to support any changes to existing accounting records.

(d) If the program has the ability to write checks, the check number must be pre-printed on the check or retained voucher copy by the supplier. The program may, if desired assign suffixes or subaccount codes before or after the check number for identification purposes.

(e) The check number must appear in the magnetic coding which also identifies the account number for readability by the financial institution computer.

WSR 89-22-071

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 31, 1989, 2:54 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-124E-014 Administration of funds held in trust—Property management.

Purpose: To specify how funds held in trust shall be disbursed when a property management agreement is terminated.

Statutory Authority for Adoption: RCW 18.85.040.

Statute Being Implemented: RCW 18.85.310.

Summary: See above Purpose.

Reasons Supporting Proposal: See above Purpose.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, (206) 753-6974.

Name of Proponent: Department of Licensing, Real Estate Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See above Purpose.

Proposal Changes the Following Existing Rules: See above Purpose.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Red Lion, Bellevue Center, Rainier Room, 818 112th N.E., Bellevue, WA 98004, phone (206) 455-1515, on December 8, 1989, at 9:00 a.m.

Submit Written Comments to: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, by 5:00 p.m., December 1, 1989.

Date of Intended Adoption: December 8, 1989.

October 27, 1989

Linda M. Moran

Assistant Attorney General

AMENDATORY SECTION (Amending Order PM 712, filed 3/1/88)

WAC 308-124E-014 ADMINISTRATION OF FUNDS HELD IN TRUST—PROPERTY MANAGEMENT. Any real estate broker who receives funds or moneys from any principal or any party to property management agreement or contract/mortgage collection agreement shall hold the funds or moneys in trust for the purposes of the agreement, and shall not utilize such funds or moneys for the benefit of the broker or any person not entitled to such benefit. These procedures are applicable to property management and contract/mortgage collection agreements, and are in addition to the general trust account procedures in WAC 308-124E-012.

(1) Bank accounts shall be designated as trust accounts in the firm name of the real estate broker as licensed. Trust bank accounts for property management transactions are exempt from the interest-bearing requirement of RCW 18.85.310. However, interest-bearing accounts for property management transactions may be established as described in this section.

(a) Interest-bearing trust bank accounts or dividend-earning investment accounts containing only funds held on behalf of an individual owner of income property managed by the broker may be established when directed by written property management agreement or directive signed by the owner: PROVIDED, That all interest or earnings shall accrue to the owner;

(b) Interest-bearing trust bank accounts containing only damage or security deposits received from tenants of residential income properties managed by the broker for an individual owner may be established by the broker when directed by written management agreement, and the interest on such trust bank accounts may be paid to the owner, if the broker is by written agreement designated a "representative of the landlord" under the provisions of RCW 59.18.270, Residential Landlord-Tenant Act;

(c) The broker is not required to establish individual interest-bearing accounts for each owner when all owners assign the interest to the broker;

(d) A common account, usually referred to as a "clearing account" may be established if desired. No funds which belong to the broker or firm or are related to transactions on property owned by the broker or firm shall be maintained in this account.

(2) Any property management accounting system is to be an accounting of cash received and disbursed by the managing broker only. Any other method of accounting offered to owners for their rental properties, unit and/or complexes are to be supplementary to the brokers accounting of all cash received and disbursed through his/her trust account(s). All owners' summary statements must include this accounting.

(3) The preauthorization of disbursements or deductions by the financial institution for recurring expenses such as mortgage payments on behalf of the owner is not permitted if the account contains tenant security deposits or funds belonging to more than one client.

(4) A single check may be drawn on the real estate trust bank account, payable to the broker as licensed, in payment of all property management fees and commissions, if such check is supported by a schedule of commissions identified to each individual client. Property management commissions shall be withdrawn at least once monthly.

(5) No disbursements from the real estate trust bank account shall be made of funds received as damage or security deposit on a lease or rental contract for property managed by the broker to the owner or any other person without the written agreement of the tenant, until the end of the tenancy when the funds are to be disbursed to the person or persons entitled to the funds as provided by the terms of the rental or lease agreement and consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act, or other appropriate statute.

(6) When the management agreement between the owner(s) and the broker is terminated, the owner(s) funds shall be disbursed according to the agreement. Funds held as damage or security deposits shall be disbursed to the owner(s) or successor property manager, and the tenants so notified by the disbursing broker consistent with the provisions of RCW 59.18.270, Residential Landlord-Tenant Act.

WSR 89-22-072

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 31, 1989, 2:55 p.m.]

Original Notice.

Title of rule: Amending WAC 308-124H-010 Approval of real estate courses to satisfy clock hour requirements.

Purpose: To set out procedures for obtaining clock hour credit.

Statutory Authority for Adoption: RCW 18.85.040.

Statute Being Implemented: RCW 18.85.090, [18.85.]095 and [18.85.]165.

Summary: Procedure set out in changes includes how to obtain clock hour credit pursuant to continuing education requirement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, (206) 753-6974.

Name of Proponent: Department of Licensing, Real Estate Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: See above Purpose.

Proposal Changes the Following Existing Rules: The changes explain in greater detail how to obtain clock hour credit for required course work.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Red Lion, Bellevue Center, Rainier Room, 818 112th N.E., Bellevue, WA 98004, phone (206) 455-1515, on December 8, 1989, at 9:00 a.m.

Submit Written Comments to: Syd Beckett, Real Estate Program Management, P.O. Box 9012, Olympia, Washington 98504, by 5:00 p.m., December 1, 1989.

Date of Intended Adoption: December 8, 1989.

October 27, 1989

Linda M. Moran

Assistant Attorney General

AMENDATORY SECTION (Amending Order PM 683, filed 10/7/87)

WAC 308-124H-010 APPROVAL OF REAL ESTATE COURSES TO SATISFY CLOCK HOUR REQUIREMENTS. To satisfy a requirement for clock hours of instruction pursuant to RCW

18.85.090, 18.85.095, ~~((and)) 18.85.165, or 18.85.215 ((set forth requirements that applicants for real estate broker's license examinations, real estate salesperson's first license, second renewal of real estate salesperson's license or license activation after three or more years of inactive status, furnish proof to the director that they have successfully completed a specified number of clock hours of instruction in real estate education. The course(s) must be approved pursuant to this chapter. The thirty clock hours for salespersons second renewal must be initiated and completed after the date of first license. The purposes of this chapter are to set forth the conditions under which an applicant may meet these educational requirements and the conditions which must be met and the procedure which must be followed if an educational course is to gain approval)) as applicable, a licensee or applicant for license shall submit to the department evidence of satisfactory completion of courses in a manner and on forms prescribed by the department.~~

(1) All licensees applying for renewal of an active license on or after January 1, 1991, shall, pursuant to RCW 18.85.165, submit evidence of completion of at least thirty clock hours of instruction in a course(s) approved by the director commenced within thirty-six months of a licensee's 1991 renewal date.

(2) All licensees applying for renewal of an active license after December 31, 1991, shall, pursuant to RCW 18.85.165, submit evidence of completion of at least thirty clock hours of instruction in a course(s) approved by the director commenced within thirty-six months of a licensee's renewal date. A minimum of fifteen clock hours must be completed within twenty-four months of any two-year renewal date; up to fifteen clock hours of instruction beyond the thirty clock hours submitted for a previous renewal date may be carried forward to the following renewal date.

(3) Courses previously taken for the "second renewal" requirement pursuant to RCW 18.85.095(2) may be used for continuing education if taken within thirty-six months prior to licensee's renewal date; courses taken to activate an inactive license pursuant to RCW 18.85.215(3) cannot be used to satisfy RCW 18.85.165 for continuing education; courses taken to satisfy broker's educational requirements pursuant to RCW 18.85.090(4) may be used to satisfy RCW 18.85.165 if taken within thirty-six months of a licensee's renewal date in 1991; Subsequent renewals must comply with WAC 308-124H-010(2); courses for clock hour credit pursuant to RCW 18.85.165 shall be commenced after issuance of a first license, except courses for clock hour credit pursuant to RCW 18.85.095 (1)(c) shall be commenced prior to first licensure.

(4) A licensee shall not place a license on inactive status to avoid the requirement of RCW 18.85.165. A licensee shall submit evidence of completion of clock hours pursuant to RCW 18.85.165 to reactivate a license if activation occurs within one year after the license had been placed on inactive status and the last renewal of the license had been as an inactive license.

(5) Waiver of the clock hours required under RCW 18.85.090, 18.85.095, 18.85.165, 18.85.215 shall not be considered or granted, except as provided in WAC 308-124A-425(3).

(6) Clock hour credit shall not be accepted if:

(a) The course is not approved pursuant to chapter 308-124H WAC and chapter 18.85 RCW;

(b) Clock hours for license renewal were commenced prior to the date of first licensure;

(c) The course(s) is a repeat or duplication of course(s) material for which credit had been accepted by the department the preceding renewal date; except approved courses in real estate law, real estate finance, taxation, and license law, rules and regulations may be repeated for credit;

(d) A course(s) was previously used to satisfy the requirements of RCW 18.85.095 (1)(c); except clock hour credit taken to satisfy RCW 18.85.095 (1)(c) in 1990 may be applied to satisfy RCW 18.85.165 in 1991.

(7) Instructors shall not receive clock hour credit for teaching or course development.

WSR 89-22-073
PERMANENT RULES
PARKS AND RECREATION COMMISSION
 [Filed October 31, 1989, 3:04 p.m.]

Date of Adoption: October 27, 1989.

Purpose: Establish recreational and conference center fees for Fort Worden State Park.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-25001.

Statutory Authority for Adoption: RCW 43.51.040 and 43.51.060.

Pursuant to notice filed as WSR 89-19-066 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Dick Dixon

Chairman

AMENDATORY SECTION (Amending Order 107, filed 10/31/88)

WAC 352-32-25001 RECREATIONAL AND CONFERENCE CENTER HOUSING FEES AND MEETING ROOM FEES CHARGED. (1) The following fees shall be charged per day for recreational and conference center housing at Fort Worden State Park:

(a) Renovated housing

Noncommissioned officers' row buildings—#331 and #332

(4 units, each with 2 bedrooms)..... \$~~((61.25))~~ 64.25/unit

Officers' row buildings—#5, #6, and #7

(6 units, each with 3.5 bedrooms)..... \$~~((98.80))~~ 103.70/unit

Officers' row buildings—#4 and #11

(4 units, each with 6 bedrooms)..... \$~~((163.50))~~ 172.10/unit

Charge for additional rollaway

beds..... \$~~((9.50))~~ 9.75 per bed

(b) Nonrenovated housing

Officers' row building—#9, #10 and #16

(5 units, each with 3 bedrooms)..... \$~~((76.00))~~ 79.75/unit

Officers' row buildings—#15

(1 unit with 5 bedrooms)..... \$~~((120.00))~~ 125.90/unit

Charge for additional rollaway

beds..... \$~~((9.50))~~ 9.75 per bed

Bliss vista building—#235

(1 unit with 1 bedroom)..... \$~~((51.00))~~ 52.75/unit

A deposit equal to the cost of the first night's fee for each unit rented is required. A \$10.00 per unit cancellation fee is deducted from the deposit for any cancelled reservations, to cover processing costs. If the cancellation is made less than three weeks prior to the arrival date, the entire deposit is forfeited, unless the unit is rerented.

Standard meal charges (meals optional for above-listed housing)

Breakfast.....	\$	((2.75))	2.85
Lunch.....	\$	((3.75))	3.95
Dinner.....	\$	((5.50))	5.80
Total.....	\$	((12.00))	12.60

Coffee service....\$10.00
 minimum charge for
 any group of 20 or
 less. 50¢ per person
 for additional persons.

(c) Dormitory housing (for group reservations only—meals included)

1 - 2 days.....	\$(21.50)	22.60/person/day
3 - 13 days	\$(19.75)	20.75/person/day
14 or more days.....	\$(18.25)	19.20/person/day
<hr/>		
(Dormitory linen and towel charge		\$7.90
Additional towel charges		\$.60
Additional towel set		\$1.60))
<hr/>		
Dormitory linen and towel charge.....		\$8.25
Additional towel charges		\$.75
Additional towel set		\$1.75

The parks and recreation commission has an agreement with the Centrum organization which provides for use of Fort Worden State Park dormitory facilities and services in conjunction with special group programs administered by Centrum. For further information, contact Centrum at Fort Worden State Park.

(d) Barracks-style housing (for group reservations only—meals included)

1 - 2 days.....	\$(19.80)	20.80/person/day
3 - 13 days	\$(18.25)	19.15/person/day
14 or more days.....	\$(16.60)	17.45/person/day

All meals are served in the dining hall.
Washington state sales tax is added to all charges.

(2) Meeting rooms are available at varying charges, depending on size, character of facility, and length of stay. Prices range between ~~\$(6.50)~~ 6.85 and ~~\$(33.00)~~ 34.65 for those residing in Fort Worden recreational housing, with increased charges for nonusers of recreational housing facilities. Additional cleaning fee is charged if food or beverages are consumed in the room. Theatre is available for performances—~~\$(100.00)~~ 105.00 per day; for rehearsals—~~\$(26.00)~~ 27.30 per night. The kitchen shelter is available for the minimum fee of ~~\$(20.00)~~ 21.00 per day plus a refundable \$50.00 cleaning deposit.

(3) Where not covered by or not inconsistent with the agency's facility use agreement with the Centrum Foundation, groups or organizations of twenty-five or more wishing to reserve the Fort Worden State Park housing or meeting room facilities may make application for reservation up to two years in advance of the date of use by contacting the park. Confirmation of reservations is subject to the user group complying with the procedures specified in the group booking agreement, copies of which are available at the park.

(4) During the period from July 1 through Labor Day, conference center groups may reserve no more than twenty campsites per night in addition to other reserved conference center facilities.

WSR 89-22-074
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
 [Order 2019—Filed October 31, 1989, 3:30 p.m.]

Date of Adoption: October 31, 1989.

Purpose: The home and garden fee on registered pesticide products is to support the pesticide incident reporting and tracking review pan [panel] established by the 1989 legislature.

Statutory Authority for Adoption: Chapter 15.58 RCW.

Pursuant to notice filed as WSR 89-18-081 on September 6, 1989.

Effective Date of Rule: Thirty days after filing.

October 31, 1989
 Michael Schwisow
 Deputy Director

NEW SECTION

WAC 16-228-117 HOME AND GARDEN PRODUCTS—DEFINITION—REGISTRATION FEE. (1) For purposes of this section, "home and garden use only" means any pesticide determined by the department to be packaged and labeled solely for use by the general public in and around a residence. In making this determination, the department shall consider, but not be limited to, the following criteria:

- (a) Packaging;
- (b) Package size;
- (c) Label instructions;
- (d) Application method;
- (e) Equipment to be used;
- (f) Rates of application.

(2) Registrants applying for new or renewal registration of any pesticide labeled and intended for home and garden use only shall pay an additional registration fee of ten dollars per product over and above the registration fees established in RCW 15.58.070.

(3) The additional ten dollar fee received by the department for the registration of home and garden products shall be deposited in the agriculture local fund to assist in funding activities of the pesticide incident reporting and tracking review panel.

WSR 89-22-075
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

(Public Assistance)
 [Filed October 31, 1989, 4:03 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
248-14-070		Amend		18.51.070	Required by section 95, chapter 175, Laws of 1989.
388-76-095		Amend		74.08.044	Same
388-96-904		Amend		74.09.120	Required by section 159, chapter 175, Laws of 1989.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989

Leslie F. James, Director
Administrative Services

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

WAC 248-14-070 LICENSURE—APPLICATION, INFORMATION REQUIRED. An application for a nursing home license, or renewal thereof, shall be signed by the owner or his legal representative and by the individual or individuals under whose management or supervision the home is to be operated if this person be different from the owner, be sworn to before a notary public and may include therein the following:

(1) The name and address of the applicant if an individual, and if a firm or partnership, of every controlling member thereof (a husband and wife shall be construed to be a partnership), and in the case of a corporation or association, the name and address thereof and of its officers and board of directors and trustees.

(2) The name of the individual or individuals under whose management or supervision the home will be operated.

(3) The location of the home for which a license is sought, including, in the case of locations known only by postal route and box numbers, adequate geographical identification.

(4) The number of individuals for which nursing care is to be provided, which number shall not exceed that which is lawfully permitted under these regulations or local zoning, building or other such regulations.

(5) Such other information as the department may reasonably require for proper administration of these standards.

(6) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 18.51.065 and

43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(a) A license applicant or recipient contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 18.51.065; RCW 43.20A.XXX and chapter 95, chapter 175, laws of 1989; this chapter; and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision of this chapter governs.

NEW SECTION

WAC 388-76-095 LICENSE ACTION NOTICE—ADJUDICATIVE PROCEEDING. (1) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(2) A license applicant or holder contesting a department license decision shall, within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the department decision being contested.

(3) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter; and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-904 ADMINISTRATIVE REVIEW ((PRO-CESS))—ADJUDICATIVE PROCEEDING. (1) Within ((thirty))

twenty-eight days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request, in writing, ~~((that))~~ the appropriate director or ~~((his or her))~~ the director's designee review such determination. The contractor shall send the request to the office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters. For other matters (such as rates, desk reviews, and settlements), the contractor shall send the request to the manager, residential rates program. The contractor or the licensed administrator of the facility shall:

- (a) Sign the request~~((:))~~;
- (b) Identify the challenged determination and the date thereof~~((; and))~~;
- (c) State as specifically as practicable the issues and regulations involved and the grounds for ~~((its contention that))~~ contending the determination is erroneous~~((The contractor shall include with))~~; and
- (d) Attach to the request copies of any documentation the contractor intends to rely on to support ~~((its))~~ the contractor's position.

(2) After receiving a timely request meeting the criteria of this section, the department shall contact the contractor to schedule a conference for the earliest mutually convenient time. The department shall schedule the conference for no earlier than fourteen days after the contractor was notified of the conference and no later than ninety days after a properly completed request is received, unless both parties agree, in writing, to a specific later date. The department may conduct the conference by telephone unless either the department or the contractor requests, in writing, the conference be held in person.

(3) The contractor and appropriate representatives of the department shall participate in the conference. In addition, representatives selected by the contractor may participate. The contractor shall bring to the conference, or provide to the department in advance of the conference:

(a) Any documentation requested by the department which the contractor is required to maintain for audit purposes ~~((pursuant to))~~ under WAC 388-96-113~~((:))~~; and

(b) Any documentation ~~((on which it))~~ the contractor intends to rely on to support ~~((its))~~ the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, the parties shall schedule a second session of the conference for not later than thirty days after the initial session unless both parties agree, in writing, to a specific later date.

(4) Regardless of whether agreement has been reached at the conference, the director of residential rates and licensure services or designee or the director of the office of nursing home audit or designee shall furnish the contractor a written decision ~~((to the contractor))~~ within sixty days after the conclusion of the conference.

(5) A contractor ~~((aggrieved by a decision of the director, may appeal the decision in an administrative hearing))~~ has the right to an adjudicative proceeding to contest the director's administrative review decision.

(a) A contractor ~~((desiring an administrative hearing))~~ contesting the director's decision shall within twenty-eight days of receipt of the decision:

(i) File a written ((request)) application for ((a hearing)) an adjudicative proceeding with the ((department's)) Office of ((Hearings)) Appeals, P.O. Box 2465, Olympia, Washington 98504~~((The contractor shall file the request for hearing within thirty days of the date the contractor received the decision of the director that he or she desires to appeal;~~

~~((b) Attach a copy of the director's decision being appealed to the request for hearing;))~~;

~~((c))~~ (ii) Sign the ~~((request))~~ application or have the licensed administrator of the facility sign it~~((:))~~;

~~((d))~~ (iii) State as specifically as practicable the ~~((issue or))~~ issues and ~~((regulation or regulations))~~ law involved~~((:))~~;

~~((e))~~ (iv) State the grounds for ~~((contending))~~ contesting the director's decision ~~((is erroneous;))~~; and

~~((f))~~ (v) ~~((Include))~~ Attach to the application a copy of the director's decision being contested and copies of any documentation ((on

which)) the contractor intends to rely on to support its position ~~((with the request))~~.

~~((g))~~ (b) ~~((Sections of))~~ The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 388-08 WAC ((not conflicting with this section shall apply to a hearing requested under WAC 388-96-904(5))). If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-076
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)

[Filed October 31, 1989, 4:06 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
248-534-030		Amend		70.123.030	Required by section 95, chapter 175, Laws of 1989.
388-70-590		Amend		74.13.109	Housekeeping. See also RCW 74.13.127 as amended by section 148, chapter 175, Laws of 1989.
388-73-036		Amend		74.15.030	Required by section 95, chapter 175, Laws of 1989.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2435, filed 11/3/86)

WAC 248-554-030 EXEMPTIONS, SEPARABILITY, AND NOTICE AND APPEAL. (1) Parts of regulations as stipulated in this chapter may be waived upon written application to the department and the department's determination that the following criteria are met:

(a) The waiver will not place the client's safety or health in jeopardy, and that the domestic violence service is unable to meet the requirements without the waiver, or that the absence of such a waiver will have a detrimental effect on the provision of services.

(b) Substitution of procedures, materials, or equipment from those specified in this chapter have been demonstrated to be at least equivalent to those prescribed.

(2) If any of these regulations or their application is held invalid, the remainder of the regulations or application of the provision is not affected.

(3) The department is not obligated to disburse funds to domestic violence services complying with the standards as stipulated in this chapter.

~~(4) ((Appeal procedures shall be in accordance with chapter 34.04 RCW)) The department's notice of a denial, suspension modification, or revocation of a certificate of compliance is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and certificate holder's right to an adjudicative proceeding is in the same law.~~

(a) A certificate applicant or holder contesting a department certificate decision shall, within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, laws of 1989; this chapter; and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1037, filed 7/29/75)

WAC 388-70-590 ADOPTION SUPPORT FOR CHILDREN—APPEAL FROM SECRETARY'S DECISION—HEARING. (1) Adoptive parents ~~((may request a))~~ have the right to a fair hearing to ((review)) contest:

(a) A decision by the secretary to increase or decrease the level of payment or payments for the support of an adoptive child without the mutual acceptance of the adoptive parents. Notification of proposed changes in the level of a payment or payments for the support of an adoptive child shall be made to the adoptive parents in writing ~~((by certified mail or))~~ personal service ((and)) or other means showing proof of receipt. The notice shall state the grounds upon which the secretary proposes such action;

(b) The decision of the secretary made pursuant to a written request by the adoptive parent or parents to adjust the amount of any payment or the level of continuing payments; such hearing may be requested thirty days following the date of receipt of the request by the secretary if the secretary has failed to take action upon such request;

(c) The decision of the secretary as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement.

(2) A hearing must be requested within thirty days of the receipt of written notice by the adoptive parents of the decision of the secretary sought to be reviewed. A request for a hearing shall be made by ~~((certified mail))~~ personal service or other means showing proof of receipt.

(3) ~~((A))~~ A hearing(s) held pursuant to this section shall be conducted in accordance with chapter 388-08 WAC and RCW ((74.08-070)) 74.08.080 except as specifically provided in the act and ((these regulations)) this section. ((Such hearings)) A hearing and the results thereof shall be confidential and shall not be revealed to any other person, institution or agency, public or private.

(4) Denial of an initial request for support payments and social decisions based on the appropriateness of the individual(s) to adopt a child shall not be subject to any review or hearing.

AMENDATORY SECTION (Amending Order 2796, filed 5/4/89)

WAC 388-73-036 LICENSURE—DENIAL, SUSPENSION, OR REVOCATION. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant and the chief executive officer, if any, to operate the agency in accordance with the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the license may be denied, suspended, revoked, or not renewed.

(a) The department shall disqualify any individual engaging in illegal use of drugs or excessive use of alcohol.

(b) The department shall disqualify any individual convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, if:

(i) The conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(c) The department shall not grant a license to an individual who, in this state or elsewhere:

(i) Has been denied a license to operate a facility for the care of children, expectant mothers, or developmentally disabled adults; or

(ii) Had a license to operate such a facility suspended or revoked.

(d) An individual may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision in subsection (1)(c) of this section and license the individual.

(2) A license may be denied, suspended, revoked, or not renewed for failure to comply with the provisions of chapter 74.15 RCW, and rules

contained in this chapter. A license shall be denied, suspended, revoked, or not renewed for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including:

- (i) Making materially false statements on the application; or
- (ii) Material omissions which would influence appraisal of the applicant's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to persons under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing persons unqualified by training, experience, or temperament to care for or be in contact with the persons under care.

(e) Misappropriation of the property of persons under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to persons under care;

(h) Refusal to admit authorized representatives of the department or state fire marshal to inspect the premises;

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for the operation of the facility or to permit them to interview agency staff and clients; and

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on his or her application for employment or volunteer service.

(3) A license may be denied, suspended, revoked, or not renewed for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the facility is licensed; or

(b) Children of ages different from the ages for which the facility is licensed.

(4) The department's notice of a denial, revocation, suspension, or modification of a licensing decision is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The provider's right to an adjudicative proceeding is in the same law.

(a) A facility wanting to contest a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter; and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-077
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed October 31, 1989, 4:09 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
275-19-050		Amend		70.96A.090 as amended by sec. 19, ch 270, Laws of 1989.	<ol style="list-style-type: none"> 1. Notice of application procedures are required by section 95, chapter 175, Laws of 1989. 2. Other differences are to continue to have these proceedings be based on the facts existing at the time the department acted against the applicant/license holder as opposed to a <u>de novo</u> proceeding.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4,

1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2765, filed 2/22/89)

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

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

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

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

(5) Disqualified applicants.

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

(b) The department may deny, suspend, or revoke approval for any of the following:

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

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

(iii) Misappropriation of the property of the patients.

(6) (~~When the department intends to suspend, revoke, or cancel approval, the director of the bureau of alcohol and substance abuse or the bureau director's designees shall serve upon the approved treatment facility a notice of intent to suspend, revoke, or cancel the department's approval. Such notice shall provide for an administrative hearing and meet the requirements of chapter 34.04 RCW. The subsequent hearing and judicial review shall follow administrative procedures as specified in the Administrative Procedure Act, chapter 34.04 RCW and the rules and regulations promulgated thereunder. (7))~~ The department's notice of a denial, revocation, suspension, or modification of approval is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The facility's right to an adjudicative proceeding is in the same law.

(a) A facility contesting a department approval decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs;

(c) If the treatment facility (~~requests a hearing~~) files an application for an adjudicative proceeding, the (~~department shall limit the hearing in~~) scope of the proceeding shall be limited to a review of the cause for the department's action(:);

(d) If the cause is a result of an inspection of the facility, the (~~department~~) scope of the proceeding shall (~~limit the hearing~~) be limited to a review of the findings in the inspection report issued by the department and the facility's compliance with the requirements of chapters 69.54 and 70.96A RCW, and chapter 275-19 WAC at the time of the inspection(:);

(e) If the cause is not the result of an inspection, the (~~department shall limit the hearing in~~) scope of the proceeding shall be limited to a review of the:

~~((a) The)~~ (i) Department's written findings and stated cause for the action; and

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

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

~~(9))~~ (7) The department shall send written notice of any suspension, cancellation, or revocation of departmental approval to the county coordinator of each county in which the action is effective.

WSR 89-22-078

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Institutions)

[Filed October 31, 1989, 4:11 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory Authority (RCW or Law Chapter)	Reasons for Proposal Session and any variation from Model Rules
275-26-022		Amend		71.12.030	1. Subsections (1) through (4): Encouraged by RCW 34.05.060 2. Subsection (5): Required by section 95, chapter 175, Laws of 1989.
275-27-500		Amend		Same	Required by RCW 71A.10.050 as amended by section 138, chapter 175, Laws of 1989.
275-36-310		Amend		Same	1. Subsections (1) through (3): Encouraged by RCW 34.05.060. 2. Subsection (4): Required by section 95, chapter 175, Laws of 1989.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
275-38-960		Amend		Same	The procedures are modeled after WAC 388-96-904 as both rules involves reimbursement for medical and other services rendered to department clients by similar kinds of facilities.
275-20-080		Amend		43.208.420	The contents of the application are specified and, to achieve greater uniformity among programs, are modeled after section 95, chapter 175, Laws of 1989.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1945, filed 2/9/83)

WAC 275-26-022 ADMINISTRATIVE REVIEW CONFERENCE—ADJUDICATIVE PROCEEDING PROCESS. (1) ~~((All agencies providing tenant support services must abide by chapter 275-36 WAC as it pertains to decertification action. Any party who feels aggrieved by this decertification may request an administrative review. The request shall be signed by the provider, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the provider's contention that the determination was erroneous. Copies of any documentation the provider intends to rely on to support the provider's position shall be included with the request))~~ Within twenty-eight days after a tenant support agency is notified of a certification it wishes to challenge, the agency shall request, in writing, that the division director or the division director's designee review such determination. The agency shall:

- (a) Sign the request;
- (b) Identify the challenged determination and the date thereof; and

(c) State as specifically as practicable the issues and regulations involved and the grounds for the agency's contention that the determination is erroneous. The agency shall include with the request copies of any documentation the agency intends to rely on to support its position.

(2) After receiving a timely request meeting the criteria ((in subsection (1)) of this section, the director ((of the division of developmental disabilities with)) shall contact the ((provider)) agency to schedule a conference for the earliest mutually convenient time. The ((conference)) director shall ((be scheduled)) schedule the conference for no later than thirty days after a properly completed request is received, unless both parties agree, in writing, to a specific later date. The conference may be conducted by telephone unless either the department or the agency requests, in writing, the conference be held in person.

(3) The ((provider)) agency and appropriate representatives of the department shall attend the conference. ((In addition, representatives selected by the provider may attend and participate:)) The ((provider)) agency shall bring to the conference, or provide to the department in advance of the conference, any documentation the ((provider)) agency intends to rely on to support the ((provider)) agency's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities will be furnished to the ((provider)) agency within sixty days after the conclusion of the conference.

(5) ((If the provider desires review of an adverse decision of the director of the division of developmental disabilities, the provider shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW)) (a) An agency contesting the director's determination shall within twenty-eight days of receipt of the determination:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

- (A) A specific statement of the issue or issues and law involved;
- (B) The grounds for contesting the director's determination; and
- (C) A copy of the director's determination being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter; and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2418, filed 8/29/86)

WAC 275-27-500 ((FAIR HEARINGS)) ADJUDICATIVE PROCEEDING. (1) A client, former client, or applicant(~~(-the parent when the client or applicant is a minor, and the guardian when the client or applicant is an adult,))~~ acting on his or her own behalf or through an authorized representative has the right to ((appeal)) an adjudicative proceeding to contest the following ((decision made by the division)) department actions:

- (a) Denial or termination of eligibility set forth in WAC 275-27-030;
- (b) Development or modification of the individual service plan set forth in WAC 275-27-060;
- (c) Authorization, denial, reduction, or termination of services set forth in WAC 275-27-230;
- (d) Admission or readmission to, or discharge from, a residential habilitation center;
- (e) A claim the client, former client, or applicant owes an overpayment debt;

(f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;

(g) A decision to change a client's placement from one category of residential services to a different category of residential services.

(2) ((Fair hearings)) Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter((s 10-08 and)) 388-08 WAC. ((In cases of conflict between this chapter and chapter 388-08 WAC, the provisions in this chapter take precedence over the rules in chapter 388-08 WAC.)) If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(3) ((The request)) An application for ((a fair hearing)) an adjudicative proceeding must be in writing and filed with the DSHS Office of ((hearings)) Appeals, P.O. Box 2465, Olympia, WA 98504 within thirty days of receipt of the decision the appellant wishes to ((appeal)) contest.

(4) The department shall not implement the following actions while ((administrative)) an adjudicative proceeding((s are)) is pending:

- (a) Termination of eligibility;
- (b) Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or
- (c) Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.

(5) The department shall implement the following actions while ((administrative proceedings are)) an adjudicative proceeding is pending:

- (a) Denial of eligibility;
- (b) Development or modification of an individual service plan;
- (c) Denial of service;
- (d) Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding and/or service;
- (e) After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or

- (f) Removal or transfer of a client from a service when:
 - (i) An immediate threat to the client's life or health is present;
 - (ii) The client's service provider is no longer able to provide services due to termination of the provider's contract; decertification of the provider; nonrenewal of provider's contract; revocation of provider's license; or emergency license suspension; or
 - (iii) The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.

(6) When the appellant ((requests a hearing to appeal)) files an application to contest a decision to return a resident of a state residential

school to the community, the procedures specified in RCW ((72.33-161)) 71A.10.050(2) shall govern the proceeding(s). These include:

(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless:

- (i) The client's or his or her representative gives written consent, or
- (ii) The administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

(b) The burden of proof is on the department((-)); and

(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

((d)) ~~When a party files a petition for administrative review of an initial decision, the secretary shall rule on the petition and render the review decision. The secretary cannot delegate the authority to make the final decision. The secretary may get advice and assistance from agency employees who have not participated in the proceedings in any manner and whose duties do not include investigative or prosecutory functions and the secretary's review shall be confined to the record.~~

(7) The initial ((decision)) order should be made within sixty days of the department's receipt of the ((request)) application for ((a hearing)) an adjudicative proceeding. When a party files a petition for administrative review, the review ((decision)) order should be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the ((hearing)) proceeding is continued on motion by, or with the assent of, the appellant.

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

AMENDATORY SECTION (Amending Order 1950, filed 2/23/83)

WAC 275-36-310 ADMINISTRATIVE REVIEW CONFERENCE ((PROCESS))—ADJUDICATIVE PROCEEDING. (1) ((If a group home wishes to challenge an action taken or a determination made by the division under chapter 275-36 WAC, the group home shall request in writing that the director of the division of developmental disabilities review such a determination. The written request must be received by the division within thirty days of the date the group home was notified of such a determination. The request shall be signed by the group home or the administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the group home operator's or administrator's contention that the determination was erroneous. Copies of any documentation the group home operator intends to rely on to support the group home operator's position shall be included with the request)) Within twenty-eight days after a group home is notified of a determination it wishes to challenge, the group home shall request, in writing, that the division director or the division director's designee review such determination. The group home shall:

- (a) Sign the request;
- (b) Identify the challenged determination and the date thereof; and
- (c) State as specifically as practicable the issues and regulations involved and the grounds for its contention the determination is erroneous. The group home shall include with the request copies of any documentation the group home intends to rely on to support its position.

(2) ((After receiving a request meeting the criteria in subsection (1) of this section, the director of the division of developmental disabilities will contact the group home to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific later date)) After receiving a timely request meeting the criteria of this section, the director shall contact the group home to schedule a conference for the earliest mutually convenient time. The director shall schedule the conference no later than thirty days after a properly completed request is received, unless both parties agree in writing to a specific later date. The conference may be conducted by telephone unless either the department or the group home requests, in writing, the conference be held in person.

(3) The group home and appropriate representatives of the department shall attend the conference. ((In addition, representatives selected by the group home may attend and participate.)) The group home shall bring to the conference, or provide to the department in advance of the conference, any documentation the group home intends to rely on to support the group home operator's contentions. The parties shall

clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities will be furnished to the group home within sixty days after the conclusion of the conference.

(5) ~~(If the group home desires review of an adverse decision of the director of the division of developmental disabilities, the group home shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW)~~ (a) A group home contesting the director's determination shall within twenty-eight days of receipt of the determination:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the director's determination; and

(C) A copy of the director's determination being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter; and chapter 388-08 WAC. If any provisions in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2629, filed 6/1/88)

WAC 275-38-960 ADMINISTRATIVE REVIEW ((PRO-CESS))—ADJUDICATIVE PROCEEDING. (1) Within ((thirty)) twenty-eight days after a contractor is notified of an action or determination made by the department ((pursuant to)) under a rule, contract provision, or policy statement, and the contractor wishes to challenge, the contractor shall request in writing the director or ((his or her)) the director's designee review such determination. The request shall be forwarded to the office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters(;) or the director, division of developmental disabilities, for other matters ((f))such as rates, desk reviews, and settlements((g)). The ((request be signed by)) contractor or administrator of the facility shall:

(a) Sign the ((contractor or the licensed administrator of the facility, shall)) request;

(b) Identify the challenged determination and the date thereof((; and shall));

(c) State as specifically as practicable the issues and regulations involved and the grounds for ((the contractor's or licensed administrator's contention)) contending the determination was erroneous(;;);

(d) Attach to the request copies of any documentation the contractor intends to rely on to support the contractor's position ((shall be included with the request)).

(2) After receiving a timely request meeting the criteria of this section, the department ((with)) shall contact the contractor to schedule a conference for the earliest mutually convenient time. The ((conference)) department shall ((be scheduled)) schedule the conference for no earlier than fourteen days after the contractor was notified of the conference and no later than ninety days after a properly completed request is received, unless both parties agree in writing to a specific later date. The ((conference)) department may ((be conducted)) conduct the conference by telephone unless either the department or the contractor requests in writing the conference be held in person.

(3) The contractor and appropriate representatives of the department shall ((attend)) participate in the conference. ((In addition, representatives selected by the contractor may attend and participate.)) The contractor shall bring to the conference, or provide to the department in advance of the conference(;;);

(a) Any documentation requested by the department which the contractor is required to maintain for audit purposes ((pursuant to)) under WAC 275-38-555(;;); and

(b) Any documentation ((on which)) the contractor intends to rely on to support the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference.

If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty

days after the initial session unless both parties agree in writing to a specific later date.

(4) Regardless of whether agreement has been reached at the conference, ((a written decision by)) the appropriate director or ((his or her)) the director's designee ((will be furnished)) shall furnish a written decision to the contractor within sixty days after the conclusion of the conference.

(5) A contractor ((may appeal an adverse decision of the director or his or her designee by filing)) has the right to an adjudicative proceeding to contest the director's administrative review decision.

(a) A contractor contesting the director's decision shall within twenty-eight days of receipt of the decision:

(i) File a written ((request)) application for ((a hearing)) an adjudicative proceeding with the ((department's)) Office of ((hearings (mailing address:)) Appeals, P.O. Box 2465, Olympia, Washington 98504((;)). ((The request must be filed within thirty days of the date the contractor received the decision of the director. A copy of the director's decision being appealed must be attached to the request for hearing. The request must be signed by the contractor or the administrator of the facility, and shall state as specifically as practicable, the issue or issues and regulation or regulations involved, and the grounds for contending the director's decision is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request))

(ii) Sign the application or have the administrator of the facility sign it;

(iii) State as specifically as practicable the issues and regulations involved;

(iv) State the grounds for contesting the director's decision; and

(v) Attach to the application a copy of the director's decision being contested and copies of any documentation the contractor intends to rely on to support its position.

(b) The proceeding shall be governed by the Administrative Procedures Act (chapter 34.05 RCW), this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

Reviser's note: RCW 34.05.395 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 1418, filed 7/19/79)

WAC 275-20-080 ((JUDICIAL REVIEW)) NOTICE AND FINDING OF RESPONSIBILITY—APPEAL PROCEDURE. (1)

In all cases where a determination is made that the estate of a ((mentally or physically deficient)) person who resides at a state residential ((school)) habilitation center is able to pay all or any portion of the monthly charges for care, support and treatment, a notice and finding of ((financial)) responsibility (NFR) shall be ((personally)) served on the guardian of the resident's estate, or if no guardian has been appointed then ((to his)) on the resident's spouse or parent((s)) or other person acting in a representative capacity and having property in his or her possession belonging to the resident ((of a state school)) and the superintendent of the state school. ((In those cases)) Where a resident is an adult ((acting)) under no legal disability, ((such notice and finding of financial responsibility)) the NFR shall be personally served on him or her. The ((notice)) NFR shall set forth the amount the department has determined ((that such)) the resident's estate is able to pay per month, not to exceed the monthly charges fixed in accordance with RCW ((72.33.660, and the)) 43.20B.420. Responsibility for payment to the department ((of social and health services shall commence thirty)) commences twenty-eight days after ((personal)) service of ((such notice and finding of responsibility)) the NFR.

(2) ((Appeal from the determination of financial responsibility, as determined pursuant to the foregoing provisions contained in this chapter, may be made by the guardian of the resident's estate or if no guardian has been appointed by his spouse or parents or other person acting in a representative capacity and having property in his possession belonging to a resident of a state school. In those cases involving an adult resident acting under no legal disability, the appeal may be made by such resident personally. Such appeal shall be made to the secretary of the department of social and health services in writing within thirty days of the receipt of the department's notice and finding of financial responsibility. The written notice of appeal shall be served

upon the secretary by registered or certified mail. If no appeal is so received by the secretary within this thirty day period, the notice containing the determination of financial responsibility shall be considered final. If an appeal is made as prescribed the execution of the determination and finding of financial responsibility will be held in abeyance, pending a decision on the appeal.

~~(3) Appeal hearings may be held in any county seat most convenient to the appellant.~~

~~(4) The secretary's decision may be appealed to the courts in accordance with existing provisions of the administrative procedures act.) The right to an adjudicative proceeding to contest the NFR is contained in RCW 43.20B.430.~~

~~(a) A financially responsible person wishing to contest the NFR shall within twenty-eight days of receipt of the NFR:~~

~~(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and~~

~~(ii) include in or with the application:~~

~~(A) A specific statement of the issue or issues and law involved;~~

~~(B) The grounds for contesting the department decision; and~~

~~(C) A copy of the department decision being contested.~~

~~(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20B.430, this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.~~

WSR 89-22-079
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
 [Filed October 31, 1989, 4:12 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Any variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
275-56-095	New	Amend		71.21.035 (see (5)(c) of section 3, ch 205, Laws of 1989).	Required by section 95, chapter 175, Laws of 1989.
275-16-055		Amend		43.208.335	The contents of the application are specified and, to greater achieve uniformity among programs, are modeled after section 95, chapter 175, Laws of 1989.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1957, filed 4/7/83)

WAC 275-56-095 LICENSING PROCEDURES FOR PROVIDERS—APPLICATION AND APPROVAL. The department shall review applications for licensure and approve those which meet minimum standards for community mental health programs.

(1) Applications for licensure shall be submitted to the department on forms furnished by the department. The applicant shall indicate the services for which licensure is requested.

(a) Applications shall be signed by the applicant's governing body and administrator.

(b) The applicant shall send a copy of the application to the county authority or the designee. The county authority or the designee may review the application and send written comments to the department with a copy to the applicant. If the department does not receive a response from the county authority or the designee within thirty days, the department shall proceed with the application.

(2) An on-site review shall be conducted for the purpose of collecting and analyzing the information necessary for the department to determine whether a provider is in compliance with the minimum standards specified in this chapter. The department shall provide forty-five days written notice prior to the date scheduled for the licensure review.

(3) The department shall notify the applicant of the results of the review and make the report of the on-site review available to the applicant and county authority within sixty days of the last day of the on-site review.

(4) ~~The ((applicant may appeal the department's licensure decision within thirty days of notification of decision. The appeal shall be made in accordance with the Administrative Procedure Act, chapter 34.04 RCW)) department's notice of denial, revocation, suspension, or modification of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The provider's right to an adjudicative proceeding is in the same law.~~

(a) A provider contesting a department license decision shall, within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter; and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1627, filed 3/25/81)

WAC 275-16-055 NOTICE ((OF)) AND FINDING OF RESPONSIBILITY (NFR)—~~APPEAL PROCEDURE.~~ (1) The determination officer's assessment of the ability and liability of ((the)) a person or of the person's estate to pay hospitalization charges shall be issued in the form of a notice ((of)) and finding of responsibility((; hereinafter referred to as an)) (NFR((;))) as prescribed by RCW ((71.02.413. The NFR will be served upon those responsible parties as otherwise required by law, will indicate the charges being assessed, and explain the procedure for appeal therefrom)) 43.20B.340. When the NFR is for full hospitalization charges as specified in WAC 275-16-030, the financially responsible person will be informed of the current charges and that those charges are periodically recomputed by the department ((in accordance with RCW 71.02.410)). When the NFR is for adjusted charges, those charges will be expressed in a daily or monthly rate. Charges for ancillary services will be set aside when the NFR is for adjusted charges.

(2) The right to an adjudicative proceeding to contest the NFR is contained in RCW 43.20B.340.

(a) A financially responsible person wishing to contest the NFR shall, within twenty-eight days of receipt of the NFR:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the NFR being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20B.340, this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-080 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)

[Filed October 31, 1989, 4:14 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. His [These] model rules are codified under chapter 10-08 WAC. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

CHAPTERS 10-08 AND 388-08 WAC

388-08
 section;
 new, amend, 10-08
repeal section

comparison of the two chapters and reasons for variations

410
 New 001

Application of chapter 388-08 WAC

The DSHS section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 388-08 applies only to DSHS programs. The DSHS section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.

413
 Amend 035

Application for an Adjudicative Proceeding

The Model Rule requires an application to be written. The DSHS benefit rule explicitly permits an oral application. The Model Rule does not state who can file and where to file an application. The department rule does.

425 New	040(3), 050(2), 190, 200, and none	Administrative Law Judge -- Authority -- Application of Law -- Assignment
425(1)(a)	none	The Secretary intends that adjudicative proceedings be <u>de novo</u> . This rule makes that explicit.
425(1) (b)-(j)	200(1)-(9)	These nine subsections of the DSHS rule are the same as Model Rule 200(1) through (9).
425(1)(k)	190	This subsection comes from Model Rule 190 as limited by APA section 449(5).
425(1)(l)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The department rule at subsection (1)(l) deletes "statute" so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non- department rules in accordance with subsection (2) of this rule.
425(1)(m)	see 040(3)	Subsection (1)(m) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in department hearings where presiding officers must routinely rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived the right to representation.
425(2)	none	The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule covers that gap.
425(3),(4)	050(2)	These sections are the same as Model Rule 050(2) reworded for ease of reading and understanding.
425(5)	none	APA section 425(6) states that the APA petition for disqualification provision is in addition to the RCW 34.12.050 motion of prejudice. The procedure for the APA petition differs from an RCW 34.12.040 motion. The Model Rules do not make the differences clear. The variation in the department rule is to clarify the differences.

428 New	none	Representation Comments on the draft rules indicated some people did not understand APA section 428 dealing with representation. The department's rule covers the topic in clear everyday English to avoid any misunderstanding.
431 New	130	Prehearing Conference The Model Rule is reworded and renumbered to make reading and understanding easier.
434 New	040	Notice of Hearing Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier. The Model Rule's restating APA provisions is not included in the department's rule. Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the department rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in department rule section 425(1)(m).
437 New	110	Filing and Service of Papers The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt of all papers except for an application at the office responsible for the adjudicative proceeding.
440 New	none	Vacating an Order of Dismissal for Reason of Default or Withdrawal. There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This department rule sets a 14 day period after service of the order to file a motion to vacate a dismissal based on a default or a withdrawal and it contains the procedures.
446 New	120	Subpoenas The department rule follows the Model Rule.

449 New	170;180	Teleconference Hearing
449(1), (2)	180	APA section 449(3) permits a hearing to be conducted by electronic means. Model Rule section 180 treats this subject. The department's section 449(1) contains three differences from the Model Rule. First, the department rule contains the agency's concurrence to conducting most hearings by electronic means so that agreement in each case is not necessary. Second, the department rule imposes the conditions on telephone hearings for some programs receiving federal funds that the federal agencies require for their funding. Third, the APA conditions conducting a hearing by electronic means to it being "technically and economically feasible" for the participants to see the proceeding and the department's rule uses this standard instead of the Model Rule's limitation of only "technically feasible".
none	170	APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. The department did not adopt the Model Rule because it adds nothing to the APA requirement.
452 New	140;160(1)	Rules of Evidence The first five subsections of the department rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting off the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department prefers to give the party in such a situation the opportunity to seek relief. Model Rule 160(1), requiring testimony to be under oath or affirmation, is contained in APA section 452(3). The Model Rule adds nothing to the APA provision so is not adopted in the department's rules.
461 New	210	Contents of Orders The department rule adopts only those parts of Model Rule section 210 that are not restatements of the requirements imposed by APA section 461.
464 New	211	Petition for Review -- Response to Petition -- Disqualification of a Review Judge Department rule section 464 loosely follows Model Rule section 211. Differences are: Subsection 1 is the department's rule providing that

initial orders in specified classes of cases become final without further department action when no petition for review is filed. Legal authority for this provision is APA section 464(1).

- . Subsections 2 and 3 on who may petition and the contents of the petition are the same as Model Rule 211(1) and (3).
- . Subsection 4 of the department rule sets a fourteen day time limit for filing a petition and that it can be extended or waived by a reviewing officer. These are changes from the Model Rule which sets a 20 day petition filing period or different place and time as stated in the initial order. This was rejected as (a) too rigid a time frame and (b) too long, or if the presiding officer sets a different time/place, too uncertain to assure that adjudicative orders will be made within reasonable time limits.
- . Subsection 5 requires the petition to be in writing and specifies where it is to be filed. Permitting filing in another place stated in the initial order as allowed in the Model Rules was rejected as too uncertain to assure that adjudicative orders will be made in a reasonable time.

Unlike Model Rule 211(2), copies are not required to be served on other parties and representatives. See comments immediately below.

- . Subsection 6 of the department rule has no counterpart in the Model Rules. It states the agency will give the nonpetitioning party notice that a petition for administrative review was filed. This is to assure that the party is aware of the petition and apprized of the right to respond. The section is necessary because some petitioners, especially pro se clients, fail to serve the other party. The department's curing the error is preferable to dismissing the petition on the procedural defect.
- . Subsection (7) is the same as Model Rule 211 subsection (4) except the period to file a response to a petition is seven (instead of ten) days from the department's mailing the notice acknowledging receipt of the petition (instead of the date the petitioner served the petition) and the reviewing officer can extend the period.

Subsection 8 covers disqualification of a reviewing officer. The Model Rules are silent. The department rule contains the procedures necessary to implement the right.

470 New	215	Reconsideration	The department rule is the same as the Model Rule except it states the office for filing a petition for reconsideration of a review decision.
515 New	045	Notice to Limited-English-Speaking Parties	Department section 515 is the same as Model Rule 045 with slight wording changes for clarity.
525 New	150;160(2)	Interpreters	Department subsection 525(1) through (11) are the same as Model Rule 150(1) through (11). Subsection 525(12) is the same as Model Rule 160(2). Subsections 525(13) through (18) are the same as Model Rule 150(12) through (17).
535 New	none	Group Hearing	This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.
545 New	090	Continuance	Department section 545 is the same as Model Rule section 080 with slight rewording for clarity.
555 New	none	Separate Hearing Regarding Disclosure of Investigative and Intelligence Files.	This section has no counterpart in the Model Rules. It is needed because some programs have appeals involving allegations of client fraud investigated by the Office of Special Investigations.
565 New	080	Computation of Time	Section 565 is the same as Model Rule section 090.

- 575
New
- none Judicial Review of Final Adjudicative Order
- Judicial review of agency action is dealt with in Part V of the APA. The provisions on initiating judicial review of a final adjudicative order are scattered and difficult for some to follow. Also, nonagency staff comments on draft rules recommended that the rules specify which department office (other than the Secretary's office) was a proper one for delivering a petition for judicial rule under APA section 542(4). This rule responds to the above concerns.
- none 230(1) Informal Settlement
- The APA section 060 encourages agencies to offer informal settlement procedures that may make more elaborate proceedings unnecessary. The APA section permits an agency to establish informal settlement procedures by rule. The Model Rule would establish a single procedure for all informal settlements. The department is not adopting the Model Rule for two reasons. First, the department has created many informal settlement processes and they are tailored to best meet the needs of the kinds of disputes that arise in a particular program. The Model Rule's uniform procedure does not recognize this need for various procedures. Second, while some of the department's informal settlement procedures are in rules, not all are. The department prefers to be able to use nonrule material for some informal settlements.
- none 230(2) Adjudicative Proceeding Settlement
- Model Rule 230(2) deals with settlements in adjudicative proceedings. These settlements are, under the Model Rule, concluded by stipulation of the parties, withdrawal of the application, or withdrawal of the aggrieving agency action. The Model Rule then requires the stipulation to be signed by the parties or recited on the record and for the presiding officer to enter an appropriate order. The procedure for stipulations under this Model Rule provision appears to differ from a stipulation obtained at a prehearing conference. See Model Rules 130(1)(c), (3) and 170. The content of the settlement order appears to differ from that specified for initial orders in Model Rule 210.
- The department has not proposed to adopt Model Rule 230(2) to avoid these possible conflicts and because its proposed sections 425(1); 431(1)(c), (2), and (3); 440; 452(6); 461; and 464 cover the topic adequately and consistently.

388-08 not applicable These sections conflict with the APA and/or are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures.
 sections: 00201, 00401, 006, 00601, 010, 405, 406, 409, 416, 435, 540, 550, 560, 580, and 590 are each repealed.

CHAPTERS 10-08 AND 388-09 WAC

388-09 sections 10-08 section comparison of the two chapters and reasons for variation

388-09 not applicable These sections conflict with the APA and/or are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures. Also, some were required until June 30, 1989 but not thereafter when RCW 74.15.130 was amended by section 149, chapter 175, Laws of 1989.
 sections 010, 020, 030, and 040 are each repealed

CHAPTERS 10-08 AND 388-320 WAC

388-320 section 10-08 section comparison of the two chapters and reasons for variations

340 New not applicable Delegation of Authority by Secretary. This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 388-320 WAC.

350 New 250 Declaratory Orders - Forms, Content, and Filing
 The department rule is the same as the Model Rule.

360 New 251 Declaratory Orders - Procedural Rights of Persons in Relation to Petition

370 New 252 Declaratory Orders - Disposition of Petition
 The department rule is the same as the Model Rule.

400 New 250 Petition for Rule Making - Form, Content, and Filing
 The department rule is the same as the Model Rule.

410 New 261 Petition for Rule Making - Consideration and Disposition
 The department rule is the same as the Model Rule.

500 New not applicable Updating Mailing Lists
 This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 388-320 WAC.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989

Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-08-410 APPLICATION OF CHAPTER 388-08 WAC. (1) Scope. This chapter applies to adjudicative proceedings begun on or after July 1, 1989, in programs administered by the department of social and health services. The definition of the word "begun" is receipt of the application for an adjudication proceeding at the department's office of appeals. Proceedings begun before July 1, 1989, are governed by the procedural rules in effect on July 30, 1989. Legal authority for adopting this chapter is RCW 34.05.220 (1)(a).

(2) Conflict of rules. If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

(3) Physical and mailing addresses. The presiding officer is generally an administrative law judge (ALJ) from the office of administrative hearings. ALJ administrative and field office addresses are listed under WAC 10-04-020. The reviewing officer is the secretary or a review judge from the department's office of appeals. The office of appeals is located in the DSHS headquarters, office building number 2, Twelfth and Franklin, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465.

NEW SECTION

WAC 388-08-425 ADMINISTRATIVE LAW JUDGE (ALJ)—AUTHORITY—APPLICATION OF LAW—ASSIGNMENT—DISQUALIFICATION. (1) Authority. The ALJ shall:

- (a) Conduct the hearing de novo;
- (b) Determine the order of presentation of evidence;
- (c) Administer oaths and affirmations;
- (d) Issue subpoenas;
- (e) Rule on procedural matters, objections, and motions;
- (f) Rule on offers of proof and receive relevant evidence;
- (g) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;
- (h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;
- (i) Take any appropriate action necessary to maintain order during the hearing;
- (j) Permit or require oral argument or briefs and determine the time limits for submission thereof;
- (k) Permit photographic and recording equipment at hearings subject to conditions the ALJ imposes to preserve confidentiality or to prevent disruption;
- (l) Permit a person to waive any right conferred upon that person by chapters 34.05 RCW or 388-08 WAC, except to the extent precluded by another provision of law; and
- (m) Take any other action necessary and authorized by any applicable rule.

(2) Application of law. The ALJ shall:

- (a) Apply as the first source of law governing an issue the department rules adopted in the Washington Administrative Code (WAC);
- (b) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington constitutions, statutes and regulations, and court decisions;
- (c) Not declare any department rule invalid;

(d) If the validity of any department rule is raised as an issue at any proceeding, permit arguments concerning that issue for subsequent review purposes; and

(e) If the sole issue is one of federal or state law requiring automatic assistance, benefit, scope of program, or fee or regulation adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument on the validity of the law.

(3) Assignment of ALJ. If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

- (a) Make such assignment five days or more before the hearing; and
- (b) Disclose the assignment to any party or representative making inquiry.

(4) Motion of prejudice.

(a) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed at least three days before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling.

(b) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) Petition for disqualification. An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

NEW SECTION

WAC 388-08-428 REPRESENTATION. (1) Appellant representation.

(a) The appellant may represent himself or herself, or the appellant may be represented by a lawyer or paralegal or by a relative, friend, or other person.

(b) The appellant may not be represented in an adjudicative proceeding by an employee of the department.

(c) Nothing in this regulation shall be construed as prohibiting an employee of the department from:

- (i) Acting as a witness on behalf of an appellant; or
- (ii) Referring an appellant to legal resources in the community; or
- (iii) Assisting the appellant in obtaining nonconfidential information available to the appellant; or
- (iv) Advising the appellant of possible arguments made against the contested decision.

(2) Department representation. The department may be represented by a department employee or by the office of the attorney general.

NEW SECTION

WAC 388-08-431 PREHEARING CONFERENCE. (1) Request, purpose, order, and objection. Upon the administrative law judge's (ALJ's) own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

- (i) Simplification of issues;
- (ii) The necessity or desirability of amendments to the pleadings;
- (iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;
- (iv) Limitations on the number and consolidation of the examination of witnesses;
- (v) Procedural matters;
- (vi) Distribution of written testimony and exhibits to the parties before the hearing; and
- (vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) The ALJ may conduct a prehearing conference by telephone conference call, in person, or other manner.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

- (i) Action taken at the conference;
- (ii) Amendments allowed to the pleadings; and
- (iii) Agreements the parties made concerning all of the matters considered.

(d) If no objection to such order is filed with the ALJ within ten days after the date such order is served, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Conference on hearing day. Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the

taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Not a limit to informal settlement. Nothing in this rule shall limit the parties' right to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 388-08-434 NOTICE OF HEARING. (1) Served by. The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives.

(2) Contents.

(a) If the hearing is conducted by teleconference call, the notice shall so state.

(b) The notice shall state that:

(i) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(ii) There shall be no cost to the party or witness for the interpreter.

(c) The notice shall include a form for a party to:

(i) Indicate the need for an interpreter; and

(ii) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 388-08-437 FILING AND SERVICE OF PAPERS. (1) Service required when filing. A party filing a pleading, brief, or other paper, except an application for an adjudicative proceeding, with the office of appeals or the administrative law judge (ALJ) shall serve a copy of the paper upon:

(a) Every other party; or

(b) If the other party is represented or has an agent, the other party's representative or agent.

(2) Filing and service made by. Unless otherwise provided by law, filing and service shall be made by:

(a) Personal service;

(b) First class, registered, or certified mail;

(c) Telegraph;

(d) Electronic telefacsimile transmission and same-day mailing of copies; or

(e) Commercial parcel delivery company.

(3) Filing complete. Filing with the department shall be complete upon actual receipt during office hours at the office of appeals. Filing with the ALJ shall be complete upon actual receipt during office hours at the office of the ALJ.

(4) Service complete. Service shall be complete when:

(a) Personal service is made;

(b) Mail is properly stamped and addressed and is deposited in the United States mail;

(c) A properly addressed telegram is deposited with a telegraph company with charges prepaid;

(d) An electronic telefacsimile transmission produces proof of transmission; or

(e) A commercial parcel is delivered to the parcel delivery company with charges prepaid.

(5) Proof of service. Where proof of service is required by statute or rule, filing the papers with the department or ALJ, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service;

(b) A certificate of service including the date the papers were served upon all parties and the signature of the serving party indicating service was completed by:

(i) Personal service;

(ii) Mailing a copy properly addressed with postage prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iii) Telegraphing a copy properly addressed with charges prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iv) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party to the proceeding, or the party's representative or authorized agent; or

(v) Depositing a copy properly addressed with charges prepaid to a commercial parcel delivery company.

NEW SECTION

WAC 388-08-440 VACATING AN ORDER OF DISMISSAL FOR REASON OF DEFAULT OR WITHDRAWAL. (1) Right to request. A party against whom an order of dismissal for reason of default or withdrawal is entered shall have the right to file a written request that the order be vacated.

(2) Contents. The request shall state the grounds relied upon.

(3) Filed at. The request shall be filed at the office of appeals within fourteen days from the date the order of dismissal was served.

(4) Grounds to vacate an order of dismissal. If, in the reasoned opinion of the administrative law judge (ALJ), good cause to grant the relief is shown, the ALJ shall vacate the order of dismissal and reinstate the application.

NEW SECTION

WAC 388-08-446 SUBPOENAS. (1) Statutory requirements. The administrative law judge (ALJ), the department, and attorneys for parties may issue a subpoena. A subpoena shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Contents. Every subpoena shall:

(a) Identify the party causing issuance of the subpoena;

(b) State the name of the agency as the department of social and health services;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) Service. A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Exhibiting and reading the subpoena to the witness;

(b) Giving the witness a copy; or

(c) Leaving a copy at the place of the witness' residence.

(4) Proof of service. When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) Quashing, modifying, conditioning. The administrative law judge, upon request made promptly and in any event at or before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or oppressive; or

(b) Condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION

WAC 388-08-449 TELECONFERENCE HEARING. (1) When authorized.

(a) The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each party in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(b) Conducting a hearing by electronic means is subject to the following conditions:

(i) In the aid to families with dependent children program under Title IV-A and adult categories under Titles I, X, XIV, or XVI of the Social Security Act and in the food stamp disqualification program under 7 CFR § 273.16, a teleconference hearing may be scheduled only if the notice of hearing informs the appellant the hearing will be converted to an in-person hearing upon request filed with the ALJ at least one week before the hearing. The appellant does not have to show good cause to convert the hearing;

(ii) In a program not described under subsection (1)(a) of this section, or in such a program when a party requests to convert a telephone hearing to an in-person hearing a week or less before the hearing, the ALJ shall grant the request upon a party showing good cause. The ALJ may reschedule the in-person hearing to a different date and time.

(2) Documentary evidence. When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 388-08-452(2).

NEW SECTION

WAC 388-08-452 RULES OF EVIDENCE. (1) Objections. The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence under RCW 34.05.452.

(2) Submission in advance. The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence not submitted in advance as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) Portions of a document. When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) Expert witness limitation. No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) Witness refusal to answer. The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) Stipulation, admission. A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw it in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

NEW SECTION

WAC 388-08-461 CONTENTS OF ORDERS. Every order shall correctly caption both the name of the agency and the proceeding and shall designate the parties and representatives participating in the proceeding.

NEW SECTION

WAC 388-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Initial orders that may become final orders.

(a) If a petition for review is not filed within fourteen days from service of the initial order, the initial order shall, subject to the provisions of this section, become the final order.

(b) An initial order shall not become the final order after a food stamp administrative disqualification hearing. Each party shall have the right to file a petition for review of the administrative law judge's order. Whether a petition for review is or is not filed, the review judge shall enter the final order on behalf of the secretary.

(2) Who may petition. Each party has the right to file a petition for review of an order entered by an administrative law judge.

(3) Petition contents. The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) Petition time limits.

(a) The period to timely file a petition for review is fourteen days from the date the initial decision was served.

(b) A review judge shall extend the fourteen-day period to file a petition for review upon request of a party when:

(i) The request is made during the fourteen-day period; and

(ii) Good cause for the extension is shown.

(c) The review judge shall waive the fourteen-day limit for filing a petition for review when:

(i) A petition for review is filed within thirty days of the date the initial order becomes final; and

(ii) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(A) A mistake, inadvertence, or excusable neglect on the part of the petitioner; or

(B) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(5) Petition filing and service. The petition for review shall be in writing and filed with the office of appeals. The petitioning party is encouraged to serve a copy of the petition upon the other party or the other party's representative at the time the petition is filed. The office of appeals shall serve a copy on the other party or representative.

(6) Notice of petition. When a petition for review is filed, the office of appeals shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(7) Response time limit, filing, service.

(a) The nonpetitioning party shall file any response with the office of appeals within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(b) The nonpetitioning party shall serve a copy of the response on the petitioner and any other party or, if represented, on the representative at the time the response is filed.

(c) A review judge may extend the period to file a response upon request of a party showing good cause.

(8) Disqualification. The chief review judge shall disclose the name of the review judge assigned to rule on a petition to any party or representative making inquiry. An individual petitioning to disqualify a review judge under RCW 34.05.425 shall file the petition with the review judge assigned to the proceeding.

NEW SECTION

WAC 388-08-470 RECONSIDERATION. Within ten days of service of a review order, any party may file a petition for reconsideration. The petition shall state the specific grounds upon which relief is requested. A petition for reconsideration shall be filed at the office of appeals.

NEW SECTION

WAC 388-08-515 NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal shall:

(1) Be written in the primary language of the party; or

(2) Include a notice in the primary language of the party describing:

(a) The significance of the notice; and

(b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

NEW SECTION

WAC 388-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

(a) Hearing impaired person; or

(b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

(i) Specialist certificate-legal;

(ii) Master's comprehensive skills certificate; or

(iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

(a) Testimony or stated needs of the impaired person;

(b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;

(c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and

(d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 388-08-535 GROUP HEARING. (1) When applicable. When two or more appellants file applications contesting a similar issue, the applications may be consolidated by the department or the administrative law judge (ALJ) and heard as a group. The ALJ may consolidate on the ALJ's own motion or on a party's request.

(2) Withdrawal from group.

(a) An appellant scheduled for a group hearing may request to withdraw from the group hearing in favor of an individual hearing. An appellant's request to withdraw shall be granted if the request is filed before the:

(i) ALJ has made a discretionary ruling; and

(ii) Date of the hearing.

(b) The ALJ may grant a party's request to withdraw from a group hearing at any time when good cause is shown.

(3) Right to representation. Each appellant in a group hearing shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 388-08-545 CONTINUANCE. (1) Authority to grant. The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the request of any party, with notice to all other parties, showing good and sufficient cause.

(2) When, how requested. A request for a continuance made before the hearing date may be either oral or in writing. The party seeking the continuance shall:

(a) Notify the other parties before presenting the request to the ALJ; and

(b) Inform the ALJ whether the other parties agreed to the continuance.

If the other parties did not agree to the continuance, the ALJ shall promptly schedule a prehearing conference to receive evidence and/or argument and to rule on the request.

NEW SECTION

WAC 388-08-555 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES. (1) Applicability and request to office of special investigation (OSI). When the appellant seeks data disclosure maintained by the OSI subject to the exemption under WAC 388-320-220, the following process shall determine whether, on a case-by-case basis, disclosure shall be ordered:

(a) The appellant or the appellant's representative shall file a written request with the office of appeals or the administrative law judge (ALJ), if one is appointed, no later than fifteen days before the hearing;

(b) The request shall identify the information type sought;

(c) The request shall state the reasons why the appellant believes information disclosure is necessary;

(d) The request shall identify the local community service office or the OSI field office where the appellant reviews the documents;

(e) The office of appeals or ALJ shall forward a request copy to the OSI at the main office of special investigation in Olympia; and

(f) Upon the appellant's showing of good cause, the ALJ may shorten the fifteen-day notice period.

(2) OSI action.

(a) Within ten days of receipt of a properly filed request, the OSI shall determine whether the documents sought are within the exemptions for disclosure in law.

(b) Any exempt documents shall be:

(i) Sealed in an envelope clearly designated as confidential documents of the OSI;

(ii) Placed in the OSI file;

(iii) By the OSI shall then notify the appellant or representative, in writing, of the:

(A) OSI's action; and

(B) Appellant or representative's right to a disclosure hearing.

(c) If any information is placed in a sealed envelope and excluded from disclosure, the notice shall state the specific exemption or exemptions of WAC 388-320-220(3) relied upon for this action. The notice shall provide the appellant a ten-day opportunity to inspect the OSI file by the person or the person's representative who is the subject of the proceedings at the appropriate community service office or OSI field office as designated by the appellant. In no event shall the investigative file leave the physical control of the designated OSI records custodian provided the appellant may copy all documents not sealed in an envelope as confidential material as provided under WAC 388-320-140.

(d) If no amended disclosure request under subsection (3) of this section is filed, the issue of disclosure shall be regarded as moot.

(3) ALJ action. If the appellant wants further disclosure, the appellant shall file an amended disclosure request with the ALJ. The ALJ shall schedule a separate, in camera hearing held to determine whether, and to what extent, the disclosure of exempted information should be allowed.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity to protect confidential information clearly outweighs the disclosure interests.

(b) Either party may offer witnesses to testify on the disclosure issue. When the appellant calls witnesses from the state, investigative, law enforcement, or penalty agencies as adverse witnesses, the appellant may ask leading questions.

(c) Attendance shall be limited to the parties, the parties' representatives, the ALJ, and any witnesses to be called provided, upon the request of either party or upon the ALJ's own motion, the ALJ may exclude from the hearing nontestifying witnesses.

(d) In determining whether to disclose information to the appellant, the ALJ shall review the information, but shall not disclose the information to the appellant.

(e) The ALJ shall enter an initial order:

(i) If the information sought is pertinent to any ongoing criminal investigation, disclosure shall only be ordered by a superior court of this state;

(ii) The ALJ shall order nondisclosure of specific information consistent with law after making findings of fact showing:

(A) The information sought to be disclosed is inadmissible and immaterial to establishing a defense; or

(B) Specific investigative or intelligence information, which cannot be deleted from any specific records sought, is clearly necessary to protect any vital governmental function, ongoing criminal investigation, or an individual's right of privacy; or

(C) After weighing the public interest in protecting the flow of information against the individual's right to prepare the individual's defense, the evidence demonstrates it is not necessary to disclose particular intelligence or investigative information.

(iii) An order for disclosure shall state the times and methods for document inspection. In no event shall such decision compel the release of original documents but, rather, where release is ordered, copies shall be provided. Copying documents shall be governed by WAC 388-320-140.

(f) Each party has the right to file a petition for review for initial order review. There shall be no disclosure under an initial order until exhausting all review proceedings.

(4) Assignment of new ALJ. When the ALJ conducts the in camera review under subsection (3) of this section and determines information should not be disclosed to the appellant, the chief ALJ or the chief ALJ's designee shall assign another ALJ to preside over the adjudicative proceeding.

NEW SECTION

WAC 388-08-565 COMPUTATION OF TIME. (1) Period's beginning. When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) Period's ending. The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday. When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(3) Period of a week or less. When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

NEW SECTION

WAC 388-08-575 JUDICIAL REVIEW OF FINAL ADJUDICATIVE ORDER. (1) Right to judicial review; exclusive remedy. An appellant or intervener aggrieved, as described under RCW 34.05.530, by the final decision or order in a department of social and health services (DSHS) adjudicative proceeding may appeal the decision or order to court. Judicial review shall only be obtained under chapter 34.05 RCW. Judicial review may not be obtained through any other procedure.

(a) Chapter 34.05 RCW contains the pertinent provisions of the law.

(b) RCW 74.08.080(3) contains additional provisions about public assistance proceedings.

(2) Instituting judicial review; filing and serving the petition. As described in RCW 34.05.5422, within thirty days after the department mails the final decision, the petitioner shall file the petition for judicial review with the court and serve a copy of the petition on DSHS, the office of the attorney general, and all parties of record.

(a) A petition shall be filed in the Superior Court at the petitioner's option for:

(i) Thurston County;

(ii) The county of the petitioner's residence or principal place of business; or

(iii) Any county where property affected by the decision is located.

(b) Service of a copy of the petition for judicial review on DSHS may be had by personally serving a copy of the petition on the office of appeals.

(c) Service of a copy of the petition for judicial review on the office of the attorney general may be had by mailing a copy of the petition, postage prepaid, to the Office of the Attorney General, Highway-Licenses Building, PB-71, Olympia, WA 98504.

(d) Service of a copy of the petition for judicial review on other parties of record may be had by mailing a copy of the petition to the other parties, properly addressed and postage prepaid.

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-08-00201 SCOPE OF CHAPTER 388-08 WAC.

- 388-08-00401 AUTHORITY TO ADJUDICATE.
 388-08-006 ADMINISTRATIVE HEARING—FORM OF REQUEST.
 388-08-00601 ADMINISTRATIVE HEARING—GROUP HEARING.
 388-08-010 ADMINISTRATIVE HEARING—WHO MAY APPEAR AS A REPRESENTATIVE.
 388-08-405 WITHDRAWAL—DISMISSAL—SETTLEMENT.
 388-08-406 DECISION—RENDERING PROCEDURE—PROPOSAL FOR DECISION.
 388-08-409 PETITION FOR REVIEW BY REVIEW JUDGE.
 388-08-416 SELECTED FINAL DECISIONS AS PRECEDENT.
 388-08-435 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES.
 388-08-540 PETITIONS FOR RULE-MAKING AMENDMENT OR REPEAL—WHO MAY PETITION.
 388-08-550 UPDATING MAILING LISTS.
 388-08-560 DELEGATION OF AUTHORITY BY SECRETARY.
 388-08-580 DECLARATORY RULINGS.
 388-08-590 FORMS.

REPEALER

The following sections of the Washington Administration Code are repealed:

- WAC 388-09-010 ADMINISTRATIVE HEARING—CHILD WELFARE AGENCY—DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF LICENSE.
 WAC 388-09-020 ADMINISTRATIVE HEARING—APPLICABILITY OF CHAPTER 388-08 WAC.
 WAC 388-09-030 ADMINISTRATIVE HEARING—APPEARANCE AND PRACTICE BEFORE DEPARTMENT—WHO MAY APPEAR.
 WAC 388-09-040 TIME LIMIT FOR RENDERING DECISION.

Chapter 388-320 WAC
PUBLIC RECORDS((=))DISCLOSURE—ADMINISTRATIVE PROCEDURES

NEW SECTION

WAC 388-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under RCW 43.20A.110, certain powers and duties may be delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 388-320-350 DECLARATORY ORDERS—FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Office of Issuances, MS OB-33H, Third Floor West, Office Building 2, Twelfth and Franklin, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 388-320-360 DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 388-320-370 DECLARATORY ORDERS—DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 388-320-400 PETITION FOR RULE MAKING—FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Office of Issuances, MS OB-33H, Third Floor West, Office Building 2, Twelfth and Franklin, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

NEW SECTION

WAC 388-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 388-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal

rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

AMENDATORY SECTION (Amending Order 2076, filed 2/17/84)

WAC 388-08-413 ((**PROCEDURE ON REVIEW BY REVIEW JUDGE**)) **APPLICATION FOR AN ADJUDICATIVE PROCEEDING.** (1) ((A petition for review shall be granted only if, in the reasoned opinion of the review judge, one of the grounds for review set forth in WAC 388-08-409(2) is shown. Otherwise, the petition for review shall be denied and the initial order or decision shall be the final decision of the secretary as of the date of denial of the petition or petitions for review)) Who may apply. Any person or authorized representative may file an oral or written application for an adjudicative proceeding.

(2) ((In determining whether to grant review and in reviewing the initial order or decision, the review judge shall consider the initial order or decision, the petition or petitions for review, the record or any part thereof and any additional evidence submitted by the agreement of both parties in accordance with WAC 388-08-413(4)) Form of application. The application need not be in any particular form but should specify the decision being appealed and the reasons the appellant is dissatisfied with the decision.

((a) The fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of an initial order or decision shall be waived where the petitioner demonstrates good cause for failure to file a timely petition for review. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review. Upon a showing of good cause, either party may petition for review of an initial order or decision within thirty days of the date the initial order or decision becomes final.

(b) The fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of the initial order or decision shall be waived where petitioner demonstrates that the initial decision was not received by petitioner. In such case the petitioner may petition for review of the initial decision within a reasonable period of time.)

(3) Application.

(a) ((If review is granted, the administrative law judge's initial findings of fact, conclusions of law, and decision shall not be modified by the review judge unless, in the reasoned opinion of the review judge:

(a) Irregularity in the proceedings occurred by which the petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the administrative law judge and/or)) An oral application shall be made to a responsible department employee.

(b) ((The findings of fact are unsupported by substantial evidence in view of the entire record and/or

(c) The application of law in the conclusions is erroneous and/or

(d) There is need for clarification in order for the parties to implement the decision.

(4) The review judge may accept additional evidence to correct omissions in the record, but only after notice to and agreement by both parties.

(5) The review judge may remand the proceedings to the administrative law judge for additional evidence or argument if:

(a) Neither party cited the law correctly applicable to the issue or issues defined at the hearing and additional evidence or argument is needed for the review judge to reach a reasoned decision. Nothing in this subsection shall be construed to allow the review judge to remand the case to consider additional grounds for denial, termination, or ineligibility for assistance which were not alleged by the department at the hearing.

(b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity or

(c) The review judge considers a remand necessary and both parties assent to the remand.

(6) If review is granted, the review judge shall render a reasoned decision affirming, reversing, modifying, or remanding the initial order or decision.

(7) ~~The review decision shall be final on the date of filing and shall be the final decision of the secretary. The review judge shall file the original of the decision in the record of the proceedings and shall mail copies to the parties and their representatives.)~~ A written application should be filed at the office of appeals. However, the application can be filed with any responsible department employee.

WSR 89-22-081

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed October 31, 1989, 4:16 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
388-11-100		Amend		74.08.090	<ol style="list-style-type: none"> The scope of the rule is broadened to include objection to a notice and finding of parental responsibility. See chapter 55, Laws of 1989. Housekeeping. See RCW 34.05.461(1)(c) and RCW 74.20A.055 as amended by section 152, chapter 175, Laws of 1989.
388-11-105			Repeal	Same	The section is being repealed because it conflicts with RCW 34.05.464(5). See also RCW 74.20A.055 as amended by section 152, chapter 175, Laws of 1989.
<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
388-11-180		Amend		Same	Housekeeping
388-11-185			Repeal	Same	This section would limit discovery to the devices stated in it by operation of RCW 34.05.446(2), (3). General DSHS adjudicative proceeding rules do not contain such limits (see WAC 388-08-464). Thus, repeal of this rule broadens discovery rights in this program and makes them the same as those in chapter 388-08 WAC.
388-13-050		Amend		Same	Housekeeping. See RCW 74.20A.270 as amended by sections 156 and 157, chapter 175, Laws of 1989.
388-13-060		Amend		Same	Same
388-13-070		Amend		Same	Same
388-13-080			Repeal	Same	Same as WAC 388-11-105 (see above).
388-13-110		Amend		Same	Pursuant to RCW 34.05.440(3) the department has adopted 14 days as the general time to file a motion to vacate a dismissal of the proceedings for reason of default. The general period is contained in WAC 388-08-440. This rule in chapter 388-11 is being repealed to make WAC 388-08-440 apply to this program in the interest of achieving greater procedural uniformity among programs.
388-13-120		Amend		Same	Housekeeping and to achieve greater procedural uniformity among department programs.
<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
388-14-260		Amend		Same	Same
388-14-270		Amend		Same	Housekeeping
388-14-385		Amend		Same	Same
388-14-390		Amend		Same	Housekeeping and to achieve greater procedural uniformity among department programs.
388-14-415		Amend		Same	<ol style="list-style-type: none"> Required by section 16, chapter 360, Laws of 1989. Housekeeping

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989
Leslie F. James, Director
Administrative Services

Reviser's note: The material contained in this filing will appear in the 89-23 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

**WSR 89-22-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed October 31, 1989, 4:17 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective November 1, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and recent statutory changes.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudicative proceedings in programs the department administers. See below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David L. Henry, Office of Appeals, OB-43, Olympia, 98504, (206) 753-3898.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above. See also below.

Proposal Changes the Following Existing Rules: The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
388-17-100		Amend		74.38.030	Housekeeping.
388-17-500		Amend		Same	The contents of the application are specified and, to achieve greater procedural uniformity, are modeled after section 95, chapter 175, Laws of 1989.
388-17-510		Amend		Same	Same

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Department of Social and Health Services, Office of Issuances, Mailstop OB-33H, Olympia, Washington, 98504, by January 4, 1990.

Date of Intended Adoption: January 15, 1990.

October 31, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1970, filed 6/16/83)

WAC 388-17-100 RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS. (1) Each applicant and/or recipient of the senior citizens services program shall have the following rights:

(a) Any individual wishing to do so shall have the right to apply for the senior citizens services program and have his or her eligibility determined within ten days. If an adverse decision is made regarding eligibility, the applicant will be provided written notice. The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to

(~~a hearing~~) an adjudicative proceeding, and a statement of the individual's right to representation at the hearing by a friend, relative, or other representative.

(b) An eligible individual shall be given the requested services, within the limits of available funds, offered by the area agency on aging in his or her geographic area.

(c) An applicant or recipient feeling aggrieved by a decision of the area agency or service provider regarding his or her eligibility for senior citizens services shall have the right to an informal hearing provided by the area agency. The hearing shall be held within thirty days of the date a request is made, and a written decision shall be rendered within fifteen days after the hearing. If the applicant or recipient is dissatisfied with the outcome of the informal hearing, he or she may (~~request the department provide a fair hearing as specified in chapter 388-08 WAC~~) file an application for an adjudicative proceeding. Any person desiring a (~~hearing~~) proceeding must, within thirty days after receiving written notice of a decision regarding eligibility, (~~make written request for a hearing to~~) file a written application with the area agency or the department.

(d) Information obtained by the department, area agency, or vendor identifying any applicant or recipient of senior citizens services is confidential and privileged and may not be disclosed or used either directly or indirectly in any manner or for any purpose except for purposes directly related to the administration of the program, unless the applicant or recipient requests in writing that the information be disclosed.

(e) Each applicant and recipient shall be treated with dignity and courtesy, and there shall be no discrimination against any individual because of race, sex, religious creed, political beliefs, national origin, or handicap.

(f) Each applicant for services for which a fee may be charged (all services except nutrition, health screening, information and assistance, and transportation) shall be fully informed in writing of his or her rights and responsibilities in connection with the senior citizens services program.

(2) An applicant and/or recipient shall have the following responsibilities:

(a) Each applicant for services for which a fee may be charged shall provide complete and accurate information on an application form provided by the department and cooperate in establishing his or her eligibility for services.

(b) If services provided by the senior citizens services program are available at no cost to the applicant through other sources, the applicant shall apply for these services through the appropriate agency.

(c) Each recipient of services for which a fee may be charged shall promptly report any changes in income or resources in writing affecting his or her eligibility or amount of fees to be paid for services.

AMENDATORY SECTION (Amending Order 2458, filed 1/13/87)

WAC 388-17-500 LOCAL AREA AGENCY ON AGING CONTRACTS—ADMINISTRATIVE REVIEW PROCESS. (1) Local area agencies on aging shall establish a complaint resolution process. A service contract applicant or provider of services under a contract with a local area agency on aging who is aggrieved by an action of the local area agency shall attempt to resolve the grievance through the complaint resolution process.

(2) A service contract applicant or provider of services under a contract with a local area agency on aging has the right to an administrative adjudicative proceeding. Only those issues raised at the complaint resolution procedure can be appealed to an administrative adjudicative proceeding. The administrative hearing adjudicative proceeding shall be governed by the Administrative Procedure Act (chapter ~~((34.04))~~ 34.05 RCW) and (chapter 10-08 WAC, and the provisions of) chapter 388-08 WAC (that do not conflict with this section). If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(3) (To make a request for an administrative hearing,) A service contract applicant's or (provider shall file a) provider's application for an adjudicative proceeding shall be written (appeal with) and filed at the department's Office of (administrative regulations and hearings. The appeal shall be filed) Appeals, P.O. Box 2465, Olympia, WA 98504 within thirty days of the date the local agency on aging mailed the complaint resolution determination to the service contract applicant or recipient. A copy of the (appeal) application shall be sent to the local area agency. The (appeal) application shall:

(a) State specifically the issue or issues and regulation or regulations involved and the basis for considering the complaint resolution determination to be in error~~(:)~~;

(b) Include any supporting documentation~~(:)~~; and

(c) Include a copy of the complaint resolution determination being appealed.

(4) The department has the right to intervene in any (administrative hearing) adjudicative proceeding. To intervene, the department shall:

(a) File a written notice of intervention with the office of (administrative regulations and hearings) appeals or the presiding officer~~(:)~~;

(b) Serve a copy of the notice (to) on the parties~~(:)~~; and

(c) Include in the notice the name, address, and telephone number of the department employee and/or assistant attorney general who represents the department.

~~((5) After the administrative law judge has made a record, he or she shall make an initial decision (or order dismissing the appeal as withdrawn or abandoned). See WAC 10-08-210. The parties have the right to file a petition for administrative review against an initial decision (or order of dismissal). See WAC 388-08-409 and 388-08-413.))~~

Reviser's note: RCW 34.05.395 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 2458, filed 1/13/87)

WAC 388-17-510 AREA AGENCY ON AGING PLAN—ADMINISTRATIVE REVIEW PROCESS. (1) An area agency on aging aggrieved by an action of the department regarding a plan submitted under the provisions of the Older Americans Act has the right

to an (administrative hearing) adjudicative proceeding. The (hearing) proceeding shall be governed by the Administrative Procedure Act (chapter ~~((34.04))~~ 34.05 RCW) and (chapter 10-08 WAC, and the provisions of) chapter 388-08 WAC (that do not conflict with this section). If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(2) (To make a request for an administrative hearing,) An area agency on aging's (shall file a) application for an adjudicative proceeding shall be written (appeal with) and filed at the department's Office of (administrative regulations and hearings. The appeal shall be filed) Appeals, P.O. Box 2465, Olympia, WA 98504 within thirty days of the date the department first gave notice of the aggrieving action to the area agency. A copy of the (appeal) application shall be sent to the unit of the department which gave notice of the aggrieving action to the area agency. The (notice) application shall:

(a) State specifically the issue or issues and regulation or regulations involved and the basis for considering the aggrieving action to be in error~~(:)~~;

(b) Include any supporting documents; and

(c) Include a copy of the department decision being appealed or a description of that decision.

~~((3) The administrative decision-making procedure is the initial decision-petition for administrative review-review decision process. See WAC 388-08-409 and 388-08-413.))~~

**WSR 89-22-083
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed October 31, 1989, 4:19 p.m.]

Original Notice.

Title of Rule: WAC 388-86-050 Inpatient hospital care; 388-87-027 Services requiring prior approval; and 388-87-070 Payment—Hospital inpatient services.

Purpose: To incorporate rules for services to the chemical using pregnant Medicaid recipient. To delete that the department has special Involuntary Treatment Act rates. To rewrite for easier readability.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: For the chemical using pregnant Medicaid recipient, the department shall pay up to 26 days of inpatient care for hospital-based detoxification, medical stabilization and drug treatment. The care will be given when the care is verified through an Alcohol, Drug Addiction and Treatment Support Act assessment center; the hospital unit is certified by the division of alcohol and substance abuse and the division of medical assistance gives prior authorization.

Reasons Supporting Proposal: This rule is necessary to add to the rules what services are available as an inpatient for the chemical using pregnant Medicaid recipient.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance, 753-0529.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on December 5, 1989, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by December 5, 1989.

Date of Intended Adoption: December 15, 1989.

October 31, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2649, filed 7/8/88)

WAC 388-86-050 INPATIENT HOSPITAL CARE. (1) The division of medical assistance shall provide hospitalization for recipients ~~((under sixty-five years of age and for recipients sixty-five years of age and over who have exhausted Medicare benefits.)),~~ with the exceptions and limitations in ~~((WAC 388-86-051))~~ this section.

(2) The recipient shall have free choice of hospitalization with exceptions and limitations in WAC 388-86-051.

~~((2))~~ (3) The division of medical assistance shall require prior approval for nonemergent hospital admissions.

~~((3))~~ (4) The division of medical assistance shall ~~((certify))~~ approve for recipients:

(a) Hospital admission~~(:);~~

(b) Length of stay~~(, and/or);~~

(c) Services ~~((for all recipients:));~~ or

~~((4))~~ (d) Both length of stay~~(:)~~ and services.

~~((5))~~ (5) The division of medical assistance shall limit ~~((authorization))~~ approval for inpatient hospital care~~(:~~

(i) in hospitals ~~((excepted))~~ exempted from the diagnosis-related group (DRG) based ~~((pricing))~~ payment system~~(:~~

(ii) to the number of days established at the ~~((75th))~~ seventy-fifth percentile in the 1983 edition of the publication Length of Stay in PAS Hospitals, by Diagnosis United States Western Region~~(:))~~ ~~((and~~

~~((iii))~~ unless the department has a:

(a) Prior ~~((contractual))~~ contract arrangement~~((s-are made by the department))~~ for a specified length of stay; or

(b) The length of stay is specified under subsection (7) of this section.

~~((6))~~ (6) When a recipient's hospitalization ~~((of a recipient))~~ exceeds the number of days ~~((as limited))~~ allowed by ~~((this))~~ subsection (5)(a) and (b) of this section, the hospital shall, within sixty days ~~((of the final service))~~ after discharge, submit to the central authorization unit (CAU) a request for approval of ~~((the extension))~~ extra days:

~~((7))~~ (a) With adequate justification; and

~~((8))~~ (b) Signed by the attending physician.

~~((5))~~ (7) The department shall provide:

(a) For the chemical-using pregnant Medicaid recipient, up to twenty-six days of inpatient hospital care;

(i) Hospital-based detoxification;

(ii) Medical stabilization; and

(iii) Drug treatment.

(b) Care when:

(i) Need for the inpatient care is verified through an Alcohol, Drug Addiction and Treatment Support Act (ADATSA) assessment center;

(ii) The hospital chemical dependency treatment unit is certified by the division of alcohol and substance abuse; and

(iii) The division of medical assistance gives prior authorization.

(8) The division shall cover eligible recipients for involuntary admissions for acute psychiatric conditions and reimburse using the DRG payment methodology ~~((see))~~ as described under WAC 388-87-070~~(:)).~~

~~((9))~~ (9) The department shall ~~((not))~~:

(a) Pay for care in a private psychiatric hospital ~~((that has not been))~~ only if the hospital is certified under Title XVIII~~((Authorization for));~~ and

(b) Authorize the admission of an eligible individual to a private psychiatric hospital ~~((shall be))~~ under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

~~((7))~~ (10) ~~((The department shall make Medicaid payment for care in a state mental institution))~~ For categorically needy and medically needy ~~((individuals))~~ recipients under twenty-one years of age and ~~((age))~~ sixty-five years of age and older~~(:~~

~~((8))~~ The department shall make Medicaid payments for care in an approved psychiatric facility for categorically needy and medically needy individuals under twenty-one years of age~~)),~~ the department shall make Medicaid payments for care in:

(a) A state mental institution; or

(b) An approved psychiatric facility.

~~((9))~~ (11) The department shall pay hospitalization for Medicare recipients only when the medical recipients exhaust Medicare benefits.

(12) The department shall:

(a) Provide for hospitalization for the treatment of acute and chronic renal failure~~((The department shall));~~ and

(b) Pay only deductibles and coinsurance for a recipient who is:

~~((a))~~ (i) ~~((Who is))~~ A Medicare beneficiary; and

~~((b))~~ (ii) ~~((Who is))~~ Hospitalized for such treatment or for kidney transplant.

~~((10))~~ (13) The department shall not pay for hospital days prior to one day before scheduled surgery.

~~((11))~~ (14) The department shall:

(a) Approve hospitalization of a recipient based on ~~((the recipient's need for))~~ semi-private ~~((accommodations))~~ room rates; and ~~((shall))~~

(b) Reimburse at the multiple occupancy rate, regardless of ~~((accommodations))~~ the room provided by the hospital~~((The department shall establish special rates for recipients covered by the Involuntary Treatment Act));~~ and

(c) Define a semi-private ~~((accommodations mean))~~ room as not less than a two-bed nor more than a four-bed room.

~~((12))~~ (15) The department shall cover medically necessary services provided in a hospital ~~((in connection with))~~ for the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization. Services covered under this subsection shall be furnished under the direction of a physician or dentist.

AMENDATORY SECTION (Amending Order 2600, filed 3/2/88)

WAC 388-87-027 SERVICES REQUIRING PRIOR APPROVAL. (1) The following services require prior approval:

(a) Nonemergent surgical procedures ~~((see))~~ as described under WAC 388-86-095;

(b) Prosthetic devices and durable medical equipment and nonreusable medical equipment ~~((see))~~ as described under WAC 388-86-100;

(c) All out-of-state air transportation;

(d) Allergy testing;

(e) Apnea monitoring;

(f) Drugs not listed in the departmental formulary or ~~((any))~~ a single prescription exceeding the maximum limits established ~~((see))~~ as described under WAC 388-91-020;

(g) Home ventilator therapy;

(h) Medical eye care services;

(i) Nonemergent hospital admissions ~~((see))~~ as described under WAC 388-86-050 and 388-87-070;

(j) Detoxification, medical stabilization, and drug treatment for the pregnant Medicaid recipient as described under WAC 388-86-050;

(k) Transportation (other than ambulance) ~~((see))~~ as described under WAC 388-86-085;

~~((k))~~ (l) Orthodontic treatment ~~((see))~~ as described under WAC ~~((388-86-027))~~ 388-86-020;

~~((h))~~ (m) Out-of-state medical care ~~((which is))~~ not available within Washington state as described under WAC 388-86-115;

~~((m))~~ (n) Physical medicine, rehabilitation and treatment ~~((see))~~ as described under WAC 388-86-112;

~~((m))~~ (o) Physical therapy services ~~((see))~~ as described under WAC ~~((388-86-070))~~ 388-86-090;

~~((o))~~ (p) Private duty nursing services ~~((see))~~ as described under WAC 388-86-071;

~~((p))~~ (q) Speech therapy, both the initial evaluation and subsequent therapy ~~((see))~~ as described under WAC 388-86-098;

~~((q))~~ (r) Total parenteral/enteral nutritional therapy.

(2) The division of medical assistance may approve where there are significant handicapping factors:

(a) The purchase of a hearing aid when the 50 decibel loss in the better ear is not met; or

(b) A second hearing aid ~~((and/or))~~ or a replacement or both.

~~((3))~~ On an exception basis approval may be granted, for services listed in this section, after the service(s) has been rendered.))

AMENDATORY SECTION (Amending Order 2594, filed 1/29/88)

WAC 388-87-070 PAYMENT—HOSPITAL INPATIENT SERVICES. (1) The department shall pay hospital costs of categorically needy, medically needy, medically indigent and medical care services recipients as defined in WAC 388-80-005, as now or hereafter amended, who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020, as now or hereafter amended.

(2) The department shall determine payment for hospital inpatient services according to a diagnosis related group (DRG) based formula ~~((pricing))~~ payment system established by the department, except for hospitals participating in the selective contracting program as prescribed in WAC 388-86-051 and services excluded from DRG-based reimbursement as prescribed in subsection (4) of this section. The department shall base formula price payments on the methodology prescribed in the department's State Plan under Title XIX of the Social Security Act, Methods and Standards Used for Establishing Payment Rates for Hospital Inpatient Services (hereafter referred to as the Title XIX State Plan).

(3) The rate structure of selective contracting hospitals for inpatient hospital services is identified in Appendix B of such selective contracts. The rate shall be inclusive of all inpatient services provided ~~((either))~~ directly or indirectly by the contractor and constitutes the department's maximum financial obligation under the contract.

(4) Certain services are excluded from the ~~((diagnosis-related group))~~ DRG-based ~~((reimbursement))~~ payment system. These exclusions shall include:

(a) Rehabilitation services provided in department-approved rehabilitation hospitals and general hospital distinct units, and services for physical medicine and rehabilitation (PM&R) patient~~((:))~~;

(b) Pain treatment provided in department-approved pain treatment facilities~~((:))~~;

(c) Free standing psychiatric hospitals~~((:))~~;

(d) Alcoholism treatment and detoxification provided in a department-approved alcohol treatment center (ATC)~~((:))~~;

(e) Detoxification, medical stabilization, and drug treatment for the pregnant Medicaid recipient at the division of alcoholism and substance abuse certified hospitals;

~~((f))~~ Neonates, DRGs 385-389~~((:))~~;

~~((ff))~~ ~~((g))~~ Long-term hospital level care services~~((:))~~;

~~((fg))~~ ~~((h))~~ Services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program~~((:))~~;

~~((th))~~ ~~((i))~~ Health maintenance organization (HMO) hospitals providing inpatient services to HMO enrollees~~((:))~~; and

~~((tt))~~ ~~((j))~~ Department-approved services to AIDS patients.

(5) Payments for excluded DRG-based services are based on the Operating Expenses to Total Rate Setting Revenue (OE/TRSR) ~~((price))~~ payment methodology as prescribed in the department's Title XIX State Plan. For out-of-state hospitals, including border area hospitals, the department shall apply the Washington state-wide average OR/TRSR to allowable charges, unless the border hospital is a contracting hospital.

(6) For dates of admission beginning October 1, 1985, payment rates established in accordance with subsections (2), (4) and (5) of this section are reduced for services provided to persons eligible for the medically indigent component of the limited casualty program and recipients of medical care services. Hospitals are grouped according to the percentage of total rate setting revenue comprising medical assistance, medicare, bad debt, charity, and other contractual adjustments and rates are reduced according to the following table.

Hospital Group	Percent Medicare, Medicaid, Bad Debt, Charity and other Contractual Adjustments of Total Rate Setting Revenue	Percentage Reduction in Payment Rate
1	60.00 or more*	20.0
2	50.00 - 59.99	40.0
3	less than 50.00	60.0

*Plus psychiatric hospitals

WSR 89-22-084
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2895—Filed October 31, 1989, 4:20 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To incorporate rules for services to the chemical-using pregnant Medicaid recipient. To delete that the department has special Involuntary Treatment Act rates. To rewrite for easier readability.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-050, 388-87-027 and 388-87-070.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To add to the rules what services are available as an inpatient for the chemical-using pregnant Medicaid recipient.

Effective Date of Rule: November 1, 1989, 12:01 a.m.

October 31, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2649, filed 7/8/88)

WAC 388-86-050 INPATIENT HOSPITAL CARE. (1) The division of medical assistance shall provide hospitalization for recipients ~~((under sixty-five years of age and for recipients sixty-five years of age and over who have exhausted Medicare benefits.))~~, with the exceptions and limitations in ~~((WAC 388-86-051))~~ this section.

~~((2))~~ (2) The recipient shall have free choice of hospitalization with exceptions and limitations in WAC 388-86-051.

~~((3))~~ (3) The division of medical assistance shall require prior approval for nonemergent hospital admissions.

~~((4))~~ (4) The division of medical assistance shall ~~((certify))~~ approve for recipients:

(a) Hospital admission~~((:))~~;

(b) Length of stay~~((, and/or))~~;

(c) Services ~~((for all recipients.))~~; or

~~((4))~~ (d) Both length of stay~~((:))~~ and services.

~~((5))~~ (5) The division of medical assistance shall limit ~~((authorization))~~ approval for inpatient hospital care~~((:~~

~~((i))~~ (i) in hospitals ~~((excepted))~~ exempted from the diagnosis-related group (DRG) based ~~((pricing))~~ payment system~~((;~~

~~((ii))~~ (ii) to the number of days established at the ~~((75th))~~ seventy-fifth percentile in the 1983 edition of the publication Length of Stay in PAS Hospitals, by Diagnosis United States Western Region~~((:))~~ ~~((and~~

~~(iii)) unless the department has a:~~

~~(a) Prior ~~((contractual))~~ contract arrangement~~((s are made by the department))~~ for a specified length of stay, or~~

~~(b) The length of stay is specified under subsection (7) of this section.~~

~~((b)) (6) When a recipient's hospitalization ~~((of a recipient))~~ exceeds the number of days ~~((as limited))~~ allowed by ~~((this))~~ subsection (5)(a) and (b) of this section, the hospital shall, within sixty days ~~((of the final service))~~ after discharge, submit to the central authorization unit (CAU) a request for approval of ~~((the extension))~~ extra days:~~

~~((i)) (a) With adequate justification; and~~

~~((ii)) (b) Signed by the attending physician.~~

~~((5)) (7) The department shall provide:~~

~~(a) For the chemical-using pregnant Medicaid recipient, up to twenty-six days of inpatient hospital care;~~

~~(i) Hospital-based detoxification;~~

~~(ii) Medical stabilization; and~~

~~(iii) Drug treatment.~~

~~(b) Care when:~~

~~(i) Need for the inpatient care is verified through an Alcohol, Drug Addiction and Treatment Support Act (ADATSA) assessment center;~~

~~(ii) The hospital chemical dependency treatment unit is certified by the division of alcohol and substance abuse; and~~

~~(iii) The division of medical assistance gives prior authorization.~~

~~(8) The division shall cover eligible recipients for involuntary admissions for acute psychiatric conditions and reimburse using the DRG payment methodology ~~((see))~~ as described under WAC 388-87-070~~((7))~~.~~

~~((6)) (9) The department shall ~~((not))~~:~~

~~(a) Pay for care in a private psychiatric hospital ~~((that has not been))~~ only if the hospital is certified under Title XVIII~~((Authorization for))~~; and~~

~~(b) Authorize the admission of an eligible individual to a private psychiatric hospital ~~((shall be))~~ under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.~~

~~((7)) (10) ~~((The department shall make Medicaid payment for care in a state mental institution))~~ For categorically needy and medically needy ~~((individuals))~~ recipients under twenty-one years of age and ~~((age))~~ sixty-five years of age and older~~((:~~~~

~~(8) The department shall make Medicaid payments for care in an approved psychiatric facility for categorically needy and medically needy individuals under twenty-one years of age), the department shall make Medicaid payments for care in:~~

~~(a) A state mental institution; or~~

~~(b) An approved psychiatric facility.~~

~~((9)) (11) The department shall pay hospitalization for Medicare recipients only when the medical recipients exhaust Medicare benefits.~~

~~(12) The department shall:~~

~~(a) Provide for hospitalization for the treatment of acute and chronic renal failure~~((The department shall))~~; and~~

~~(b) Pay only deductibles and coinsurance for a recipient who is:~~

~~((a)) (i) ~~((Who is))~~ A Medicare beneficiary; and~~

~~((b)) (ii) ~~((Who is))~~ Hospitalized for such treatment or for kidney transplant.~~

~~((10)) (13) The department shall not pay for hospital days prior to one day before scheduled surgery.~~

~~((11)) (14) The department shall:~~

~~(a) Approve hospitalization of a recipient based on ~~((the recipient's need for))~~ semi-private ~~((accommodations))~~ room rates; and ~~((shall))~~~~

~~(b) Reimburse at the multiple occupancy rate, regardless of ~~((accommodations))~~ the room provided by the hospital~~((The department shall establish special rates for recipients covered by the Involuntary Treatment Act.))~~; and~~

~~(c) Define a semi-private ~~((accommodations mean))~~ room as not less than a two-bed nor more than a four-bed room.~~

~~((12)) (15) The department shall cover medically necessary services provided in a hospital ~~((in connection with))~~ for the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization. Services covered under this subsection shall be furnished under the direction of a physician or dentist.~~

AMENDATORY SECTION (Amending Order 2600, filed 3/2/88)

WAC 388-87-027 SERVICES REQUIRING PRIOR APPROVAL. (1) The following services require prior approval:

(a) Nonemergent surgical procedures ~~((=see))~~ as described under WAC 388-86-095;

(b) Prosthetic devices and durable medical equipment and nonreusable medical equipment ~~((=see))~~ as described under WAC 388-86-100;

(c) All out-of-state air transportation;

(d) Allergy testing;

(e) Apnea monitoring;

(f) Drugs not listed in the departmental formulary or ~~((any))~~ a single prescription exceeding the maximum limits established ~~((=see))~~ as described under WAC 388-91-020;

(g) Home ventilator therapy;

(h) Medical eye care services;

(i) Nonemergent hospital admissions ~~((=see))~~ as described under WAC 388-86-050 and 388-87-070;

(j) Detoxification, medical stabilization, and drug treatment for the pregnant Medicaid recipient as described under WAC 388-86-050;

(k) Transportation (other than ambulance) ~~((=see))~~ as described under WAC 388-86-085;

~~((k)) (l) Orthodontic treatment ~~((=see))~~ as described under WAC ~~((388-86-027))~~ 388-86-020;~~

~~((f)) (m) Out-of-state medical care ~~((which is))~~ not available within Washington state as described under WAC 388-86-115;~~

~~((m)) (n) Physical medicine, rehabilitation and treatment ~~((=see))~~ as described under WAC 388-86-112;~~

~~((m))~~ (o) Physical therapy services ~~((=see))~~ as described under WAC ~~((388-86-070))~~ 388-86-090;

~~((n))~~ (p) Private duty nursing services ~~((=see))~~ as described under WAC 388-86-071;

~~((o))~~ (q) Speech therapy, both the initial evaluation and subsequent therapy ~~((=see))~~ as described under WAC 388-86-098;

~~((p))~~ (r) Total parenteral/enteral nutritional therapy.

(2) The division of medical assistance may approve where there are significant handicapping factors:

(a) The purchase of a hearing aid when the 50 decibel loss in the better ear is not met; or

(b) A second hearing aid ~~((and/or))~~ or a replacement or both.

~~((3))~~ On an exception-basis approval may be granted, for services listed in this section, after the service(s) has been rendered.)

AMENDATORY SECTION (Amending Order 2594, filed 1/29/88)

WAC 388-87-070 PAYMENT—HOSPITAL INPATIENT SERVICES. (1) The department shall pay hospital costs of categorically needy, medically needy, medically indigent and medical care services recipients as defined in WAC 388-80-005, as now or hereafter amended, who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020, as now or hereafter amended.

(2) The department shall determine payment for hospital inpatient services according to a diagnosis related group (DRG) based formula ~~((pricing))~~ payment system established by the department, except for hospitals participating in the selective contracting program as prescribed in WAC 388-86-051 and services excluded from DRG-based reimbursement as prescribed in subsection (4) of this section. The department shall base formula price payments on the methodology prescribed in the department's State Plan under Title XIX of the Social Security Act, Methods and Standards Used for Establishing Payment Rates for Hospital Inpatient Services (hereafter referred to as the Title XIX State Plan).

(3) The rate structure of selective contracting hospitals for inpatient hospital services is identified in Appendix B of such selective contracts. The rate shall be inclusive of all inpatient services provided ~~((either))~~ directly or indirectly by the contractor and constitutes the department's maximum financial obligation under the contract.

(4) Certain services are excluded from the ~~((diagnosis related group))~~ DRG-based ~~((reimbursement))~~ payment system. These exclusions shall include:

(a) Rehabilitation services provided in department-approved rehabilitation hospitals and general hospital distinct units, and services for physical medicine and rehabilitation (PM&R) patient~~((;))~~;

(b) Pain treatment provided in department-approved pain treatment facilities~~((;))~~;

(c) Free standing psychiatric hospitals~~((;))~~;

(d) Alcoholism treatment and detoxification provided in a department-approved alcohol treatment center (ATC)~~((;))~~;

(e) Detoxification, medical stabilization, and drug treatment for the pregnant Medicaid recipient at the division of alcoholism and substance abuse certified hospitals;

(f) Neonates, DRGs 385-389~~((;))~~;

~~((ff))~~ (g) Long-term hospital level care services~~((;))~~;

~~((fg))~~ (h) Services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program~~((;))~~;

~~((th))~~ (i) Health maintenance organization (HMO) hospitals providing inpatient services to HMO enrollees~~((;))~~; and

~~((ti))~~ (j) Department-approved services to AIDS patients.

(5) Payments for excluded DRG-based services are based on the Operating Expenses to Total Rate Setting Revenue (OE/TRSR) ~~((price))~~ payment methodology as prescribed in the department's Title XIX State Plan. For out-of-state hospitals, including border area hospitals, the department shall apply the Washington state-wide average OR/TRSR to allowable charges, unless the border hospital is a contracting hospital.

(6) For dates of admission beginning October 1, 1985, payment rates established in accordance with subsections (2), (4) and (5) of this section are reduced for services provided to persons eligible for the medically indigent component of the limited casualty program and recipients of medical care services. Hospitals are grouped according to the percentage of total rate setting revenue comprising medical assistance, medicare, bad debt, charity, and other contractual adjustments and rates are reduced according to the following table.

Hospital Group	Percent Medicare, Medicaid, Bad Debt, Charity and other Contractual Adjustments of Total Rate Setting Revenue	Percentage Reduction in Payment Rate
1	60.00 or more*	20.0
2	50.00 - 59.99	40.0
3	less than 50.00	60.0

*Plus psychiatric hospitals

**WSR 89-22-085
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)**

[Order 2996—Filed October 31, 1989, 4:22 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes. See below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July

3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by rule making order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
248-554-030		Amend		70.123.030	Required by section 95, chapter 175, Laws of 1989.
388-70-590		Amend		74.13.109	Housekeeping. See also RCW 74.13.127 as amended by section 148, chapter 175, Laws of 1989.
388-73-036		Amend		74.15.030	Required by section 95, chapter 175, Laws of 1989.

Effective Date of Rule: November 1, 1989, 12:01 a.m.
 October 31, 1989
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2435, filed 11/3/86)

WAC 248-554-030 EXEMPTIONS, SEPARABILITY, AND NOTICE AND APPEAL. (1) Parts of regulations as stipulated in this chapter may be waived upon written application to the department and the department's determination that the following criteria are met:

(a) The waiver will not place the client's safety or health in jeopardy, and that the domestic violence service is unable to meet the requirements without the waiver, or that the absence of such a waiver will have a detrimental effect on the provision of services.

(b) Substitution of procedures, materials, or equipment from those specified in this chapter have been demonstrated to be at least equivalent to those prescribed.

(2) If any of these regulations or their application is held invalid, the remainder of the regulations or application of the provision is not affected.

(3) The department is not obligated to disburse funds to domestic violence services complying with the standards as stipulated in this chapter.

(4) ~~((Appeal procedures shall be in accordance with chapter 34.04 RCW))~~ The department's notice of a denial, suspension modification, or revocation of a certificate of compliance is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and certificate holder's right to an adjudicative proceeding is in the same law.

(a) A certificate applicant or holder contesting a department certificate decision shall, within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, laws of 1989; this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1037, filed 7/29/75)

WAC 388-70-590 ADOPTION SUPPORT FOR CHILDREN—APPEAL FROM SECRETARY'S DECISION—HEARING. (1) Adoptive parents ~~((may request a))~~ have the right to a fair hearing to ((review)) contest:

(a) A decision by the secretary to increase or decrease the level of payment or payments for the support of an adoptive child without the mutual acceptance of the adoptive parents. Notification of proposed changes in the level of a payment or payments for the support of an adoptive child shall be made to the adoptive parents in writing ((by certified mail or)) personal service ((and)) or other means showing proof of receipt. The notice shall

state the grounds upon which the secretary proposes such action;

(b) The decision of the secretary made pursuant to a written request by the adoptive parent or parents to adjust the amount of any payment or the level of continuing payments; such hearing may be requested thirty days following the date of receipt of the request by the secretary if the secretary has failed to take action upon such request;

(c) The decision of the secretary as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement.

(2) A hearing must be requested within thirty days of the receipt of written notice by the adoptive parents of the decision of the secretary sought to be reviewed. A request for a hearing shall be made by ~~((certified mail))~~ personal service or other means showing proof of receipt.

(3) ~~((AH))~~ A hearing((s)) held pursuant to this section shall be conducted in accordance with chapter 388-08 WAC and RCW ((74.08.070)) 74.08.080 except as specifically provided in the act and ((these regulations)) this section. ((Such hearings)) A hearing and the results thereof shall be confidential and shall not be revealed to any other person, institution or agency, public or private.

(4) Denial of an initial request for support payments and social decisions based on the appropriateness of the individual(s) to adopt a child shall not be subject to any review or hearing.

AMENDATORY SECTION (Amending Order 2796, filed 5/4/89)

WAC 388-73-036 LICENSURE—DENIAL, SUSPENSION, OR REVOCATION. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant and the chief executive officer, if any, to operate the agency in accordance with the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the license may be denied, suspended, revoked, or not renewed.

(a) The department shall disqualify any individual engaging in illegal use of drugs or excessive use of alcohol.

(b) The department shall disqualify any individual convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, if:

(i) The conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(c) The department shall not grant a license to an individual who, in this state or elsewhere:

(i) Has been denied a license to operate a facility for the care of children, expectant mothers, or developmentally disabled adults; or

(ii) Had a license to operate such a facility suspended or revoked.

(d) An individual may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision in subsection (1)(c) of this section and license the individual.

(2) A license may be denied, suspended, revoked, or not renewed for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. A license shall be denied, suspended, revoked, or not renewed for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to persons under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing persons unqualified by training, experience, or temperament to care for or be in contact with the persons under care.

(e) Misappropriation of the property of persons under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to persons under care;

(h) Refusal to admit authorized representatives of the department or state fire marshal to inspect the premises;

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for the operation of the facility or to permit them to interview agency staff and clients; and

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on his or her application for employment or volunteer service.

(3) A license may be denied, suspended, revoked, or not renewed for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the facility is licensed; or

(b) Children of ages different from the ages for which the facility is licensed.

(4) The department's notice of a denial, revocation, suspension, or modification of a licensing decision is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The provider's right to an adjudicative proceeding is in the same law.

(a) A facility wanting to contest a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-086
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2998—Filed October 31, 1989, 4:24 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes. See below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by rule making order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory Authority (RCW or Law Chapter)	Reasons for Proposal Session and any variation from Model Rules
275-26-022		Amend		71.12.030	1. Subsections (1) through (4): Encouraged by RCW 34.05.060 2. Subsection (5): Required by section 95, chapter 175, Laws of 1989.
275-27-500		Amend		Same	Required by RCW 71A.10.050 as amended by section 138, chapter 175, Laws of 1989.
275-36-310		Amend		Same	1. Subsections (1) through (3): Encouraged by RCW 34.05.060. 2. Subsection (4): Required by section 95, chapter 175, Laws of 1989.
Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
275-38-960		Amend		Same	The procedures are modeled after WAC 388-96-904 as both rules involves reimbursement for medical and other services rendered to department clients by similar kinds of facilities.
275-20-080		Amend		43.20B.420	The contents of the application are specified and, to achieve greater uniformity among programs, are modeled after section 95, chapter 175, Laws of 1989.

Effective Date of Rule: November 1, 1989, 12:01 a.m.
 October 31, 1989
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1945, filed 2/9/83)

WAC 275-26-022 ADMINISTRATIVE REVIEW CONFERENCE—ADJUDICATIVE PROCEEDING PROCESS. (1) ~~((All agencies providing tenant support services must abide by chapter 275-36 WAC as it pertains to decertification action. Any party who feels aggrieved by this decertification may request an administrative review. The request shall be signed by the provider, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the provider's contention that the determination was erroneous. Copies of any documentation the provider intends to rely on to support the provider's position shall be included with the request))~~ Within twenty-eight days after a tenant support agency is notified of a certification it wishes to challenge, the agency shall request, in writing, that the division director or the division director's designee review such determination. The agency shall:

- (a) Sign the request;
- (b) Identify the challenged determination and the date thereof; and
- (c) State as specifically as practicable the issues and regulations involved and the grounds for the agency's contention that the determination is erroneous. The agency shall include with the request copies of any documentation the agency intends to rely on to support its position.

(2) After receiving a timely request meeting the criteria ((in subsection (1)) of this section, the director ((of the division of developmental disabilities will)) shall contact the ((provider)) agency to schedule a conference for the earliest mutually convenient time. The ((conference)) director shall ((be scheduled)) schedule the conference for no later than thirty days after a properly completed request is received, unless both parties agree, in writing, to a specific later date. The conference may be conducted by telephone unless either the department or the agency requests, in writing, the conference be held in person.

(3) The ((provider)) agency and appropriate representatives of the department shall attend the conference. ((In addition, representatives selected by the provider may attend and participate.)) The ((provider)) agency shall bring to the conference, or provide to the department in advance of the conference, any documentation the ((provider)) agency intends to rely on to support the ((provider)) agency's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the

division of developmental disabilities will be furnished to the ((provider)) agency within sixty days after the conclusion of the conference.

~~(5) ((If the provider desires review of an adverse decision of the director of the division of developmental disabilities, the provider shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW))~~ (a) An agency contesting the director's determination shall within twenty-eight days of receipt of the determination:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the director's determination; and

(C) A copy of the director's determination being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2418, filed 8/29/86)

WAC 275-27-500 ((FAIR HEARINGS)) ADJUDICATIVE PROCEEDING. (1) A client, former client, or applicant((; the parent when the client or applicant is a minor, and the guardian when the client or applicant is an adult,)) acting on his or her own behalf or through an authorized representative has the right to ((appeal)) an adjudicative proceeding to contest the following ((decision made by the division)) department actions:

(a) Denial or termination of eligibility set forth in WAC 275-27-030;

(b) Development or modification of the individual service plan set forth in WAC 275-27-060;

(c) Authorization, denial, reduction, or termination of services set forth in WAC 275-27-230;

(d) Admission or readmission to, or discharge from, a residential habilitation center;

(e) A claim the client, former client, or applicant owes an overpayment debt;

(f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;

(g) A decision to change a client's placement from one category of residential services to a different category of residential services.

(2) ((Fair hearings)) Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter((s 10-08 and)) 388-08 WAC. ((In cases of conflict between this chapter and chapter 388-08 WAC, the provisions in this chapter take precedence

~~over the rules in chapter 388-08 WAC)) If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.~~

(3) ~~((The request)) An application for ((a fair hearing)) an adjudicative proceeding must be in writing and filed with the DSHS Office of ((hearings)) Appeals, P.O. Box 2465, Olympia, WA 98504 within thirty days of receipt of the decision the appellant wishes to ((appeal)) contest.~~

(4) The department shall not implement the following actions while ~~((administrative))~~ an adjudicative proceeding~~((s are))~~ is pending:

(a) Termination of eligibility;

(b) Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or

(c) Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.

(5) The department shall implement the following actions while ~~((administrative proceedings are))~~ an adjudicative proceeding is pending:

(a) Denial of eligibility;

(b) Development or modification of an individual service plan;

(c) Denial of service;

(d) Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding and/or service;

(e) After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or

(f) Removal or transfer of a client from a service when:

(i) An immediate threat to the client's life or health is present;

(ii) The client's service provider is no longer able to provide services due to termination of the provider's contract; decertification of the provider; nonrenewal of provider's contract; revocation of provider's license; or emergency license suspension; or

(iii) The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.

(6) When the appellant ~~((requests a hearing to appeal))~~ files an application to contest a decision to return a resident of a state residential school to the community, the procedures specified in RCW ((72.33.161)) 71A.10.050(2) shall govern the proceeding(s). These include:

(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless:

(i) The client's or his or her representative gives written consent, or

(ii) The administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

(b) The burden of proof is on the department~~((:));~~ and

(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

~~((d) When a party files a petition for administrative review of an initial decision, the secretary shall rule on the petition and render the review decision. The secretary cannot delegate the authority to make the final decision. The secretary may get advice and assistance from agency employees who have not participated in the proceedings in any manner and whose duties do not include investigative or prosecutory functions and the secretary's review shall be confined to the record.))~~

(7) The initial ~~((decision))~~ order should be made within sixty days of the department's receipt of the ~~((request))~~ application for ~~((a hearing))~~ an adjudicative proceeding. When a party files a petition for administrative review, the review ~~((decision))~~ order should be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the ~~((hearing))~~ proceeding is continued on motion by, or with the assent of, the appellant.

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

AMENDATORY SECTION (Amending Order 1950, filed 2/23/83)

WAC 275-36-310 ADMINISTRATIVE REVIEW CONFERENCE ((PROCESS))—ADJUDICATIVE PROCEEDING. (1) ~~((If a group home wishes to challenge an action taken or a determination made by the division under chapter 275-36 WAC, the group home shall request in writing that the director of the division of developmental disabilities review such a determination. The written request must be received by the division within thirty days of the date the group home was notified of such a determination. The request shall be signed by the group home or the administrator of the facility, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for the group home operator's or administrator's contention that the determination was erroneous. Copies of any documentation the group home operator intends to rely on to support the group home operator's position shall be included with the request))~~ Within twenty-eight days after a group home is notified of a determination it wishes to challenge, the group home shall request, in writing, that the division director or the division director's designee review such determination. The group home shall:

(a) Sign the request;

(b) Identify the challenged determination and the date thereof; and

(c) State as specifically as practicable the issues and regulations involved and the grounds for its contention the determination is erroneous. The group home shall include with the request copies of any documentation the group home intends to rely on to support its position.

(2) ~~((After receiving a request meeting the criteria in subsection (1) of this section, the director of the division of developmental disabilities will contact the group home to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for no later than thirty days after a properly completed request is received unless both parties agree in writing to a specific~~

~~later date))~~ After receiving a timely request meeting the criteria of this section, the director shall contact the group home to schedule a conference for the earliest mutually convenient time. The director shall schedule the conference no later than thirty days after a properly completed request is received, unless both parties agree in writing to a specific later date. The conference may be conducted by telephone unless either the department or the group home requests, in writing, the conference be held in person.

(3) ~~The group home and appropriate representatives of the department shall attend the conference. ((In addition, representatives selected by the group home may attend and participate.))~~ The group home shall bring to the conference, or provide to the department in advance of the conference, any documentation the group home intends to rely on to support the group home operator's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities will be furnished to the group home within sixty days after the conclusion of the conference.

(5) ~~((If the group home desires review of an adverse decision of the director of the division of developmental disabilities, the group home shall within thirty days following receipt of such decision request a fair hearing in writing in accordance with the Administrative Procedure Act, chapter 34.04 RCW))~~ (a) A group home contesting the director's determination shall within twenty-eight days of receipt of the determination:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504, and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the director's determination; and

(C) A copy of the director's determination being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter, and chapter 388-08 WAC. If any provisions in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2629, filed 6/1/88)

WAC 275-38-960 ADMINISTRATIVE REVIEW ((PROCESS))—ADJUDICATIVE PROCEEDING.

(1) Within ((thirty)) twenty-eight days after a contractor is notified of an action or determination made by the department ((pursuant to)) under a rule, contract provision, or policy statement, and the contractor wishes to

challenge, the contractor shall request in writing the director or ((his or her)) the director's designee review such determination. The request shall be forwarded to the office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters(;) or the director, division of developmental disabilities, for other matters ((f))such as rates, desk reviews, and settlements(§)). The ((request be signed by)) contractor or administrator of the facility shall:

(a) Sign the ((contractor or the licensed administrator of the facility, shall)) request;

(b) Identify the challenged determination and the date thereof(, and shall);

(c) State as specifically as practicable the issues and regulations involved and the grounds for ((the contractor's or licensed administrator's contention)) contending the determination was erroneous(;-);

(d) Attach to the request copies of any documentation the contractor intends to rely on to support the contractor's position ((shall be included with the request)).

(2) After receiving a timely request meeting the criteria of this section, the department ((with)) shall contact the contractor to schedule a conference for the earliest mutually convenient time. The ((conference)) department shall ((be scheduled)) schedule the conference for no earlier than fourteen days after the contractor was notified of the conference and no later than ninety days after a properly completed request is received, unless both parties agree in writing to a specific later date. The ((conference)) department may ((be conducted)) conduct the conference by telephone unless either the department or the contractor requests in writing the conference be held in person.

(3) The contractor and appropriate representatives of the department shall ((attend)) participate in the conference. ((In addition, representatives selected by the contractor may attend and participate.)) The contractor shall bring to the conference, or provide to the department in advance of the conference(;-);

(a) Any documentation requested by the department which the contractor is required to maintain for audit purposes ((pursuant to)) under WAC 275-38-555(;-); and

(b) Any documentation ((on which)) the contractor intends to rely on to support the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference.

If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Regardless of whether agreement has been reached at the conference, ((a written decision by)) the appropriate director or ((his or her)) the director's designee ((will be furnished)) shall furnish a written decision to the contractor within sixty days after the conclusion of the conference.

(5) A contractor ((may appeal an adverse decision of the director or his or her designee by filing)) has the

right to an adjudicative proceeding to contest the director's administrative review decision.

(a) A contractor contesting the director's decision shall within twenty-eight days of receipt of the decision:

(i) File a written ((request)) application for ((a hearing)) an adjudicative proceeding with the ((department's)) Office of ((hearings (mailing address:)) Appeals, P.O. Box 2465, Olympia, Washington 98504((?)).

((The request must be filed within thirty days of the date the contractor received the decision of the director. A copy of the director's decision being appealed must be attached to the request for hearing. The request must be signed by the contractor or the administrator of the facility, and shall state as specifically as practicable, the issue or issues and regulation or regulations involved, and the grounds for contending the director's decision is erroneous. Copies of any documentation on which the contractor intends to rely to support its position shall be included with the request))

(ii) Sign the application or have the administrator of the facility sign it;

(iii) State as specifically as practicable the issues and regulations involved;

(iv) State the grounds for contesting the director's decision; and

(v) Attach to the application a copy of the director's decision being contested and copies of any documentation the contractor intends to rely on to support its position.

(b) The proceeding shall be governed by the Administrative Procedures Act (chapter 34.05 RCW), this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

Reviser's note: RCW 34.05.395 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 1418, filed 7/19/79)

WAC 275-20-080 ((JUDICIAL REVIEW)) NOTICE AND FINDING OF RESPONSIBILITY—APPEAL PROCEDURE. (1) In all cases where a determination is made that the estate of a ((mentally or physically deficient)) person who resides at a state residential ((school)) habilitation center is able to pay all or any portion of the monthly charges for care, support and treatment, a notice and finding of ((financial)) responsibility (NFR) shall be ((personally)) served on the guardian of the resident's estate, or if no guardian has been appointed then ((to his)) on the resident's spouse or parent((s)) or other person acting in a representative capacity and having property in his or her possession belonging to the resident ((of a state school)) and the superintendent of the state school. ((In those cases)) Where a resident is an adult ((acting)) under no legal

disability, ((such notice and finding of financial responsibility)) the NFR shall be personally served on him or her. The ((notice)) NFR shall set forth the amount the department has determined ((that such)) the resident's estate is able to pay per month, not to exceed the monthly charges fixed in accordance with RCW ((72-33-660, and the)) 43.20B.420. Responsibility for payment to the department ((of social and health services shall commence thirty)) commences twenty-eight days after ((personal)) service of ((such notice and finding of responsibility)) the NFR.

(2) ((Appeal from the determination of financial responsibility, as determined pursuant to the foregoing provisions contained in this chapter, may be made by the guardian of the resident's estate or if no guardian has been appointed by his spouse or parents or other person acting in a representative capacity and having property in his possession belonging to a resident of a state school. In those cases involving an adult resident acting under no legal disability, the appeal may be made by such resident personally. Such appeal shall be made to the secretary of the department of social and health services in writing within thirty days of the receipt of the department's notice and finding of financial responsibility. The written notice of appeal shall be served upon the secretary by registered or certified mail. If no appeal is so received by the secretary within this thirty day period, the notice containing the determination of financial responsibility shall be considered final. If an appeal is made as prescribed the execution of the determination and finding of financial responsibility will be held in abeyance, pending a decision on the appeal.

(3) Appeal hearings may be held in any county seat most convenient to the appellant.

(4) The secretary's decision may be appealed to the courts in accordance with existing provisions of the administrative procedures act)) The right to an adjudicative proceeding to contest the NFR is contained in RCW 43.20B.430.

(a) A financially responsible person wishing to contest the NFR shall within twenty-eight days of receipt of the NFR:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43-20B.430, this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-087
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3000—Filed October 31, 1989, 4:25 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 34.05.220 (1)(a).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes. See below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-099. The rules here filed are being proposed for permanent rule making by order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. His [These] model rules are codified under chapter 10-08 WAC. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

CHAPTERS 10-08 AND 388-08 WAC

388-08
section;
new, amend, 10-08
repeal section

comparison of the two chapters and reasons for variations

410
New 001

Application of chapter 388-08 WAC

The DSHS section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 388-08 applies only to DSHS programs. The DSHS section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.

413
Amend 035

Application for an Adjudicative Proceeding

The Model Rule requires an application to be written. The DSHS benefit rule explicitly permits an oral application. The Model Rule does not state who can file and where to file an application. The department rule does.

425 New	040(3), 050(2), 190, 200, and none	Administrative Law Judge -- Authority -- Application of Law -- Assignment
425(1)(a)	none	The Secretary intends that adjudicative proceedings be <u>de novo</u> . This rule makes that explicit.
425(1) (b)-(j)	200(1)-(9)	These nine subsections of the DSHS rule are the same as Model Rule 200(1) through (9).
425(1)(k)	190	This subsection comes from Model Rule 190 as limited by APA section 449(5).
425(1)(l)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The department rule at subsection (1)(l) deletes "statute" so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non- department rules in accordance with subsection (2) of this rule.
425(1)(m)	see 040(3)	Subsection (1)(m) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in department hearings where presiding officers must routinely rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived the right to representation.
425(2)	none	The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule covers that gap.
425(3),(4)	050(2)	These sections are the same as Model Rule 050(2) reworded for ease of reading and understanding.
425(5)	none	APA section 425(6) states that the APA petition for disqualification provision is in addition to the RCW 34.12.050 motion of prejudice. The procedure for the APA petition differs from an RCW 34.12.040 motion. The Model Rules do not make the differences clear. The variation in the department rule is to clarify the differences.

428 New	none	<p>Representation</p> <p>Comments on the draft rules indicated some people did not understand APA section 428 dealing with representation. The department's rule covers the topic in clear everyday English to avoid any misunderstanding.</p>
431 New	130	<p>Prehearing Conference</p> <p>The Model Rule is reworded and renumbered to make reading and understanding easier.</p>
434 New	040	<p>Notice of Hearing</p> <p>Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier. The Model Rule's restating APA provisions is not included in the department's rule.</p> <p>Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the department rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in department rule section 425(1)(m).</p>
437 New	110	<p>Filing and Service of Papers</p> <p>The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt of all papers except for an application at the office responsible for the adjudicative proceeding.</p>
440 New	none	<p>Vacating an Order of Dismissal for Reason of Default or Withdrawal.</p> <p>There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This department rule sets a 14 day period after service of the order to file a motion to vacate a dismissal based on a default or a withdrawal and it contains the procedures.</p>
446 New	120	<p>Subpoenas</p> <p>The department rule follows the Model Rule.</p>

449 New	170;180	Teleconference Hearing
449(1), (2)	180	APA section 449(3) permits a hearing to be conducted by electronic means. Model Rule section 180 treats this subject. The department's section 449(1) contains three differences from the Model Rule. First, the department rule contains the agency's concurrence to conducting most hearings by electronic means so that agreement in each case is not necessary. Second, the department rule imposes the conditions on telephone hearings for some programs receiving federal funds that the federal agencies require for their funding. Third, the APA conditions conducting a hearing by electronic means to it being "technically and economically feasible" for the participants to see the proceeding and the department's rule uses this standard instead of the Model Rule's limitation of only "technically feasible".
none	170	APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. The department did not adopt the Model Rule because it adds nothing to the APA requirement.
452 New	140;160(1)	Rules of Evidence The first five subsections of the department rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting off the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department prefers to give the party in such a situation the opportunity to seek relief. Model Rule 160(1), requiring testimony to be under oath or affirmation, is contained in APA section 452(3). The Model Rule adds nothing to the APA provision so is not adopted in the department's rules.
461 New	210	Contents of Orders The department rule adopts only those parts of Model Rule section 210 that are not restatements of the requirements imposed by APA section 461.
464 New	211	Petition for Review -- Response to Petition -- Disqualification of a Review Judge Department rule section 464 loosely follows Model Rule section 211. Differences are: Subsection 1 is the department's rule providing that

initial orders in specified classes of cases become final without further department action when no petition for review is filed. Legal authority for this provision is APA section 464(1).

- . Subsections 2 and 3 on who may petition and the contents of the petition are the same as Model Rule 211(1) and (3).
- . Subsection 4 of the department rule sets a fourteen day time limit for filing a petition and that it can be extended or waived by a reviewing officer. These are changes from the Model Rule which sets a 20 day petition filing period or different place and time as stated in the initial order. This was rejected as (a) too rigid a time frame and (b) too long, or if the presiding officer sets a different time/place, too uncertain to assure that adjudicative orders will be made within reasonable time limits.
- . Subsection 5 requires the petition to be in writing and specifies where it is to be filed. Permitting filing in another place stated in the initial order as allowed in the Model Rules was rejected as too uncertain to assure that adjudicative orders will be made in a reasonable time.

Unlike Model Rule 211(2), copies are not required to be served on other parties and representatives. See comments immediately below.

- . Subsection 6 of the department rule has no counterpart in the Model Rules. It states the agency will give the nonpetitioning party notice that a petition for administrative review was filed. This is to assure that the party is aware of the petition and apprized of the right to respond. The section is necessary because some petitioners, especially pro se clients, fail to serve the other party. The department's curing the error is preferable to dismissing the petition on the procedural defect.
- . Subsection (7) is the same as Model Rule 211 subsection (4) except the period to file a response to a petition is seven (instead of ten) days from the department's mailing the notice acknowledging receipt of the petition (instead of the date the petitioner served the petition) and the reviewing officer can extend the period.

Subsection 8 covers disqualification of a reviewing officer. The Model Rules are silent. The department rule contains the procedures necessary to implement the right.

470 New	215	Reconsideration	The department rule is the same as the Model Rule except it states the office for filing a petition for reconsideration of a review decision.
515 New	045	Notice to Limited-English-Speaking Parties	Department section 515 is the same as Model Rule 045 with slight wording changes for clarity.
525 New	150;160(2)	Interpreters	Department subsection 525(1) through (11) are the same as Model Rule 150(1) through (11). Subsection 525(12) is the same as Model Rule 160(2). Subsections 525(13) through (18) are the same as Model Rule 150(12) through (17).
535 New	none	Group Hearing	This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.
545 New	090	Continuance	Department section 545 is the same as Model Rule section 080 with slight rewording for clarity.
555 New	none	Separate Hearing Regarding Disclosure of Investigative and Intelligence Files.	This section has no counterpart in the Model Rules. It is needed because some programs have appeals involving allegations of client fraud investigated by the Office of Special Investigations.
565 New	080	Computation of Time	Section 565 is the same as Model Rule section 090.

- 575
New none Judicial Review of Final Adjudicative Order
- Judicial review of agency action is dealt with in Part V of the APA. The provisions on initiating judicial review of a final adjudicative order are scattered and difficult for some to follow. Also, nonagency staff comments on draft rules recommended that the rules specify which department office (other than the Secretary's office) was a proper one for delivering a petition for judicial rule under APA section 542(4). This rule responds to the above concerns.
- none 230(1) Informal Settlement
- The APA section 060 encourages agencies to offer informal settlement procedures that may make more elaborate proceedings unnecessary. The APA section permits an agency to establish informal settlement procedures by rule. The Model Rule would establish a single procedure for all informal settlements. The department is not adopting the Model Rule for two reasons. First, the department has created many informal settlement processes and they are tailored to best meet the needs of the kinds of disputes that arise in a particular program. The Model Rule's uniform procedure does not recognize this need for various procedures. Second, while some of the department's informal settlement procedures are in rules, not all are. The department prefers to be able to use nonrule material for some informal settlements.
- none 230(2) Adjudicative Proceeding Settlement
- Model Rule 230(2) deals with settlements in adjudicative proceedings. These settlements are, under the Model Rule, concluded by stipulation of the parties, withdrawal of the application, or withdrawal of the aggrieving agency action. The Model Rule then requires the stipulation to be signed by the parties or recited on the record and for the presiding officer to enter an appropriate order. The procedure for stipulations under this Model Rule provision appears to differ from a stipulation obtained at a prehearing conference. See Model Rules 130(1)(c), (3) and 170. The content of the settlement order appears to differ from that specified for initial orders in Model Rule 210.
- The department has not proposed to adopt Model Rule 230(2) to avoid these possible conflicts and because its proposed sections 425(1); 431(1)(c), (2), and (3); 440; 452(6); 461; and 464 cover the topic adequately and consistently.

388-08 not applicable These sections conflict with the APA and/or are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures.
 sections: 00201, 00401, 006, 00601, 010, 405, 406, 409, 416, 435, 540, 550, 560, 580, and 590 are each repealed.

CHAPTERS 10-08 AND 388-09 WAC

388-09 10-08
sections section comparison of the two chapters and reasons for variation

388-09 not applicable These sections conflict with the APA and/or are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures. Also, some were required until June 30, 1989 but not thereafter when RCW 74.15.130 was amended by section 149, chapter 175, Laws of 1989.
 sections 010, 020, 030, and 040 are each repealed

CHAPTERS 10-08 AND 388-320 WAC

388-320 10-08
section section comparison of the two chapters and reasons for variations

340 New not applicable Delegation of Authority by Secretary. This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 388-320 WAC.

350 New 250 Declaratory Orders - Forms, Content, and Filing
 The department rule is the same as the Model Rule.

360 New 251 Declaratory Orders - Procedural Rights of Persons in Relation to Petition

370 New 252 Declaratory Orders - Disposition of Petition
 The department rule is the same as the Model Rule.

400 New 250 Petition for Rule Making - Form, Content, and Filing
 The department rule is the same as the Model Rule.

410 New 261 Petition for Rule Making - Consideration and Disposition
 The department rule is the same as the Model Rule.

500 New not applicable Updating Mailing Lists
 This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 388-320 WAC.

Effective Date of Rule: November 1, 1989, 12:01 a.m.
October 31, 1989
Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-08-410 APPLICATION OF CHAPTER 388-08 WAC. (1) *Scope.* This chapter applies to adjudicative proceedings begun on or after July 1, 1989, in programs administered by the department of social and health services. The definition of the word "begun" is receipt of the application for an adjudication proceeding at the department's office of appeals. Proceedings begun before July 1, 1989, are governed by the procedural rules in effect on July 30, 1989. Legal authority for adopting this chapter is RCW 34.05.220 (1)(a).

(2) *Conflict of rules.* If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

(3) *Physical and mailing addresses.* The presiding officer is generally an administrative law judge (ALJ) from the office of administrative hearings. ALJ administrative and field office addresses are listed under WAC 10-04-020. The reviewing officer is the secretary or a review judge from the department's office of appeals. The office of appeals is located in the DSHS headquarters, office building number 2, Twelfth and Franklin, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465.

NEW SECTION

WAC 388-08-425 ADMINISTRATIVE LAW JUDGE (ALJ)—AUTHORITY—APPLICATION OF LAW—ASSIGNMENT—DISQUALIFICATION. (1) *Authority.* The ALJ shall:

- (a) Conduct the hearing *de novo*;
- (b) Determine the order of presentation of evidence;
- (c) Administer oaths and affirmations;
- (d) Issue subpoenas;
- (e) Rule on procedural matters, objections, and motions;
- (f) Rule on offers of proof and receive relevant evidence;
- (g) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;
- (h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;
- (i) Take any appropriate action necessary to maintain order during the hearing;
- (j) Permit or require oral argument or briefs and determine the time limits for submission thereof;
- (k) Permit photographic and recording equipment at hearings subject to conditions the ALJ imposes to preserve confidentiality or to prevent disruption;
- (l) Permit a person to waive any right conferred upon that person by chapters 34.05 RCW or 388-08 WAC,

except to the extent precluded by another provision of law; and

(m) Take any other action necessary and authorized by any applicable rule.

(2) *Application of law.* The ALJ shall:

(a) Apply as the first source of law governing an issue the department rules adopted in the Washington Administrative Code (WAC);

(b) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington constitutions, statutes and regulations, and court decisions;

(c) Not declare any department rule invalid;

(d) If the validity of any department rule is raised as an issue at any proceeding, permit arguments concerning that issue for subsequent review purposes; and

(e) If the sole issue is one of federal or state law requiring automatic assistance, benefit, scope of program, or fee or regulation adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument on the validity of the law.

(3) *Assignment of ALJ.* If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

(a) Make such assignment five days or more before the hearing; and

(b) Disclose the assignment to any party or representative making inquiry.

(4) *Motion of prejudice.*

(a) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed at least three days before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling.

(b) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) *Petition for disqualification.* An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

NEW SECTION

WAC 388-08-428 REPRESENTATION. (1) *Appellant representation.*

(a) The appellant may represent himself or herself, or the appellant may be represented by a lawyer or paralegal or by a relative, friend, or other person.

(b) The appellant may not be represented in an adjudicative proceeding by an employee of the department.

(c) Nothing in this regulation shall be construed as prohibiting an employee of the department from:

(i) Acting as a witness on behalf of an appellant; or

(ii) Referring an appellant to legal resources in the community; or

(iii) Assisting the appellant in obtaining nonconfidential information available to the appellant; or

(iv) Advising the appellant of possible arguments made against the contested decision.

(2) Department representation. The department may be represented by a department employee or by the office of the attorney general.

NEW SECTION

WAC 388-08-431 PREHEARING CONFERENCE. (1) Request, purpose, order, and objection. Upon the administrative law judge's (ALJ's) own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

- (i) Simplification of issues;
- (ii) The necessity or desirability of amendments to the pleadings;
- (iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;
- (iv) Limitations on the number and consolidation of the examination of witnesses;
- (v) Procedural matters;
- (vi) Distribution of written testimony and exhibits to the parties before the hearing; and
- (vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) The ALJ may conduct a prehearing conference by telephone conference call, in person, or other manner.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

- (i) Action taken at the conference;
- (ii) Amendments allowed to the pleadings; and
- (iii) Agreements the parties made concerning all of the matters considered.

(d) If no objection to such order is filed with the ALJ within ten days after the date such order is served, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Conference on hearing day. Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Not a limit to informal settlement. Nothing in this rule shall limit the parties' right to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 388-08-434 NOTICE OF HEARING. (1) Served by. The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives.

(2) Contents.

(a) If the hearing is conducted by teleconference call, the notice shall so state.

(b) The notice shall state that:

(i) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(ii) There shall be no cost to the party or witness for the interpreter.

(c) The notice shall include a form for a party to:

- (i) Indicate the need for an interpreter, and
- (ii) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 388-08-437 FILING AND SERVICE OF PAPERS. (1) Service required when filing. A party filing a pleading, brief, or other paper, except an application for an adjudicative proceeding, with the office of appeals or the administrative law judge (ALJ) shall serve a copy of the paper upon:

- (a) Every other party; or
- (b) If the other party is represented or has an agent, the other party's representative or agent.

(2) Filing and service made by. Unless otherwise provided by law, filing and service shall be made by:

- (a) Personal service;
- (b) First class, registered, or certified mail;
- (c) Telegraph;
- (d) Electronic telefacsimile transmission and same-day mailing of copies; or
- (e) Commercial parcel delivery company.

(3) Filing complete. Filing with the department shall be complete upon actual receipt during office hours at the office of appeals. Filing with the ALJ shall be complete upon actual receipt during office hours at the office of the ALJ.

(4) Service complete. Service shall be complete when:

- (a) Personal service is made;
- (b) Mail is properly stamped and addressed and is deposited in the United States mail;

(c) A properly addressed telegram is deposited with a telegraph company with charges prepaid;

(d) An electronic telefacsimile transmission produces proof of transmission; or

(e) A commercial parcel is delivered to the parcel delivery company with charges prepaid.

(5) Proof of service. Where proof of service is required by statute or rule, filing the papers with the department or ALJ, together with one of the following, shall constitute proof of service:

- (a) An acknowledgement of service;
- (b) A certificate of service including the date the papers were served upon all parties and the signature of the serving party indicating service was completed by:

- (i) Personal service;
- (ii) Mailing a copy properly addressed with postage prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iii) Telegraphing a copy properly addressed with charges prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iv) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party to the proceeding, or the party's representative or authorized agent; or

(v) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

NEW SECTION

WAC 388-08-440 VACATING AN ORDER OF DISMISSAL FOR REASON OF DEFAULT OR WITHDRAWAL. (1) *Right to request.* A party against whom an order of dismissal for reason of default or withdrawal is entered shall have the right to file a written request that the order be vacated.

(2) *Contents.* The request shall state the grounds relied upon.

(3) *Filed at.* The request shall be filed at the office of appeals within fourteen days from the date the order of dismissal was served.

(4) *Grounds to vacate an order of dismissal.* If, in the reasoned opinion of the administrative law judge (ALJ), good cause to grant the relief is shown, the ALJ shall vacate the order of dismissal and reinstate the application.

NEW SECTION

WAC 388-08-446 SUBPOENAS. (1) *Statutory requirements.* The administrative law judge (ALJ), the department, and attorneys for parties may issue a subpoena. A subpoena shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) *Contents.* Every subpoena shall:

(a) Identify the party causing issuance of the subpoena;

(b) State the name of the agency as the department of social and health services;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) *Service.* A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Exhibiting and reading the subpoena to the witness;

(b) Giving the witness a copy; or

(c) Leaving a copy at the place of the witness' residence.

(4) *Proof of service.* When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) *Quashing, modifying, conditioning.* The administrative law judge, upon request made promptly and in any event at or before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or oppressive; or

(b) Condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION

WAC 388-08-449 TELECONFERENCE HEARING. (1) *When authorized.*

(a) The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each party in the hearing has

an opportunity to participate in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(b) Conducting a hearing by electronic means is subject to the following conditions:

(i) In the aid to families with dependent children program under Title IV-A and adult categories under Titles I, X, XIV, or XVI of the Social Security Act and in the food stamp disqualification program under 7 CFR § 273.16, a teleconference hearing may be scheduled only if the notice of hearing informs the appellant the hearing will be converted to an in-person hearing upon request filed with the ALJ at least one week before the hearing. The appellant does not have to show good cause to convert the hearing;

(ii) In a program not described under subsection (1)(a) of this section, or in such a program when a party requests to convert a telephone hearing to an in-person hearing a week or less before the hearing, the ALJ shall grant the request upon a party showing good cause. The ALJ may reschedule the in-person hearing to a different date and time.

(2) *Documentary evidence.* When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 388-08-452(2).

NEW SECTION

WAC 388-08-452 RULES OF EVIDENCE. (1) *Objections.* The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence under RCW 34.05.452.

(2) *Submission in advance.* The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence not submitted in advance as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) *Portions of a document.* When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) *Expert witness limitation.* No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of

other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) *Witness refusal to answer.* The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) *Stipulation, admission.* A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw it in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

NEW SECTION

WAC 388-08-461 CONTENTS OF ORDERS.

Every order shall correctly caption both the name of the agency and the proceeding and shall designate the parties and representatives participating in the proceeding.

NEW SECTION

WAC 388-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Initial orders that may become final orders.

(a) If a petition for review is not filed within fourteen days from service of the initial order, the initial order shall, subject to the provisions of this section, become the final order.

(b) An initial order shall not become the final order after a food stamp administrative disqualification hearing. Each party shall have the right to file a petition for review of the administrative law judge's order. Whether a petition for review is or is not filed, the review judge shall enter the final order on behalf of the secretary.

(2) Who may petition. Each party has the right to file a petition for review of an order entered by an administrative law judge.

(3) *Petition contents.* The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) *Petition time limits.*

(a) The period to timely file a petition for review is fourteen days from the date the initial decision was served.

(b) A review judge shall extend the fourteen-day period to file a petition for review upon request of a party when:

(i) The request is made during the fourteen-day period; and

(ii) Good cause for the extension is shown.

(c) The review judge shall waive the fourteen-day limit for filing a petition for review when:

(i) A petition for review is filed within thirty days of the date the initial order becomes final; and

(ii) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(A) A mistake, inadvertence, or excusable neglect on the part of the petitioner; or

(B) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(5) *Petition filing and service.* The petition for review shall be in writing and filed with the office of appeals. The petitioning party is encouraged to serve a copy of the petition upon the other party or the other party's representative at the time the petition is filed. The office of appeals shall serve a copy on the other party or representative.

(6) *Notice of petition.* When a petition for review is filed, the office of appeals shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(7) *Response time limit, filing, service.*

(a) The nonpetitioning party shall file any response with the office of appeals within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(b) The nonpetitioning party shall serve a copy of the response on the petitioner and any other party or, if represented, on the representative at the time the response is filed.

(c) A review judge may extend the period to file a response upon request of a party showing good cause.

(8) *Disqualification.* The chief review judge shall disclose the name of the review judge assigned to rule on a petition to any party or representative making inquiry. An individual petitioning to disqualify a review judge under RCW 34.05.425 shall file the petition with the review judge assigned to the proceeding.

NEW SECTION

WAC 388-08-470 RECONSIDERATION. Within ten days of service of a review order, any party may file a petition for reconsideration. The petition shall state the specific grounds upon which relief is requested. A petition for reconsideration shall be filed at the office of appeals.

NEW SECTION

WAC 388-08-515 NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal shall:

(1) Be written in the primary language of the party; or

(2) Include a notice in the primary language of the party describing:

(a) The significance of the notice; and

(b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

NEW SECTION

WAC 388-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

- (a) Hearing impaired person; or
- (b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

- (i) Specialist certificate-legal;
- (ii) Master's comprehensive skills certificate; or
- (iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring

an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

(a) Testimony or stated needs of the impaired person;

(b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;

(c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and

(d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 388-08-535 GROUP HEARING. (1) When applicable. When two or more appellants file applications contesting a similar issue, the applications may be consolidated by the department or the administrative law judge (ALJ) and heard as a group. The ALJ may consolidate on the ALJ's own motion or on a party's request.

(2) Withdrawal from group.

(a) An appellant scheduled for a group hearing may request to withdraw from the group hearing in favor of an individual hearing. An appellant's request to withdraw shall be granted if the request is filed before the:

(i) ALJ has made a discretionary ruling; and

(ii) Date of the hearing.

(b) The ALJ may grant a party's request to withdraw from a group hearing at any time when good cause is shown.

(3) Right to representation. Each appellant in a group hearing shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 388-08-545 CONTINUANCE. (1) Authority to grant. The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the request of any party, with notice to all other parties, showing good and sufficient cause.

(2) When, how requested. A request for a continuance made before the hearing date may be either oral or in writing. The party seeking the continuance shall:

(a) Notify the other parties before presenting the request to the ALJ; and

(b) Inform the ALJ whether the other parties agreed to the continuance.

If the other parties did not agree to the continuance, the ALJ shall promptly schedule a prehearing conference to receive evidence and/or argument and to rule on the request.

NEW SECTION

WAC 388-08-555 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES. (1) Applicability and request to office of special investigation (OSI). When the appellant seeks data disclosure maintained by the OSI subject to the exemption under WAC 388-320-220, the following process shall determine whether, on a case-by-case basis, disclosure shall be ordered:

(a) The appellant or the appellant's representative shall file a written request with the office of appeals or the administrative law judge (ALJ), if one is appointed, no later than fifteen days before the hearing;

(b) The request shall identify the information type sought;

(c) The request shall state the reasons why the appellant believes information disclosure is necessary;

(d) The request shall identify the local community service office or the OSI field office where the appellant reviews the documents;

(e) The office of appeals or ALJ shall forward a request copy to the OSI at the main office of special investigation in Olympia; and

(f) Upon the appellant's showing of good cause, the ALJ may shorten the fifteen-day notice period.

(2) OSI action.

(a) Within ten days of receipt of a properly filed request, the OSI shall determine whether the documents sought are within the exemptions for disclosure in law.

(b) Any exempt documents shall be:

(i) Sealed in an envelope clearly designated as confidential documents of the OSI;

(ii) Placed in the OSI file;

(iii) By the OSI shall then notify the appellant or representative, in writing, of the:

(A) OSI's action; and

(B) Appellant or representative's right to a disclosure hearing.

(c) If any information is placed in a sealed envelope and excluded from disclosure, the notice shall state the

specific exemption or exemptions of WAC 388-320-220(3) relied upon for this action. The notice shall provide the appellant a ten-day opportunity to inspect the OSI file by the person or the person's representative who is the subject of the proceedings at the appropriate community service office or OSI field office as designated by the appellant. In no event shall the investigative file leave the physical control of the designated OSI records custodian provided the appellant may copy all documents not sealed in an envelope as confidential material as provided under WAC 388-320-140.

(d) If no amended disclosure request under subsection (3) of this section is filed, the issue of disclosure shall be regarded as moot.

(3) ALJ action. If the appellant wants further disclosure, the appellant shall file an amended disclosure request with the ALJ. The ALJ shall schedule a separate, in camera hearing held to determine whether, and to what extent, the disclosure of exempted information should be allowed.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity to protect confidential information clearly outweighs the disclosure interests.

(b) Either party may offer witnesses to testify on the disclosure issue. When the appellant calls witnesses from the state, investigative, law enforcement, or penology agencies as adverse witnesses, the appellant may ask leading questions.

(c) Attendance shall be limited to the parties, the parties' representatives, the ALJ, and any witnesses to be called provided, upon the request of either party or upon the ALJ's own motion, the ALJ may exclude from the hearing nontestifying witnesses.

(d) In determining whether to disclose information to the appellant, the ALJ shall review the information, but shall not disclose the information to the appellant.

(e) The ALJ shall enter an initial order:

(i) If the information sought is pertinent to any ongoing criminal investigation, disclosure shall only be ordered by a superior court of this state;

(ii) The ALJ shall order nondisclosure of specific information consistent with law after making findings of fact showing:

(A) The information sought to be disclosed is inadmissible and immaterial to establishing a defense, or

(B) Specific investigative or intelligence information, which cannot be deleted from any specific records sought, is clearly necessary to protect any vital governmental function, ongoing criminal investigation, or an individual's right of privacy; or

(C) After weighing the public interest in protecting the flow of information against the individual's right to prepare the individual's defense, the evidence demonstrates it is not necessary to disclose particular intelligence or investigative information.

(iii) An order for disclosure shall state the times and methods for document inspection. In no event shall such decision compel the release of original documents but, rather, where release is ordered, copies shall be provided. Copying documents shall be governed by WAC 388-320-140.

(f) Each party has the right to file a petition for review for initial order review. There shall be no disclosure under an initial order until exhausting all review proceedings.

(4) Assignment of new ALJ. When the ALJ conducts the in camera review under subsection (3) of this section and determines information should not be disclosed to the appellant, the chief ALJ or the chief ALJ's designee shall assign another ALJ to preside over the adjudicative proceeding.

NEW SECTION

WAC 388-08-565 COMPUTATION OF TIME.

(1) Period's beginning. When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) Period's ending. The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday. When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(3) Period of a week or less. When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

NEW SECTION

WAC 388-08-575 JUDICIAL REVIEW OF FINAL ADJUDICATIVE ORDER. (1) Right to judicial review; exclusive remedy. An appellant or intervener aggrieved, as described under RCW 34.05.530, by the final decision or order in a department of social and health services (DSHS) adjudicative proceeding may appeal the decision or order to court. Judicial review shall only be obtained under chapter 34.05 RCW. Judicial review may not be obtained through any other procedure.

(a) Chapter 34.05 RCW contains the pertinent provisions of the law.

(b) RCW 74.08.080(3) contains additional provisions about public assistance proceedings.

(2) Instituting judicial review; filing and serving the petition. As described in RCW 34.05.5422, within thirty days after the department mails the final decision, the petitioner shall file the petition for judicial review with the court and serve a copy of the petition on DSHS, the office of the attorney general, and all parties of record.

(a) A petition shall be filed in the Superior Court at the petitioner's option for:

(i) Thurston County;

(ii) The county of the petitioner's residence or principal place of business; or

(iii) Any county where property affected by the decision is located.

(b) Service of a copy of the petition for judicial review on DSHS may be had by personally serving a copy of the petition on the office of appeals.

(c) Service of a copy of the petition for judicial review on the office of the attorney general may be had by

mailing a copy of the petition, postage prepaid, to the Office of the Attorney General, Highway-Licenses Building, PB-71, Olympia, WA 98504.

(d) Service of a copy of the petition for judicial review on other parties of record may be had by mailing a copy of the petition to the other parties, properly addressed and postage prepaid.

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-08-00201 SCOPE OF CHAPTER 388-08 WAC.

388-08-00401 AUTHORITY TO ADJUDICATE.

388-08-006 ADMINISTRATIVE HEARING—FORM OF REQUEST.

388-08-00601 ADMINISTRATIVE HEARING—GROUP HEARING.

388-08-010 ADMINISTRATIVE HEARING—WHO MAY APPEAR AS A REPRESENTATIVE.

388-08-405 WITHDRAWAL—DISMISSAL—SETTLEMENT.

388-08-406 DECISION-RENDERING PROCEDURE—PROPOSAL FOR DECISION.

388-08-409 PETITION FOR REVIEW BY REVIEW JUDGE.

388-08-416 SELECTED FINAL DECISIONS AS PRECEDENT.

388-08-435 SEPARATE HEARING REGARDING DISCLOSURE OF INVESTIGATIVE AND INTELLIGENCE FILES.

388-08-540 PETITIONS FOR RULE-MAKING AMENDMENT OR REPEAL—WHO MAY PETITION.

388-08-550 UPDATING MAILING LISTS.

388-08-560 DELEGATION OF AUTHORITY BY SECRETARY.

388-08-580 DECLARATORY RULINGS.

388-08-590 FORMS.

AMENDATORY SECTION (Amending Order 2076, filed 2/17/84)

WAC 388-08-413 ((PROCEDURE ON REVIEW BY REVIEW JUDGE)) APPLICATION FOR AN ADJUDICATIVE PROCEEDING. (1) ((A petition for review shall be granted only if, in the reasoned opinion of the review judge, one of the grounds for review set forth in WAC 388-08-409(2) is shown. Otherwise, the petition for review shall be denied and the initial order or decision shall be the final decision of the secretary as of the date of denial of the petition or petitions for review)) Who may apply. Any person or authorized representative may file an oral or written application for an adjudicative proceeding.

(2) ((In determining whether to grant review and in reviewing the initial order or decision, the review judge shall consider the initial order or decision, the petition or petitions for review, the record or any part thereof and

~~any additional evidence submitted by the agreement of both parties in accordance with WAC 388-08-413(4))~~ Form of application. The application need not be in any particular form but should specify the decision being appealed and the reasons the appellant is dissatisfied with the decision.

~~((a) The fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of an initial order or decision shall be waived where the petitioner demonstrates good cause for failure to file a timely petition for review. Good cause includes mistake, inadvertence, and excusable neglect on the part of petitioner or unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review. Upon a showing of good cause, either party may petition for review of an initial order or decision within thirty days of the date the initial order or decision becomes final.~~

~~(b) The fourteen-day time limit established by WAC 388-08-409 for filing a petition for review of the initial order or decision shall be waived where petitioner demonstrates that the initial decision was not received by petitioner. In such case the petitioner may petition for review of the initial decision within a reasonable period of time.)~~

(3) Application.

(a) ~~((If review is granted, the administrative law judge's initial findings of fact, conclusions of law, and decision shall not be modified by the review judge unless, in the reasoned opinion of the review judge:~~

~~(a) Irregularity in the proceedings occurred by which the petitioning party was prevented from having a fair hearing. This includes misconduct by the prevailing party and misconduct or abuse of discretion by the administrative law judge and/or)) An oral application shall be made to a responsible department employee.~~

~~(b) ((The findings of fact are unsupported by substantial evidence in view of the entire record and/or~~

~~(c) The application of law in the conclusions is erroneous and/or~~

~~(d) There is need for clarification in order for the parties to implement the decision.~~

~~(4) The review judge may accept additional evidence to correct omissions in the record, but only after notice to and agreement by both parties.~~

~~(5) The review judge may remand the proceedings to the administrative law judge for additional evidence or argument if:~~

~~(a) Neither party cited the law correctly applicable to the issue or issues defined at the hearing and additional evidence or argument is needed for the review judge to reach a reasoned decision. Nothing in this subsection shall be construed to allow the review judge to remand the case to consider additional grounds for denial, termination, or ineligibility for assistance which were not alleged by the department at the hearing.~~

~~(b) Irregularity in the proceedings occurred by which the party seeking review was prevented from having a fair hearing and additional evidence or argument is necessary to cure the irregularity or~~

~~(c) The review judge considers a remand necessary and both parties assent to the remand.~~

~~(6) If review is granted, the review judge shall render a reasoned decision affirming, reversing, modifying, or remanding the initial order or decision.~~

~~(7) The review decision shall be final on the date of filing and shall be the final decision of the secretary. The review judge shall file the original of the decision in the record of the proceedings and shall mail copies to the parties and their representatives.) A written application should be filed at the office of appeals. However, the application can be filed with any responsible department employee.~~

REPEALER

The following sections of the Washington Administration Code are repealed:

WAC 388-09-010 ADMINISTRATIVE HEARING—CHILD WELFARE AGENCY—DENIAL, SUSPENSION, REVOCATION, OR NONRENEWAL OF LICENSE.

WAC 388-09-020 ADMINISTRATIVE HEARING—APPLICABILITY OF CHAPTER 388-08 WAC.

WAC 388-09-030 ADMINISTRATIVE HEARING—APPEARANCE AND PRACTICE BEFORE DEPARTMENT—WHO MAY APPEAR.

WAC 388-09-040 TIME LIMIT FOR RENDERING DECISION.

Chapter 388-320 WAC
PUBLIC RECORDS(=)DISCLOSURE—ADMINISTRATIVE PROCEDURES

NEW SECTION

WAC 388-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under RCW 43.20A-.110, certain powers and duties may be delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 388-320-350 DECLARATORY ORDERS—FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions

before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Office of Issuances, MS OB-33H, Third Floor West, Office Building 2, Twelfth and Franklin, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 388-320-360 DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 388-320-370 DECLARATORY ORDERS—DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 388-320-400 PETITION FOR RULE MAKING—FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Office of Issuances, MS OB-33H, Third Floor West, Office Building 2, Twelfth and Franklin, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

WSR 89-22-088
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 3002—Filed October 31, 1989, 4:27 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes. See below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by rule making order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

NEW SECTION

WAC 388-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 388-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
275-56-095	New	Amend		71.21.035 (see (5)(c) of section 3, ch 205, Laws of 1989).	Required by section 95, chapter 175, Laws of 1989.
275-16-055		Amend		43.208.335	The contents of the application are specified and, to greater achieve uniformity among programs, are modeled after section 95, chapter 175, Laws of 1989.

Effective Date of Rule: November 1, 1989, 12:01 a.m.
 October 31, 1989
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1957, filed 4/7/83)

WAC 275-56-095 LICENSING PROCEDURES FOR PROVIDERS—APPLICATION AND APPROVAL. The department shall review applications for

licensure and approve those which meet minimum standards for community mental health programs.

(1) Applications for licensure shall be submitted to the department on forms furnished by the department. The applicant shall indicate the services for which licensure is requested.

(a) Applications shall be signed by the applicant's governing body and administrator.

(b) The applicant shall send a copy of the application to the county authority or the designee. The county authority or the designee may review the application and send written comments to the department with a copy to the applicant. If the department does not receive a response from the county authority or the designee within thirty days, the department shall proceed with the application.

(2) An on-site review shall be conducted for the purpose of collecting and analyzing the information necessary for the department to determine whether a provider is in compliance with the minimum standards specified in this chapter. The department shall provide forty-five days written notice prior to the date scheduled for the licensure review.

(3) The department shall notify the applicant of the results of the review and make the report of the on-site review available to the applicant and county authority within sixty days of the last day of the on-site review.

(4) ~~The ((applicant may appeal the department's licensure decision within thirty days of notification of decision. The appeal shall be made in accordance with the Administrative Procedure Act, chapter 34.04 RCW)) department's notice of denial, revocation, suspension, or modification of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The provider's right to an adjudicative proceeding is in the same law.~~

(a) A provider contesting a department license decision shall, within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:
(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1627, filed 3/25/81)

WAC 275-16-055 NOTICE ((OF)) AND FINDING OF RESPONSIBILITY (NFR)—APPEAL PROCEDURE. (1) The determination officer's assessment of

the ability and liability of ((the)) a person or of the person's estate to pay hospitalization charges shall be issued in the form of a notice ((of)) and finding of responsibility ((, hereinafter referred to as an)) (NFR((;))) as prescribed by RCW ((71.02.413. The NFR will be served upon those responsible parties as otherwise required by law, will indicate the charges being assessed, and explain the procedure for appeal therefrom)) 43.20B.340. When the NFR is for full hospitalization charges as specified in WAC 275-16-030, the financially responsible person will be informed of the current charges and that those charges are periodically recomputed by the department ((in accordance with RCW 71.02.410)). When the NFR is for adjusted charges, those charges will be expressed in a daily or monthly rate. Charges for ancillary services will be set aside when the NFR is for adjusted charges.

(2) The right to an adjudicative proceeding to contest the NFR is contained in RCW 43.20B.340.

(a) A financially responsible person wishing to contest the NFR shall, within twenty-eight days of receipt of the NFR:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the NFR being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20B.340, this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-089
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)

[Order 3004—Filed October 31, 1989, 4:28 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes. See below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by rule making order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
248-14-070		Amend		18.51.070	Required by section 95, chapter 175, Laws of 1989.
388-76-095		Amend		74.08.044	Same
388-96-904		Amend		74.09.120	Required by section 159, chapter 175, Laws of 1989.

Effective Date of Rule: November 1, 1989, 12:01 a.m.
 October 31, 1989
 Leslie F. James, Director
 Administrative Services

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

WAC 248-14-070 LICENSURE—APPLICATION, INFORMATION REQUIRED. An application for a nursing home license, or renewal thereof, shall be signed by the owner or his legal representative and by the individual or individuals under whose management or supervision the home is to be operated if this person be different from the owner, be sworn to before a notary public and may include therein the following:

(1) The name and address of the applicant if an individual, and if a firm or partnership, of every controlling member thereof (a husband and wife shall be construed to be a partnership), and in the case of a corporation or association, the name and address thereof and of its officers and board of directors and trustees.

(2) The name of the individual or individuals under whose management or supervision the home will be operated.

(3) The location of the home for which a license is sought, including, in the case of locations known only by postal route and box numbers, adequate geographical identification.

(4) The number of individuals for which nursing care is to be provided, which number shall not exceed that which is lawfully permitted under these regulations or local zoning, building or other such regulations.

(5) Such other information as the department may reasonably require for proper administration of these standards.

(6) The department's notice of a denial, suspension, modification, or revocation of a license is governed by

RCW 18.51.065 and 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(a) A license applicant or recipient contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 18.51.065; RCW 43.20A.XXX and chapter 95, chapter 175, laws of 1989; this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision of this chapter governs.

NEW SECTION

WAC 388-76-095 LICENSE ACTION NOTICE—ADJUDICATIVE PROCEEDING. (1) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(2) A license applicant or holder contesting a department license decision shall, within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the department decision being contested.

(3) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989; this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-904 ADMINISTRATIVE REVIEW ((PROCESS))—ADJUDICATIVE PROCEEDING.

(1) Within ~~((thirty))~~ twenty-eight days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request, in writing, ~~((that))~~ the appropriate director or ~~((his or her))~~ the director's designee review such determination. The contractor shall send the request to the office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters. For other matters (such as rates, desk reviews, and settlements), the contractor shall send the request to the manager, residential rates program. The contractor or the licensed administrator of the facility shall:

(a) Sign the request~~((;))~~;

(b) Identify the challenged determination and the date thereof~~((, and))~~;

(c) State as specifically as practicable the issues and regulations involved and the grounds for ~~((its contention that))~~ contending the determination is erroneous~~((The contractor shall include with))~~; and

(d) Attach to the request copies of any documentation the contractor intends to rely on to support ((its)) the contractor's position.

(2) After receiving a timely request meeting the criteria of this section, the department shall contact the contractor to schedule a conference for the earliest mutually convenient time. The department shall schedule the conference for no earlier than fourteen days after the contractor was notified of the conference and no later than ninety days after a properly completed request is received, unless both parties agree, in writing, to a specific later date. The department may conduct the conference by telephone unless either the department or the contractor requests, in writing, the conference be held in person.

(3) The contractor and appropriate representatives of the department shall participate in the conference. In addition, representatives selected by the contractor may

participate. The contractor shall bring to the conference, or provide to the department in advance of the conference:

(a) Any documentation requested by the department which the contractor is required to maintain for audit purposes ~~((pursuant to))~~ under WAC 388-96-113((;)); and

(b) Any documentation ~~((on which it))~~ the contractor intends to rely on to support ((its)) the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, the parties shall schedule a second session of the conference for not later than thirty days after the initial session unless both parties agree, in writing, to a specific later date.

(4) Regardless of whether agreement has been reached at the conference, the director of residential rates and licensure services or designee or the director of the office of nursing home audit or designee shall furnish the contractor a written decision ((to the contractor)) within sixty days after the conclusion of the conference.

(5) A contractor ~~((aggrieved by a decision of the director, may appeal the decision in an administrative hearing))~~ has the right to an adjudicative proceeding to contest the director's administrative review decision.

(a) A contractor ~~((desiring an administrative hearing))~~ contesting the director's decision shall within twenty-eight days of receipt of the decision:

(i) File a written ~~((request))~~ application for ((a hearing)) an adjudicative proceeding with the ((department's)) Office of ((Hearings)) Appeals, P.O. Box 2465, Olympia, Washington 98504~~((The contractor shall file the request for hearing within thirty days of the date the contractor received the decision of the director that he or she desires to appeal,~~

~~((b) Attach a copy of the director's decision being appealed to the request for hearing,))~~;

~~((c))~~ (ii) Sign the ((request)) application or have the licensed administrator of the facility sign it((;))

~~((d))~~ (iii) State as specifically as practicable the ((issue or)) issues and ((regulation or regulations)) law involved((;))

~~((e))~~ (iv) State the grounds for ((contending)) contesting the director's decision ((is erroneous,)); and

~~((f))~~ (v) ((Include)) Attach to the application a copy of the director's decision being contested and copies of any documentation ((on which)) the contractor intends to rely on to support its position ((with the request)).

~~((g))~~ (b) ((Sections of)) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 388-08 WAC ((not conflicting with this section shall apply to a hearing requested under WAC 388-96-904(5))). If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

WSR 89-22-090
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3006—Filed October 31, 1989, 4:30 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05

RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes. See below.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by rule making order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
388-11-100		Amend		74.08.090	<ol style="list-style-type: none"> 1. The scope of the rule is broadened to include objection to a notice and finding of parental responsibility. See chapter 55, Laws of 1989. 2. Housekeeping. See RCW 34.05.461(1)(c) and RCW 74.20A.055 as amended by section 152, chapter 175, Laws of 1989.
388-11-105			Repeal	Same	The section is being repealed because it conflicts with RCW 34.05.464(5). See also RCW 74.20A.055 as amended by section 152, chapter 175, Laws of 1989.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
388-11-180		Amend		Same	Housekeeping
388-11-185			Repeal	Same	This section would limit discovery to the devices stated in it by operation of RCW 34.05.446(2), (3). General DSHS adjudicative proceeding rules do not contain such limits (see WAC 388-08-464). Thus, repeal of this rule broadens discovery rights in this program and makes them the same as those in chapter 388-08 WAC.
388-13-050		Amend		Same	Housekeeping. See RCW 74.20A.270 as amended by sections 156 and 157, chapter 175, Laws of 1989.
388-13-060		Amend		Same	Same
388-13-070		Amend		Same	Same
388-13-080			Repeal	Same	Same as WAC 388-11-105 (see above).
388-13-110		Amend		Same	Pursuant to RCW 34.05.440(3) the department has adopted 14 days as the general time to file a motion to vacate a dismissal of the proceedings for reason of default. The general period is contained in WAC 388-08-440. This rule in chapter 388-11 is being repealed to make WAC 388-08-440 apply to this program in the interest of achieving greater procedural uniformity among programs.
388-13-120		Amend		Same	Housekeeping and to achieve greater procedural uniformity among department programs.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
388-14-260		Amend		Same	Same
388-14-270		Amend		Same	Housekeeping
388-14-385		Amend		Same	Same
388-14-390		Amend		Same	Housekeeping and to achieve greater procedural uniformity among department programs.
388-14-415		Amend		Same	1. Required by section 16, chapter 360, Laws of 1989. 2. Housekeeping

Effective Date of Rule: November 1, 1989, 12:01 a.m.
 October 31, 1989
 Leslie F. James, Director
 Administrative Services

Reviser's note: The material contained in this filing will appear in the 89-23 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-22-091
EMERGENCY RULES
DEPARTMENT OF HEALTH
 [Order 013—Filed October 31, 1989, 4:50 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.
 Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.
 Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act and other

statutory changes that became effective July 1, 1989. These rules conform to the statutory changes.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-095. The rules here filed are being proposed for permanent rule making by order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-06-385		Amend		43.21C.120	<ol style="list-style-type: none"> Subsection (2) sets an expected time limit for filing initial and review orders based on the likely complexity of the proceedings and the need for prompt orders. Subsection (3) specifies that the adjudicative officers' authority is to approve the contested department action or to remand the matter to the department. When an action is not approved this procedure permits the agency to review all the data and get additional information before making a new decision as opposed to having the decision based solely on the adjudicative proceeding record.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-15-110		Amend		18.71.205	Required by section 60 and to be consistent with section 95, chapter 175, Laws of 1989.
248-16-031		Amend		18.20.909	Required by section 63 and to be consistent with section 95, chapter 175, Laws of 1989.
248-17-060		Amend		Section 106, chapter 9, Laws of 1989, first ex.s.	To be consistent with section 95, chapter 175, Laws of 1989.
248-17-230		Amend		Same	Same
248-18-015		Amend		70.41.030	Required by section 128 and to be consistent with section 95, chapter 175, Laws of 1989.
248-19-480		Amend		70.38.135 (see also) section 607 chapter 9 Laws of 1989 first ex.s.)	Required by section 126 and to be consistent with section 95, chapter 175, Laws of 1989.
248-22-005		Amend		Section 106, chapter 9, Laws of 1989 first ex.s.	Required by section 137 and to be consistent with section 95, chapter 175, Laws of 1989.
248-23-010		Amend		Same	Same

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-25-010		Amend		Same	Same
248-26-020		Amend		Same	Same
248-27-025		Amend		70.126.040	Housekeeping
248-27-035		Amend		Same	Housekeeping
248-27-045		Amend		Same	Housekeeping
248-27-055		Amend		Same	To be consistent with sections 95 and 96, chapter 175, Laws of 1989.
388-29-020		Amend		18.46.060	To conform to sections 63 and to be consistent with section 95, chapter 175, Laws of 1989.
388-31-025		Amend		70.126.040	Housekeeping
388-31-035		Amend		Same	Housekeeping
388-31-045		Amend		Same	Housekeeping
388-31-055		Amend		Same	To be consistent with sections 95 and 96, chapter 175, Laws of 1989.
248-36-025		Amend		Same	Housekeeping
248-36-035		Amend		Same	Housekeeping
248-36-045		Amend		Same	Housekeeping

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-36-055		Amend		Same	To be consistent with sections 95 and 96, chapter 175, Laws of 1989.
248-55-220		Amend		70.119.050	To be consistent with section 95, chapter 175, Laws of 1989.
248-55-230			Repeal	Same	Housekeeping; the provisions in this section are at 248-08-413.
248-55-235	New			Same	Housekeeping
248-55-240 and 250		Amend	Repeal	Same Same	The department is authorized to use an initial order - petition for review - review order procedure by RCW 34.05.464(1) provided it do so by rule. This is the enabling rule for this program. The presiding officer is a board. The procedure for revocation, suspension, or modification of a certificate is that the presiding officer's order is final when the board rules in favor of the certificate holder. The presiding officer's decision is an initial order when the board rules against the certificate holder; the Secretary or designee is the reviewing officer.
248-55-260			Repeal	Same	This section states a right contained in chapter 34.05 RCW so is being repealed.
248-59-030		Amend		70.116.050	<ol style="list-style-type: none"> Subsections (1) and (2) are housekeeping. Subsection (3) is to continue to have these proceedings be based on the facts existing at the time the department acted as opposed to a <u>de novo</u> proceeding. If the parties agree this provision may be set aside. Subsection (4) specifies who has and what is the burden of proof.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-59-040			Repeal	Same	<ol style="list-style-type: none"> Subsection (1) states the law regarding assigning administrative law judges to department proceedings that can be administratively reviewed, contains obsolete terminology, and incorrect references. As the items are dealt with in other law the subsection is being repealed. Subsections (2) and (3) are being moved to WAC 248-59-030.
248-59-050			Repeal	Same	<ol style="list-style-type: none"> This section's provisions are included in or conflict with section 95, chapter 175, Laws of 1989 and/or chapter 34.05 RCW and/or chapter 248-08 WAC or contain requirements in none of those laws. To achieve greater uniformity, they are being repealed.
248-59-060			Repeal	Same	To achieve greater uniformity among all department programs the petition for administrative review procedure in this rule is being repealed in favor of the general provisions in RCW 34.05.464 and WAC 248-08-464.
248-59-070			Repeal	Same	This section is being repealed because it contains provisions that are the same as or conflict with chapter 34.05 RCW and chapter 248-08 WAC.
248-59-080			Repeal	Same	The section states a right contained in chapter 34.05 RCW so is being repealed.
248-91-060		Amend		Section 106, chapter 9, Laws of 1989 first ex. s.	To be consistent with section 95, chapter 175, Laws of 1989.

Effective Date of Rule: Immediately.

October 31, 1989
 Pam Campbell Mead
 for Kristine M. Gebbie
 Secretary

Reviser's note: The material contained in this filing will appear in the 89-23 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-22-092
EMERGENCY RULES
DEPARTMENT OF HEALTH

[Order 014—Filed October 31, 1989, 4:50 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act and other statutory changes that became effective July 1, 1989. These rules conform to the statutory changes.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-099. The rules here filed are being proposed for permanent rule making by order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. His [These] model rules are codified under chapter 10-08 WAC. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

CHAPTERS 10-08 AND 388-08 WAC

~~248~~
~~388-08~~
section;
new, amend, 10-08
repeal section

comparison of the two chapters and reasons for variations

410 001
New

Application of chapter 388-08 WAC

The DSHS section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 388-08 applies only to DSHS programs. The DSHS section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.

413 035
Amend

Application for an Adjudicative Proceeding

The Model Rule requires an application to be written. The DSHS benefit rule explicitly permits an oral application. The Model Rule does not state who can file and where to file an application. The department rule does.

425 New	040(3), 050(2), 190, 200, and none	Administrative Law Judge -- Authority -- Application of Law -- Assignment
425(1)(a)	none	The Secretary intends that adjudicative proceedings be <u>de novo</u> . This rule makes that explicit.
425(1) (b)-(j)	200(1)-(9)	These nine subsections of the DSHS rule are the same as Model Rule 200(1) through (9).
425(1)(k)	190	This subsection comes from Model Rule 190 as limited by APA section 449(5).
425(1)(l)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The department rule at subsection (1)(l) deletes "statute" so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non- department rules in accordance with subsection (2) of this rule.
425(1)(m)	see 040(3)	Subsection (1)(m) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in department hearings where presiding officers must routinely rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived the right to representation.
425(2)	none	The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule covers that gap.
425(3),(4)	050(2)	These sections are the same as Model Rule 050(2) reworded for ease of reading and understanding.
425(5)	none	APA section 425(6) states that the APA petition for disqualification provision is in addition to the RCW 34.12.050 motion of prejudice. The procedure for the APA petition differs from an RCW 34.12.040 motion. The Model Rules do not make the differences clear. The variation in the department rule is to clarify the differences.

428 New	none	Representation Comments on the draft rules indicated some people did not understand APA section 428 dealing with representation. The department's rule covers the topic in clear everyday English to avoid any misunderstanding.
431 New	130	Prehearing Conference The Model Rule is reworded and renumbered to make reading and understanding easier.
434 New	040	Notice of Hearing Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier. The Model Rule's restating APA provisions is not included in the department's rule. Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the department rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in department rule section 425(1)(m).
437 New	110	Filing and Service of Papers The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt of all papers except for an application at the office responsible for the adjudicative proceeding.
440 New	none	Vacating an Order of Dismissal for Reason of Default or Withdrawal. There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This department rule sets a 14 day period after service of the order to file a motion to vacate a dismissal based on a default or a withdrawal and it contains the procedures.
446 New	120	Subpoenas The department rule follows the Model Rule.

449 New	170;180	Teleconference Hearing
449(1), (2)	180	APA section 449(3) permits a hearing to be conducted by electronic means. Model Rule section 180 treats this subject. The department's section 449(1) contains three differences from the Model Rule. First, the department rule contains the agency's concurrence to conducting most hearings by electronic means so that agreement in each case is not necessary. Second, the department rule imposes the conditions on telephone hearings for some programs receiving federal funds that the federal agencies require for their funding. Third, the APA conditions conducting a hearing by electronic means to it being "technically and economically feasible" for the participants to see the proceeding and the department's rule uses this standard instead of the Model Rule's limitation of only "technically feasible".
none	170	APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. The department did not adopt the Model Rule because it adds nothing to the APA requirement.
452 New	140;160(1)	Rules of Evidence The first five subsections of the department rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting off the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department prefers to give the party in such a situation the opportunity to seek relief. Model Rule 160(1), requiring testimony to be under oath or affirmation, is contained in APA section 452(3). The Model Rule adds nothing to the APA provision so is not adopted in the department's rules.
461 New	210	Contents of Orders The department rule adopts only those parts of Model Rule section 210 that are not restatements of the requirements imposed by APA section 461.
464 New	211	Petition for Review -- Response to Petition -- Disqualification of a Review Judge Department rule section 464 loosely follows Model Rule section 211. Differences are: Subsection 1 is the department's rule providing that

initial orders in specified classes of cases become final without further department action when no petition for review is filed. Legal authority for this provision is APA section 464(1).

- . Subsections 2 and 3 on who may petition and the contents of the petition are the same as Model Rule 211(1) and (3).
- . Subsection 4 of the department rule sets a fourteen day time limit for filing a petition and that it can be extended or waived by a reviewing officer. These are changes from the Model Rule which sets a 20 day petition filing period or different place and time as stated in the initial order. This was rejected as (a) too rigid a time frame and (b) too long, or if the presiding officer sets a different time/place, too uncertain to assure that adjudicative orders will be made within reasonable time limits.
- . Subsection 5 requires the petition to be in writing and specifies where it is to be filed. Permitting filing in another place stated in the initial order as allowed in the Model Rules was rejected as too uncertain to assure that adjudicative orders will be made in a reasonable time.

Unlike Model Rule 211(2), copies are not required to be served on other parties and representatives. See comments immediately below.

- . Subsection 6 of the department rule has no counterpart in the Model Rules. It states the agency will give the nonpetitioning party notice that a petition for administrative review was filed. This is to assure that the party is aware of the petition and apprized of the right to respond. The section is necessary because some petitioners, especially pro se clients, fail to serve the other party. The department's curing the error is preferable to dismissing the petition on the procedural defect.
- . Subsection (7) is the same as Model Rule 211 subsection (4) except the period to file a response to a petition is seven (instead of ten) days from the department's mailing the notice acknowledging receipt of the petition (instead of the date the petitioner served the petition) and the reviewing officer can extend the period.

- Subsection 8 covers disqualification of a reviewing officer. The Model Rules are silent. The department rule contains the procedures necessary to implement the right.

470 New	215	Reconsideration	The department rule is the same as the Model Rule except it states the office for filing a petition for reconsideration of a review decision.
515 New	045	Notice to Limited-English-Speaking Parties	Department section 515 is the same as Model Rule 045 with slight wording changes for clarity.
525 New	150;160(2)	Interpreters	Department subsection 525(1) through (11) are the same as Model Rule 150(1) through (11). Subsection 525(12) is the same as Model Rule 160(2). Subsections 525(13) through (18) are the same as Model Rule 150(12) through (17).
535 New	none	Group Hearing	This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.
545 New	090	Continuance	Department section 545 is the same as Model Rule section 080 with slight rewording for clarity.
555 New	none	Separate Hearing Regarding Disclosure of Investigative and Intelligence Files.	This section has no counterpart in the Model Rules. It is needed because some programs have appeals involving allegations of client fraud investigated by the Office of Special Investigations.
565 New	080	Computation of Time	Section 565 is the same as Model Rule section 090.

575 New	none	Judicial Review of Final Adjudicative Order
		<p>Judicial review of agency action is dealt with in Part V of the APA. The provisions on initiating judicial review of a final adjudicative order are scattered and difficult for some to follow. Also, nonagency staff comments on draft rules recommended that the rules specify which department office (other than the Secretary's office) was a proper one for delivering a petition for judicial rule under APA section 542(4). This rule responds to the above concerns.</p>
none	230(1)	Informal Settlement
		<p>The APA section 060 encourages agencies to offer informal settlement procedures that may make more elaborate proceedings unnecessary. The APA section permits an agency to establish informal settlement procedures by rule. The Model Rule would establish a single procedure for all informal settlements. The department is not adopting the Model Rule for two reasons. First, the department has created many informal settlement processes and they are tailored to best meet the needs of the kinds of disputes that arise in a particular program. The Model Rule's uniform procedure does not recognize this need for various procedures. Second, while some of the department's informal settlement procedures are in rules, not all are. The department prefers to be able to use nonrule material for some informal settlements.</p>
none	230(2)	Adjudicative Proceeding Settlement
		<p>Model Rule 230(2) deals with settlements in adjudicative proceedings. These settlements are, under the Model Rule, concluded by stipulation of the parties, withdrawal of the application, or withdrawal of the aggrieving agency action. The Model Rule then requires the stipulation to be signed by the parties or recited on the record and for the presiding officer to enter an appropriate order. The procedure for stipulations under this Model Rule provision appears to differ from a stipulation obtained at a prehearing conference. See Model Rules 130(1)(c), (3) and 170. The content of the settlement order appears to differ from that specified for initial orders in Model Rule 210.</p> <p>The department has not proposed to adopt Model Rule 230(2) to avoid these possible conflicts and because its proposed sections 425(1); 431(1)(c), (2), and (3); 440; 452(6); 461; and 464 cover the topic adequately and consistently.</p>

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388-08 sections: 00201, 00401, 006, 00601, 010, 405, 406, 409, 416, 435, 540, 550, 560, 580, and 590 are each repealed.	not applicable	These sections conflict with the APA and/or are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures.
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CHAPTERS 10-08 AND 388-09 WAC

388-09 <u>sections</u>	10-08 <u>section</u>	<u>comparison of the two chapters and reasons for variation</u>
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388-09 sections 010, 020, 030, and 040 are each repealed	not applicable	These sections conflict with the APA and/or are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures. Also, some were required until June 30, 1989 but not thereafter when RCW 74.15.130 was amended by section 149, chapter 175, Laws of 1989.
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CHAPTERS 10-08 AND 388-320 WAC

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<u>388-320 section</u>	<u>10-08 section</u>	<u>comparison of the two chapters and reasons for variations</u>
340 New	not applicable	Delegation of Authority by Secretary. This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 388-320 WAC.
350 New	250	Declaratory Orders - Forms, Content, and Filing The department rule is the same as the Model Rule.
360 New	251	Declaratory Orders - Procedural Rights of Persons in Relation to Petition
370 New	252	Declaratory Orders - Disposition of Petition The department rule is the same as the Model Rule.
400 New	250	Petition for Rule Making - Form, Content, and Filing The department rule is the same as the Model Rule.
410 New	261	Petition for Rule Making - Consideration and Disposition The department rule is the same as the Model Rule.
500 New	not applicable	Updating Mailing Lists This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 388-320 WAC.

Effective Date of Rule: Immediately.

October 31, 1989
Pam Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Regulation 08.410, effective 3/11/60)

~~WAC 248-08-410 ((FORM AND CONTENT)) APPLICATION OF ((DECISIONS IN CONTESTED CASES)) CHAPTER 248-08 WAC. ((Every decision and order, whether proposed, initial, or final, shall:))~~

~~(1) ((Be correctly captioned as to name of agency and name of proceeding;)) Scope. This chapter applies to adjudicative proceedings, begun on or after July 1, 1989, in programs administered by the department of health. The definition of the word "begun" is the department's receipt of the application for an adjudicative proceeding. Proceedings begun before July 1, 1989, are governed by the procedural rules in effect on June 30, 1989. Legal authority for adopting this chapter is RCW 34.05.220~~

~~(1)(a). (2) ((Designate all parties and counsel to the proceeding;)) Conflict in rules. If a provision in this chapter conflicts with a provision in the chapter containing the~~

program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

~~(3) ((Include a concise statement of the nature and background of the proceeding;~~

~~(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;~~

~~(5) Whenever practical, include the reason or reasons for the particular order or remedy afforded;~~

~~(6) Wherever practical, be referenced to specific provisions of law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same)) Physical and mailing addresses. The presiding officer is generally an administrative law judge (ALJ) from the office of administrative hearings. Presiding officer administrative and field office addresses are listed under WAC 10-04-020. The reviewing officer is generally the secretary or the secretary's designee. The secretary's address for professions governed by the Uniform Disciplinary Act is the legal support section of the investigation, legal and audit unit, which is located at 1300 Quince, Olympia, and the mailing address is Legal Support Section, P.O. Box 2245, Olympia, WA 98507-2245. The reviewing officer's address for other programs is the office of appeals which is located in office building number 2, Twelfth and Franklin, Olympia, and the~~

mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465.

NEW SECTION

WAC 248-08-413 **APPLICATION FOR AN ADJUDICATIVE PROCEEDING.** (1) *Uniform Disciplinary Act application.* A person contesting a decision or statement of charges under the Uniform Disciplinary Act shall file a written application for an adjudicative proceeding with the legal support section of the investigation, legal and audit unit. The application must be filed within twenty days of the person's receipt of the decision or statement of charges.

(2) *Other program application.* A person contesting a department decision in a program not governed by the Uniform Disciplinary Act shall file a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals within twenty-eight days of receipt of the decision.

(3) *Application contents.* The application must include or have attached:

(a) A specific statement of the issue or issues and law involved;

(b) The grounds for contesting the department decision or statement of charges; and

(c) A copy of the contested department decision or statement of charges.

NEW SECTION

WAC 248-08-425 **ADMINISTRATIVE LAW JUDGE (ALJ)—AUTHORITY—APPLICATION OF LAW—ASSIGNMENT—DISQUALIFICATION.** (1) *Authority.* The ALJ shall:

(a) Conduct the hearing *de novo*;

(b) Determine the order of presentation of evidence;

(c) Administer oaths and affirmations;

(d) Issue subpoenas;

(e) Rule on procedural matters, objections, and motions;

(f) Rule on offers of proof and receive relevant evidence;

(g) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(i) Take any appropriate action necessary to maintain order during the hearing;

(j) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Permit photographic and recording equipment at hearings subject to conditions imposed by the ALJ to preserve confidentiality or to prevent disruption;

(l) Permit a person to waive any right conferred upon that person by chapters 34.05 RCW and/or chapter 248-08 WAC, except to the extent precluded by another provision of law; and

(m) Take any other action necessary and authorized by any applicable rule.

(2) *Application of law.* The ALJ shall:

(a) Apply as the first source of law governing an issue the rules of the department as adopted in the Washington Administrative Code (WAC);

(b) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington constitutions, statutes and regulations, and court decisions;

(c) Not declare any department rule invalid;

(d) If the validity of any department rule is raised as an issue at any proceeding, permit arguments to be made on the record concerning that issue for subsequent review purposes; and

(e) If the sole issue is one of federal or state law requiring adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument to be made on the record regarding the validity of the law.

(3) *Assignment of ALJ.* If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

(a) Make such assignment five days or more before the hearing; and

(b) Disclose the assignment to any party or representative making inquiry.

(4) *Motion of prejudice.*

(a) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed at least three days before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling.

(b) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) *Petition for disqualification.* An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

NEW SECTION

WAC 248-08-428 **REPRESENTATION.** (1) *Appellant representation.*

(a) The appellant may represent himself or herself, or the appellant may be represented by a lawyer or paralegal or by a relative, friend, or other person.

(b) The appellant may not be represented in an adjudicative proceeding by an employee of the department.

(c) Nothing in this regulation shall be construed as prohibiting an employee of the department from:

(i) Acting as a witness on behalf of an appellant; or

(ii) Referring an appellant to legal resources in the community; or

(iii) Assisting the appellant in obtaining nonconfidential information available to the appellant; or

(iv) Advising the appellant of possible arguments made against the contested decision.

(2) *Department representation.* The department may be represented by a department employee or by the office of the attorney general.

NEW SECTION

WAC 248-08-431 PREHEARING CONFERENCE. (1) Request, purpose, order, and objection. Upon the administrative law judge's (ALJ) own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

- (i) Simplification of issues;
- (ii) The necessity or desirability of amendments to the pleadings;
- (iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;
- (iv) Limitations on the number and consolidation of the examination of witnesses;
- (v) Procedural matters;
- (vi) Distribution of written testimony and exhibits to the parties before the hearing; and
- (vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) The ALJ may conduct a prehearing conference by telephone conference call, in person, or other manner.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

- (i) Action taken at the conference;
 - (ii) Amendments allowed to the pleadings; and
 - (iii) Agreements the parties made concerning all of the matters considered.
- (d) If no objection to such order is filed within ten days after the date such order is served, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Conference on day of hearing. Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Not a limit to informal settlement. Nothing in this rule shall limit the right of any agency to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 248-08-434 NOTICE OF HEARING. (1) Served by. The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives.

(2) Contents.

(a) If the hearing is conducted by teleconference call, the notice shall so state.

(b) The notice shall state:

- (i) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and
 - (ii) There shall be no cost to the party or witness for the interpreter.
- (c) The notice shall include a form for a party to:

- (i) Indicate the need for an interpreter, and
- (ii) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 248-08-437 FILING AND SERVICE OF PAPERS. (1) Service required when filing. A party filing a pleading, brief, or other paper, except an application for an adjudicative proceeding, with the support section of the investigation, legal and audit unit, or with the office of appeals, or on the administrative law judge (ALJ) shall serve a copy of the paper upon:

- (a) Every other party; or
 - (b) If the other party is represented or has an agent, the other party's representative or agent.
- (2) Filing and service made by. Unless otherwise provided by law, filing and service shall be made by:
- (a) Personal service;
 - (b) First class, registered, or certified mail;
 - (c) Telegraph;
 - (d) Electronic telefacsimile transmission and same-day mailing of copies; or
 - (e) Commercial parcel delivery company.
- (3) Filing complete. Filing with the support section of the investigation, legal and audit unit or with the office of appeals shall be complete upon actual receipt during office hours at the appropriate office. Filing with the ALJ shall be complete upon actual receipt during office hours at the office of the ALJ.

- (4) Service complete. Service shall be complete when:
- (a) Personal service is made;
 - (b) Mail is properly stamped, addressed, and deposited in the United States mail;
 - (c) A properly addressed telegram is deposited with a telegraph company with charges prepaid;
 - (d) An electronic telefacsimile transmission produces proof of transmission; or
 - (e) A commercial parcel is delivered to the parcel delivery company with charges prepaid.
- (5) Proof of service. Where proof of service is required by statute or rule, filing the papers with the ALJ, together with one of the following, shall constitute proof of service:

- (a) An acknowledgement of service;
- (b) A certificate of service including the date the papers were served upon all parties and the signature of the serving party indicating service was completed by:
 - (i) Personal service;
 - (ii) Mailing a copy properly addressed with postage prepaid to each party to the proceeding, or the party's representative or authorized agent;
 - (iii) Telegraphing a copy properly addressed with charges prepaid to each party to the proceeding, or the party's representative or authorized agent; or
 - (iv) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party to the proceeding, or the party's representative or authorized agent; or
 - (v) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

AMENDATORY SECTION (Regulation 08.440, effective 3/11/60)

~~WAC 248-08-440 ((PREHEARING CONFERENCE RULE-RECORD)) VACATING A DISMISSAL FOR REASON OF ((CONFERENCE ACTION)) DEFAULT OR WITHDRAWAL. ((The board or department or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements, and such order or statement shall control the subsequent course of the proceeding unless modified for)) (1) Right to request. A party against whom a dismissal for reason of default or withdrawal is entered shall have the right to file a written requesting that the order be vacated.~~

~~(2) Contents. The request shall state the grounds relied upon.~~

~~(3) Filed at. The request shall be filed at the legal support section of the investigation, legal and audit unit for Uniform Disciplinary Act proceedings or the office of appeals for other programs within fourteen days from the date the dismissal order was served.~~

~~(4) Grounds to vacate an order of dismissal. If, in the reasoned opinion of the administrative law judge (ALJ), good cause ((by subsequent order)) to grant the relief is shown, the ALJ shall vacate the order of dismissal and reinstate the application.~~

NEW SECTION

WAC 248-08-446 SUBPOENAS. (1) Statutory requirements. The administrative law judge, the department, and attorneys for parties may issue a subpoena. A subpoena shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Contents. Every subpoena shall:

(a) Identify the party causing issuance of the subpoena;

(b) State the name of the agency as the department of health;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) Service. A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Exhibiting and reading the subpoena to the witness;

(b) Giving the witness a copy; or

(c) Leaving a copy at the place of the witness' residence.

(4) Proof of service. When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) Quashing, modifying, conditioning. The administrative law judge, upon request made promptly and in

any event at or before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable and oppressive; or

(b) Condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION

WAC 248-08-449 TELECONFERENCE HEARING. (1) When authorized. The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) Documentary evidence. When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 248-08-452(2).

NEW SECTION

WAC 248-08-452 RULES OF EVIDENCE. (1) Objections. The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence pursuant to RCW 34.05.452.

(2) Submission in advance. The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence not submitted in advance as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) Portions of a document. When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) Expert witness limitation. No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) *Witness refusal to answer.* The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) *Stipulation, admission.* A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw it in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

(7) A person called as a witness in a hearing shall swear or affirm that the testimony the witness is about to give in the hearing shall be the truth under the provisions of RCW 5.28.020, 5.28.030, 5.28.040, 5.28.050, and 5.28.060.

NEW SECTION

WAC 248-08-461 CONTENTS OF ORDERS. Every order shall correctly caption both the name of the agency and the proceeding and shall designate the parties and representatives participating in the proceeding.

NEW SECTION

WAC 248-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Initial orders that may become final orders.

(a) If a petition for review is not filed within fourteen days from service of the initial order, the initial order shall, subject to the provisions of this section, become the final order.

(b) An initial order shall not become the final order in proceeding governed by the Uniform Disciplinary Act. Each party shall have the right to file a petition for review of the administrative law judge's order. Whether a petition for review is or is not filed, the secretary or designee shall enter the final order.

(2) *Who may petition.* Each party has the right to file a petition for review of an order entered by an administrative law judge.

(3) *Petition contents.* The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) *Petition time limits.*

(a) The period to timely file a petition for review is fourteen days from the date the initial decision was served.

(b) The secretary or designee shall extend the fourteen-day period to file a petition for review upon request of a party when:

(i) The request is made during the fourteen-day period; and

(ii) Good cause for the extension is shown.

(c) The secretary or designee shall waive the fourteen-day limit for filing a petition for review when:

(i) A petition for review is filed within thirty days of the date the initial order becomes final; and

(ii) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(A) A mistake, inadvertence, or excusable neglect on the part of the petitioner, or

(B) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(5) *Petition filing and service.* The petition for review shall be in writing and filed with the secretary or designee. The petitioner shall serve copies of the petition upon the other parties or their representative at the time the petition is filed. A petition in a proceeding governed by the Uniform Disciplinary Act shall be filed on the secretary or designee at the legal support section of the investigation, legal and audit unit. A petition in other programs shall be filed on the secretary or designee at the office of appeals.

(6) *Notice of petition.* When a petition for review is filed, the secretary or designee shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(7) *Response time limit, filing, service.*

(a) The nonpetitioning party shall file any response with the secretary or designee within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(b) The nonpetitioning party shall serve a copy of the response upon the petitioner and any other party or, if represented, on the representative at the time the response is filed.

(c) A secretary or designee may extend the period to file a response upon request of a party showing good cause.

(8) *Disqualification.* The secretary or designee shall disclose the assignment of the reviewing officer to any party or representative making inquiry. An individual petitioning to disqualify a reviewing officer under RCW 34.05.425 shall file such petition with the reviewing officer assigned to the proceeding.

AMENDATORY SECTION (Regulation 08.470, effective 3/11/60)

~~WAC 248-08-470 ((EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES)) RECONSIDERATION. ((That the hearing examiner or other appropriate officer in all classes)) Within ten days of service of ((cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party, and, if the interested parties cannot agree, require them to submit to him and to the)) a review order, any party may file a petition for reconsideration. The petition shall state the specific grounds upon which relief is requested. A petition for reconsideration shall be filed at the legal support section of the investigation, legal and audit unit for proceedings governed by the Uniform Disciplinary Act. A~~

~~petition for reconsideration in other ((parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance)) programs shall be filed at the office of ((the hearing to permit the other interested parties to investigate such qualifications)) appeals.~~

NEW SECTION

WAC 248-08-515 NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal shall:

- (1) Be written in the primary language of the party, or
- (2) Include a notice in the primary language of the party describing:
 - (a) The significance of the notice, and
 - (b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

NEW SECTION

WAC 248-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

- (a) Hearing impaired person; or
- (b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

(i) Specialist certificate-legal;

(ii) Master's comprehensive skills certificate; or

(iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

(a) Testimony or stated needs of the impaired person;

(b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;

(c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and

(d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances

fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 248-08-535 GROUP HEARING. (1) When applicable. When two or more appellants file applications contesting a similar issue, the applications may be consolidated by the department or the administrative law judge (ALJ) and heard as a group. The ALJ may consolidate on the ALJ's own motion or on a party's request.

(2) Withdrawal from group.

(a) An appellant scheduled for a group hearing may request to withdraw from the group hearing in favor of an individual hearing. An appellant's request to withdraw from a group hearing shall be granted if the motion is filed before the:

(i) Administrative law judge (ALJ) has made a discretionary ruling; and

(ii) Date of the hearing.

(b) The ALJ may grant a motion to withdraw filed at any time when good cause is shown.

(3) Right to representation. Each appellant in a group hearing shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 248-08-545 CONTINUANCE. (1) Authority to grant. The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the request of any party, with notice to all other parties, showing good and sufficient cause.

(2) When, how requested. A request for a continuance made before the hearing date may be either oral or in writing. The party seeking the continuance shall:

(a) Notify the other parties before presenting the request to the ALJ; and

(b) Inform the ALJ whether the other parties agreed to the continuance. If the other parties did not agree to the continuance, the ALJ shall promptly schedule a pre-hearing conference to receive evidence and/or argument and to rule on the request.

NEW SECTION

WAC 248-08-565 COMPUTATION OF TIME.

(1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday.

(3) When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(4) When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

NEW SECTION

WAC 248-08-575 JUDICIAL REVIEW OF FINAL ADJUDICATIVE ORDER. (1) Right to judicial review; exclusive remedy. An appellant or intervener aggrieved, as described under RCW 34.05.530, by the final decision or order in a department of health (DOH) adjudicative proceeding may appeal the decision or order to court. Judicial review shall only be obtained under chapter 34.05 RCW. Judicial review may not be obtained through any other procedure. Chapter 34.05 RCW contains the pertinent provisions of law.

(2) Instituting judicial review; filing and serving the petition. As described under RCW 34.05.542(2), within thirty days after the secretary or designee mails the final decision, the petitioner shall file the petition for judicial review with the court and serve a copy of the petition on DOH, the office of the attorney general, and all parties of record.

(a) A petition shall be filed in the Superior Court, at the petitioner's option, for:

- (i) Thurston County;
- (ii) The county of the petitioner's residence or principal place of business; or
- (iii) Any county where property affected by the decision is located.

(b) Service of a copy of the petition for judicial review on DOH may be had by personally serving a copy of the petition on the office of appeals.

(c) Service of a copy of the petition for judicial review on the office of the attorney general may be had by mailing a copy of the petition, postage prepaid, to the Office of the Attorney General, Highway-Licenses Building, PB-71, Olympia, WA 98504.

(d) Service of a copy of the petition for judicial review on other parties of record may be had by mailing the copy of the petition to the other parties, properly addressed and postage prepaid.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- 248-08-001 DEFINITIONS.
- 248-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR.
- 248-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE IN CERTAIN PROCEEDINGS MAY BE LIMITED TO ATTORNEYS.
- 248-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—SOLICITATION OF BUSINESS UNETHICAL.
- 248-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT.
- 248-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF BOARD OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF.
- 248-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS.

- 248-08-070 COMPUTATION OF TIME.
- 248-08-075 NOTICE OF APPEAL.
- 248-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES.
- 248-08-090 SERVICE OF PROCESS—BY WHOM SERVED.
- 248-08-100 SERVICE OF PROCESS—UPON WHOM SERVED.
- 248-08-110 SERVICE OF PROCESS—SERVICE UPON PARTIES.
- 248-08-120 SERVICE OF PROCESS—METHOD OF SERVICE.
- 248-08-130 SERVICE OF PROCESS—WHEN SERVICE COMPLETE.
- 248-08-140 SERVICE OF PROCESS—FILING WITH AGENCY.
- 248-08-150 SUBPOENAS WHERE PROVIDED BY LAW—FORM.
- 248-08-160 SUBPOENAS WHERE PROVIDED BY LAW—ISSUANCE TO PARTIES.
- 248-08-170 SUBPOENAS WHERE PROVIDED BY LAW—SERVICE.
- 248-08-180 SUBPOENAS WHERE PROVIDED BY LAW—FEES.
- 248-08-190 SUBPOENAS WHERE PROVIDED BY LAW—PROOF OF SERVICE.
- 248-08-200 SUBPOENAS WHERE PROVIDED BY LAW—QUASHING.
- 248-08-210 SUBPOENAS WHERE PROVIDED BY LAW—ENFORCEMENT.
- 248-08-220 SUBPOENAS WHERE PROVIDED BY LAW—GEOGRAPHICAL SCOPE.
- 248-08-230 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.
- 248-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.
- 248-08-250 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.
- 248-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.
- 248-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS.
- 248-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.
- 248-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.
- 248-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.
- 248-08-310 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT.
- 248-08-320 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEONENTS.

248-08-330 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.

248-08-340 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.

248-08-350 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.

248-08-360 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.

248-08-370 OFFICIAL NOTICE—MATTERS OF LAW.

248-08-380 OFFICIAL NOTICE—MATERIAL FACTS.

248-08-390 PRESUMPTIONS.

248-08-400 STIPULATIONS AND ADMISSIONS OF RECORD.

248-08-420 DEFINITION OF ISSUES BEFORE HEARING.

248-08-430 PREHEARING CONFERENCE RULE—AUTHORIZED.

248-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE.

248-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE.

248-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS.

248-08-490 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.

248-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NON-COMPLIANCE WITH WAC 248-08-470 OR 248-08-480.

248-08-510 CONTINUANCES.

248-08-520 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.

248-08-530 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS.

248-08-540 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION.

248-08-550 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—REQUISITES.

248-08-560 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—AGENCY MUST CONSIDER.

248-08-570 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—NOTICE OF DISPOSITION.

248-08-580 DECLARATORY RULINGS.

248-08-590 FORMS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF NURSING HOMES, SPECIALIZED NURSING HOMES AND BOARDING HOMES FOR THE AGED

248-08-700 MEANING OF WORDS TO CONFORM WITH STATUTORY MEANING.

248-08-705 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

248-08-710 NOTICE OF HEARINGS.

248-08-715 HEARING EXAMINERS.

248-08-720 PARTIES TO HEARING.

248-08-725 BURDEN OF PROOF.

248-08-730 RECORD OF TESTIMONY AND PROCEEDINGS.

248-08-735 DECISIONS.

248-08-740 NOTICE OF DECISION.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF HOSPITALS

248-08-750 MEANING OF WORDS.

248-08-755 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

248-08-760 NOTICE OF HEARINGS.

248-08-765 HEARING EXAMINERS.

248-08-770 PARTIES.

248-08-775 BURDEN OF PROOF.

248-08-780 RECORD OF TESTIMONY AND PROCEEDINGS.

248-08-785 DECISIONS OF BOARD.

248-08-790 NOTICE OF DECISIONS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF PRIVATE PSYCHIATRIC HOSPITALS AND MATERNITY HOMES FOR UNMARRIED MOTHERS

248-08-800 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

248-08-805 NOTICE OF DENIALS, SUSPENSIONS AND REVOCATIONS—OPPORTUNITY FOR HEARING.

248-08-810 HEARING EXAMINERS.

248-08-815 DECISIONS AND WHEN FINAL.

248-08-820 POWERS OF HEARING EXAMINERS.

248-08-825 PARTIES.

248-08-830 BURDEN OF PROOF.

248-08-835 RECORD OF TESTIMONY AND PROCEEDINGS.

248-08-840 DECISIONS.

248-08-845 NOTICE OF DECISIONS.

Chapter 248-320 WAC ADMINISTRATIVE PROCEDURES

NEW SECTION

WAC 248-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under section 106, chapter 9, Laws of 1989 1st ex. sess., certain powers and duties may be delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours

of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 248-320-350 DECLARATORY ORDERS—FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Department of Health, 1300 Quince Street, MS EY-12, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-360 DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 248-320-370 DECLARATORY ORDERS—DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 248-320-400 PETITION FOR RULE MAKING—FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of the page below the foregoing the following caption

shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Department of Health, 1300 Quince Street, MS EY-12, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 248-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

**WSR 89-22-093
EMERGENCY RULES
BOARD OF HEALTH**

[Order 015—Filed October 31, 1989, 4:50 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the

public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act and other statutory changes that became effective July 1, 1989. These rules conform to the statutory changes.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: See below.

WAC	NEW	AMEND	REPEAL	REASON FOR	
				STATUTORY AUTHORITY	VARIATION FROM MODEL RULES
248-21-005		AMEND		43.20.050	REQUIRED BY SEC.95, CHAPTER 175, LAWS OF 1989.
248-33-040		AMEND		SAME	SUBSECTION (5) REQUIRED BY SEC 95, CHAPTER 175, LAWS OF 1989
248-33-060			REPEAL	SAME	HOUSEKEEPING; PROVISIONS MOVED TO WAC 248-33-040(3)
248-33-080			REPEAL	SAME	HOUSEKEEPING; PROVISIONS MOVED TO WAC 248-33-040(4)
248-58-085	NEW			69.30.030	REQUIRED BY SECTIONS 95 AND 125, CHAPTER 175, LAWS OF 1989
248-63-025		AMEND		43.20.050	HOUSEKEEPING
248-97-130		AMEND		70.90.120	ADJUDICATIVE PROCEEDING PROCEDURES MOVED TO WAC 248-97-135 AND CHANGED TO COMPLY WITH NEW STATUTORY LAW
248-97-135	NEW			SAME	REQUIRED BY SECTION 95, 96, AND 130, CHAPTER 175, LAWS OF 1989
248-140-200		AMEND		42.20.050	REQUIRED BY SECTION 95, CHAPTER 175 LAWS OF 1989
248-144-031		AMEND		SAME	REQUIRED BY SECTION 95, CHAPTER 175 LAWS OF 1989

Effective Date of Rule: Immediately.

October 31, 1989
Pam Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 218, filed 11/6/81)

WAC 248-21-005 LICENSURE—NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. (1) After January 1, 1982, no person acting separately or jointly with any other person shall establish, maintain, conduct or operate a hospice care center in this state or use the words "hospice care center" to describe or identify a place or building which does not have a license as a hospice care center as defined and described herein.

(2) An application for a hospice care center license shall be submitted to the department on forms provided by the department. The application shall be signed by the operator of the facility and the legal representative of the governing body.

(3) Other requirements related to licensure, fees, and inspection are as stipulated in RCW 70.41.100, 70.41.110, 70.41.120, 70.41.130, 70.41.140, 70.41.150, 70.41.160 and 70.41.170.

(4) There shall be compliance with other regulations to include:

(a) Applicable rules and regulations for hospice care centers adopted by the Washington state fire marshal pursuant to RCW 70.41.080 and chapter 48.48 RCW;

(b) Applicable national, state, and local electrical, fire, zoning, building, and plumbing codes.

(5)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written adjudicative proceeding application by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 134, filed 10/21/76)

WAC 248-33-040 APPROVAL PROCESS. (1) A facility which seeks to qualify as an approved eye bank must submit a written request for approval to the secretary. The request must include a statement of the arrangements made for the storage of tissue received, the name and availability of ophthalmologists and the policies to be followed for the distribution of tissue.

(2) Approval may be granted by the secretary when:

(a) The eye bank meets accepted medical standards for the preservation of eye tissue in a condition suitable for transplantation including, but not limited to, the provision of a storage area for the tissue which is maintained at an appropriate temperature and in which the tissue may be protected from contamination and/or damage, and

(b) There are one or more board certified or board qualified ophthalmologists on the staff of a hospital which seeks approval for its eye bank who are able to, and express a willingness to, perform corneal transplants, and

(c) The director or administrator of the eye bank declares it to be the intention of those who direct and/or administer the eye bank to distribute available corneal tissue to recipients in a fair and reasonable manner, which means the distribution of corneal tissue to recipients requiring such tissue:

(i) Without discrimination based on race, creed, ethnic origin, sex, or age, and

(ii) With consideration of the length of time that the potential recipient has had a medically defined need to receive corneal tissue, and

(iii) With consideration of the impact of waiting to receive such tissue on the recipient and the resulting economic, educational, or developmental loss to the potential recipient, and

(iv) With provision made for emergency requests for corneal tissue.

(3) The department shall deny, suspend, modify, or revoke approval of an eye bank when a facility fails or refuses to comply with legal requirements, including the criteria set forth in chapter 248-33 WAC.

(4) The secretary may, in the secretary's discretion, reinstate the approval of an eye bank when the facility has corrected the conditions which led to the suspension, modification, or revocation of approval.

(5)(a) The department's notice of a denial, suspension, modification, or revocation of approval shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or approval holder has the right to an adjudicative proceeding to contest the decision.

(b) An approval applicant or holder contesting a department approval decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

REPEALER

The following sections of the Washington Administration Code are repealed:

WAC 248-33-060 TERMINATION OF APPROVAL.

WAC 248-33-080 REINSTATEMENT OF APPROVAL.

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

NEW SECTION

WAC 248-58-085 NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. (1) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(2) The department's notice of imposition of a civil fine shall be consistent with RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.

(3) A license applicant or holder or a person the department imposes a civil fine on contesting a department decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(4) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 309, filed 5/2/88)

WAC 248-63-025 PERMIT—ADMINISTRATION—ENFORCEMENT—EXEMPTIONS. (1) The operator shall:

(a) Submit a completed application to the department at least forty-five days prior to use of the temporary-worker housing;

(b) Have a permit from the department or health officer prior to initial occupancy;

(c) Produce the permit upon request of workers, representatives of workers, or representatives of governmental agencies; and

(d) Notify the department of a transfer of ownership.

(2) The operator may:

(a) Allow the use of temporary-worker housing without a permit when:

(i) More than forty-five days have passed since a completed application was submitted and received by the department or health officer as evidenced by the post mark; and

(ii) The department or health officer has not inspected or issued a permit; and

(iii) Other local, state, or federal laws, rules, or codes do not prohibit use of the temporary-worker housing.

(b) Request in writing an exemption from the Washington state board of health; and

(c) Appeal decisions of the department (~~(according)~~) to (~~(chapter 34.04 RCW)~~) an adjudicative proceeding governed by the Administrative procedure(s) Act (chapter 34.05 RCW) and chapter 388-08 WAC.

(3) The department may establish an agreement with a health officer whereby the health officer assumes responsibility for inspections, issuing permits, and enforcing chapter 248-63 WAC excluding exemptions.

(4) The department or health officer shall:

(a) Survey each premises of temporary-worker housing to ensure standards of this chapter are met, including inspection:

(i) Prior to issuance of initial permit;

(ii) Upon request of operator or occupant; and

(iii) At least once every year or more frequently as determined by the department or health officer.

(b) Respond to complaints;

(c) Issue a permit to the operator when an on-site inspection reveals conditions meet or exceed the requirements in chapter 248-63 WAC;

(d) Include on each permit the duration for which the permit is valid not to exceed two years;

(e) Take appropriate enforcement action including any one or combination of the following:

(i) Develop corrective action including a compliance schedule;

(ii) Notify the operator concerning violations; and

(iii) Suspend or revoke the permit.

(f) Allow the operator to use temporary-worker housing without a permit as specified in subsection (2) of this section.

(5) The department or health officer may:

(a) Issue a provisional permit when temporary-worker housing fails to meet the standards in this chapter if:

(i) A written corrective action plan including a compliance schedule is approved by the department or health officer; or

(ii) Pending the Washington state board of health's decision regarding an exemption request.

(b) Establish and collect fee as authorized in chapter 43.20A RCW or RCW 70.05.060.

AMENDATORY SECTION (Amending Order 311, filed 6/22/88)

WAC 248-97-130 ENFORCEMENT. (1) The department or, if enforcement responsibility has been assigned under a joint plan of operation, the local health officer:

(a) Shall enforce the rules of chapter 248-97 WAC; or

(b) May refer cases within their jurisdiction to the local prosecutor's office or office of the attorney general, as appropriate.

(2) When a RWCF is in violation of provisions of chapter 70.90 RCW or the rules of chapter 248-97 WAC, appropriate enforcement action may be initiated by the department, local health officer, local prosecutor's office, or office of the attorney general. Enforcement actions may include any one or a combination of the following:

(a) Informal administrative conferences, convened at the request of the department, local health officer, or owner, to explore facts and resolve problems;

(b) Orders directed to the owner and/or operator of the RWCF and/or the person causing or responsible for the violation of the rules of chapter 248-97 WAC;

(c) Imposition of civil penalties of up to five hundred dollars per violation per day as authorized under RCW 70.90.200;

(d) Denial, suspension, or revocation of operating permits; and

(e) Civil or criminal action initiated by the local prosecutor's office or by the office of the attorney general.

(3) Orders authorized under this section include, but are not limited to, the following:

(a) Orders requiring corrective measures necessary to effect compliance with chapter 248-97 WAC or chapter 70.90 RCW. Such orders may or may not include a compliance schedule; and

(b) Orders to stop work and/or refrain from using any RWCF or portion thereof or improvement thereto until all permits, certifications, and approvals required by statute or rule are obtained.

(4) An order issued under this section shall:

(a) Be in writing;

(b) Name the facility and the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting a violation of chapter 70.90 RCW or the rules of chapter 248-97 WAC;

(d) Specify any required corrective action or forbearance together with a schedule for completing such corrective action, if applicable;

(e) Provide notice, as appropriate, that continued or repeated violation may subject the violator to:

(i) Civil penalties of up to five hundred dollars;

(ii) Denial, suspension, or revocation of the facilities operating permit; or

(iii) Referral to the office of the county prosecutor or attorney general.

(f) Provide the name, business address, and phone number of an appropriate staff person who may be contacted in regard to an order.

(5) Service of an order shall be made:

(a) Personally, unless otherwise provided by law; or

(b) By certified mail return receipt requested.

(6) Under such rules or policies as the department or local health officer may adopt, civil penalties of up to five hundred dollars per violation per day may be assessed against any person violating the provisions of chapter 70.90 RCW or chapter 248-97 WAC.

(7) The department or local health officer shall have cause to deny the application or reapplication for an operating permit or to revoke or suspend a required operating permit of any person who has:

(a) Previously had:

(i) An operating permit suspended or revoked; or

(ii) An application for an operating permit denied for any reason whether in this state or any other state.

(b) Failed or refused to comply with the provisions of chapter 70.90 RCW, chapter 248-97 WAC, or any other statutory provision or rule regulating the construction or operation of a RWCF; or

(c) Obtained or attempted to obtain an operating permit or any other required certificate or approval by fraudulent means or misrepresentation.

(8) For the purposes of subsection (7) of this section, a person shall be defined to include:

(a) Applicant;

(b) Reapplicant;

(c) Permit holder, or

(d) Any individual associated with subsection (8)(a), (b), or (c) of this section including, but not limited to:

(i) Board members,

(ii) Officers,

(iii) Managers,

(iv) Partners,

(v) Association members,

(vi) Employees,

(vii) Agents, and in addition

(viii) Third persons acting with the knowledge of such persons.

(9) ~~((Any person aggrieved by the department's or local health officer's denial, suspension, or revocation of an operating permit may request an administrative hearing.~~

~~(a) A hearing requested to contest a department action (departmental hearing) shall be governed by chapters 10-08 and 388-08 WAC. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section applies. The decision-making procedure shall be the initial decision, petition for review, and review decision procedure.~~

~~(b) A request for a department hearing must be in writing and:~~

~~(i) State the issue and law on which the appeal relies;~~

~~(ii) State the grounds for contending the denial, suspension, or revocation is erroneous;~~

~~(iii) Contain the appellant's current address and telephone number, if any, and~~

~~(iv) Have a copy of the order or notice of denial, suspension, or revocation attached.~~

~~(c) A request for a department hearing must be made within thirty days of the date the order or notice of denial, suspension, or revocation was received by the person.~~

~~(d) The request for a department hearing shall be made by personal service to the Office of Hearings, Olympia, or certified mail addressed to the Office of Hearings at P.O. Box 2465, Olympia, Washington 98504-2465. When the request is mailed, it shall be treated as having been made on the date it was post-marked provided it is received by the Office of Hearings properly addressed and with no postage due.~~

~~(e) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.~~

~~((10)) The department or local health officer may summarily suspend an operating permit, other required permit, license, or certification without a prior hearing if the department or local health officer:~~

~~(a) Finds that public health, safety, or welfare imperatively requires emergency action; and~~

~~(b) Incorporates a finding to that effect in its notice or order.~~

~~((11) The department or local health jurisdiction shall give priority to the scheduling and determination of any appeal from any notice or order issued under subsection (10) of this section.))~~

NEW SECTION

WAC 248-97-135 NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. (1) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.

(2)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A department notice of imposition of a civil fine shall be consistent with RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.

(c) A license applicant or holder or a person the department imposes a fine on contesting a department decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(d) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter

conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 87, filed 6/12/73)

~~WAC 248-140-200 ((PROCEDURE UPON DENIAL)) NOTICE OF ((APPLICATION FOR CERTIFICATE)) DECISION-ADJUDICATIVE PROCEEDING. ((Applicants denied approval or persons whose certificates have been revoked shall have recourse to review of the decision of the secretary in conformance with the Administrative Procedure Act)) (1) The department's notice of a denial, suspension, modification, or revocation of a certificate shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or certificate holder has the right to an adjudicative proceeding to contest the decision.~~

~~(2) A certificate applicant or holder contesting a department certificate decision shall within twenty-eight days of receipt of the decision:~~

~~(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and~~

~~(b) Include in or with the application:~~

~~(i) A specific statement of the issue or issues and law involved;~~

~~(ii) The grounds for contesting the department decision; and~~

~~(iii) A copy of the contested department decision.~~

~~(3) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.~~

Reviser's note: RCW 34.05.395 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 328, filed 5/17/89)

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)(a) Licensees may(:

(a)) request, in writing, an exemption from the department 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.

(b) ((Appeal decisions of the department related to)) Exemption((s to the board under chapter 34.04 RCW; Administrative Procedure Act)) decisions shall be treated as licensing decisions under subsection (5) 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)) final order in an ((administrative decision)) adjudicative proceeding under chapter ((34.04)) 34.05 RCW.

(d) Grant an exemption under subsection (2)(a)(i) and (ii) of this section.

(5)(a) The department's notice of a denial, suspension, modification, or revocation of a license or a request for an exemption under subsection (2) of this section shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A license applicant or holder contesting a department license or exemption decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

WSR 89-22-094

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Board of Dental Examiners)

[Order 011—Filed October 31, 1989, 4:50 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To implement section 22, chapter 202, Laws of 1989. To establish renewal procedures for dentists. To repeal WAC 308-40-130.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-40-130.

Statutory Authority for Adoption: Section 22, chapter 202, Laws of 1989.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To implement section 22, chapter 202, Laws of 1989.

Effective Date of Rule: Immediately.

October 31, 1989
 Pamela Campbell Mead
 for Kristine M. Gebbie
 Secretary

NEW SECTION

WAC 308-40-135 RENEWAL OF LICENSES.

(1) Under the annual birthdate license renewal system, the late payment penalty provision will be applied as follows:

(a) Before the expiration date of the individual's license, as a courtesy, a notice for renewal of license will be mailed to last address on file to every person holding a current license. The licensee must return such notice along with current renewal fees prior to the expiration of said license. Should the licensee fail to renew his or her license prior to the expiration date then the individual is subject to the statutory penalty fee. If the licensee fails to renew his or her license within three years from expiration date thereof, such individual must apply for licensing under the statutory conditions then in force.

REPEALER

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

WAC 308-40-130 RENEWAL OF LICENSES.

WSR 89-22-095

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Dental Examiners)

[Filed October 31, 1989, 4:55 p.m.]

Original Notice.

Title of Rule: New section, renewal of licenses; and repealing WAC 308-40-130.

Purpose: To implement section 22, chapter 202, Laws of 1989. Establishes the requirements for renewal of dental licenses.

Statutory Authority for Adoption: Section 22, chapter 202, Laws of 1989.

Statute Being Implemented: Section 22, chapter 202, Laws of 1989.

Summary: The proposed rule provides no grace period for late renewals and sets out a new procedure for those who failed to renew on time.

Reasons Supporting Proposal: To make the renewal procedure more efficient and more enforceable.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Acting Director, Department of Health, Quince Street; Program Manager, Board of Dental Examiners, Quince Street, 586-6898.

Name of Proponent: Director, Department of Health and Board of Dental Examiners, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes the renewal procedure for dentists. There is now no grace period after expiration date before a penalty fee is charged. If licensee fails to renew license within three years, a new license must be applied for under statutory conditions then in force.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, on December 19, 1989, at 1:00.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 Quince Street, Olympia, WA 98504, by December 18, 1989.

Date of Intended Adoption: December 24, 1989.

October 31, 1989
Pamela Campbell Mead
for Kristine Gebbie
Secretary

NEW SECTION

WAC 308-40-135 RENEWAL OF LICENSES. (1) Under the annual birthdate license renewal system, the late payment penalty provision will be applied as follows:

(a) Before the expiration date of the individual's license, as a courtesy, a notice for renewal of license will be mailed to last address on file to every person holding a current license. The licensee must return such notice along with current renewal fees prior to the expiration of said license. Should the licensee fail to renew his or her license prior to the expiration date then the individual is subject to the statutory penalty fee. If the licensee fails to renew his or her license within three years from expiration date thereof, such individual must apply for licensing under the statutory conditions then in force.

REPEALER

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

WAC 308-40-130 RENEWAL OF LICENSES.

WSR 89-22-096
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2994—Filed October 31, 1989, 4:55 p.m.]

Date of Adoption: October 31, 1989.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
275-19-050		Amend		70.96A.090 as amended by sec. 19, ch 270, Laws of 1989.	<ol style="list-style-type: none"> 1. Notice of application procedures are required by section 95, chapter 175, Laws of 1989. 2. Other differences are to continue to have these proceedings be based on the facts existing at the time the department acted against the applicant/license holder as opposed to a <u>de novo</u> proceeding.

Effective Date of Rule: November 1, 1989, 12:01 a.m.
October 31, 1989
Leslie F. James, Director
Administrative Services

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by rule making order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

AMENDATORY SECTION (Amending Order 2765, filed 2/22/89)

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

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

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

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

(5) Disqualified applicants.

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

(b) The department may deny, suspend, or revoke approval for any of the following:

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

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

(iii) Misappropriation of the property of the patients.

(6) ~~((When the department intends to suspend, revoke, or cancel approval, the director of the bureau of alcohol and substance abuse or the bureau director's designees shall serve upon the approved treatment facility a notice of intent to suspend, revoke, or cancel the department's approval. Such notice shall provide for an administrative hearing and meet the requirements of chapter 34.04 RCW. The subsequent hearing and judicial review shall follow administrative procedures as specified in the Administrative Procedure Act, chapter 34.04 RCW and the rules and regulations promulgated thereunder. (7)))~~ The department's notice of a denial, revocation, suspension, or modification of approval is governed by RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. The facility's right to an adjudicative proceeding is in the same law.

(a) A facility contesting a department approval decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs;

(c) If the treatment facility (~~((requests a hearing))~~) files an application for an adjudicative proceeding, the ~~((department shall limit the hearing in))~~ scope of the proceeding shall be limited to a review of the cause for the department's action~~((:-))~~;

(d) If the cause is a result of an inspection of the facility, the ~~((department))~~ scope of the proceeding shall ~~((limit the hearing))~~ be limited to a review of the findings in the inspection report issued by the department and the facility's compliance with the requirements of chapters 69.54 and 70.96A RCW, and chapter 275-19 WAC at the time of the inspection~~((:-))~~;

(e) If the cause is not the result of an inspection, the ~~((department shall limit the hearing in))~~ scope of the proceeding shall be limited to a review of the:

~~((a) The))~~ (i) Department's written findings and stated cause for the action; and

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

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

~~((9))~~ (7) The department shall send written notice of any suspension, cancellation, or revocation of departmental approval to the county coordinator of each county in which the action is effective.

WSR 89-22-097

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2992—Filed October 31, 1989, 4:59 p.m.]

Date of Adoption: October 31, 1989.

Purpose: To conform program rules on adjudicative proceedings to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: See below.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjudicative proceedings in programs administered by this department were affected by the new Administrative Procedure Act, chapter 34.05 RCW, and other statutory changes that became effective July 1, 1989. These rules conform the rules to the statutory changes.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Substantially similar emergency rules were filed on July 3, 1989, under WSR 89-14-098. The rules here filed are being proposed for permanent rule making by order filed on the same day as this order. See RCW 34.05.350(2).

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative

Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
388-17-100		Amend		74.38.030	Housekeeping.
388-17-500		Amend		Same	The contents of the application are specified and, to achieve greater procedural uniformity, are modeled after section 95, chapter 175, Laws of 1989.
388-17-510		Amend		Same	Same

Effective Date of Rule: November 1, 1989, 12:01 a.m.
 October 31, 1989
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 1970, filed 6/16/83)

WAC 388-17-100 RIGHTS AND RESPONSIBILITIES OF APPLICANTS AND RECIPIENTS.

(1) Each applicant and/or recipient of the senior citizens services program shall have the following rights:

(a) Any individual wishing to do so shall have the right to apply for the senior citizens services program and have his or her eligibility determined within ten days. If an adverse decision is made regarding eligibility, the applicant will be provided written notice. The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to ~~((a hearing))~~ an adjudicative proceeding, and a statement of the individual's right to representation at the hearing by a friend, relative, or other representative.

(b) An eligible individual shall be given the requested services, within the limits of available funds, offered by the area agency on aging in his or her geographic area.

(c) An applicant or recipient feeling aggrieved by a decision of the area agency or service provider regarding his or her eligibility for senior citizens services shall have the right to an informal hearing provided by the area agency. The hearing shall be held within thirty days of the date a request is made, and a written decision shall be rendered within fifteen days after the hearing. If the applicant or recipient is dissatisfied with the outcome of the informal hearing, he or she may ~~((request the department provide a fair hearing as specified in chapter 388-08 WAC))~~ file an application for an adjudicative proceeding. Any person desiring a ~~((hearing))~~ proceeding must, within thirty days after receiving written notice of a decision regarding eligibility, ~~((make written request for a hearing to))~~ file a written application with the area agency or the department.

(d) Information obtained by the department, area agency, or vendor identifying any applicant or recipient of senior citizens services is confidential and privileged and may not be disclosed or used either directly or indirectly in any manner or for any purpose except for purposes directly related to the administration of the program, unless the applicant or recipient requests in writing that the information be disclosed.

(e) Each applicant and recipient shall be treated with dignity and courtesy, and there shall be no discrimination against any individual because of race, sex, religious creed, political beliefs, national origin, or handicap.

(f) Each applicant for services for which a fee may be charged (all services except nutrition, health screening, information and assistance, and transportation) shall be fully informed in writing of his or her rights and responsibilities in connection with the senior citizens services program.

(2) An applicant and/or recipient shall have the following responsibilities:

(a) Each applicant for services for which a fee may be charged shall provide complete and accurate information on an application form provided by the department and cooperate in establishing his or her eligibility for services.

(b) If services provided by the senior citizens services program are available at no cost to the applicant through other sources, the applicant shall apply for these services through the appropriate agency.

(c) Each recipient of services for which a fee may be charged shall promptly report any changes in income or resources in writing affecting his or her eligibility or amount of fees to be paid for services.

AMENDATORY SECTION (Amending Order 2458, filed 1/13/87)

WAC 388-17-500 LOCAL AREA AGENCY ON AGING CONTRACTS—ADMINISTRATIVE REVIEW PROCESS. (1) Local area agencies on aging shall establish a complaint resolution process. A service contract applicant or provider of services under a contract with a local area agency on aging who is aggrieved

by an action of the local area agency shall attempt to resolve the grievance through the complaint resolution process.

(2) A service contract applicant or provider of services under a contract with a local area agency on aging has the right to an ~~((administrative))~~ adjudicative proceeding. Only those issues raised at the complaint resolution procedure can be appealed to an ~~((administrative))~~ adjudicative proceeding. The ~~((administrative hearing))~~ adjudicative proceeding shall be governed by the Administrative Procedure Act (chapter ~~((34.04))~~ 34.05 RCW) and ~~((chapter 10-08 WAC, and the provisions of))~~ chapter 388-08 WAC ~~((that do not conflict with this section)).~~ If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(3) ~~((To make a request for an administrative hearing,))~~ A service contract applicant's or ((provider shall file a)) provider's application for an adjudicative proceeding shall be written ((appeal with)) and filed at the department's Office of ((administrative regulations and hearings. The appeal shall be filed)) Appeals, P.O. Box 2465, Olympia, WA 98504 within thirty days of the date the local agency on aging mailed the complaint resolution determination to the service contract applicant or recipient. A copy of the ((appeal)) application shall be sent to the local area agency. The ((appeal)) application shall:

(a) State specifically the issue or issues and regulation or regulations involved and the basis for considering the complaint resolution determination to be in error((-));

(b) Include any supporting documentation((-); and

(c) Include a copy of the complaint resolution determination being appealed.

(4) The department has the right to intervene in any ~~((administrative hearing))~~ adjudicative proceeding. To intervene, the department shall:

(a) File a written notice of intervention with the office of ~~((administrative regulations and hearings))~~ appeals or the presiding officer((-);

(b) Serve a copy of the notice ((to)) on the parties(-); and

(c) Include in the notice the name, address, and telephone number of the department employee and/or assistant attorney general who represents the department.

~~((5) After the administrative law judge has made a record, he or she shall make an initial decision (or order dismissing the appeal as withdrawn or abandoned). See WAC 10-08-210. The parties have the right to file a petition for administrative review against an initial decision (or order of dismissal). See WAC 388-08-409 and 388-08-413.))~~

Reviser's note: RCW 34.05.395 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 2458, filed 1/13/87)

WAC 388-17-510 AREA AGENCY ON AGING PLAN—ADMINISTRATIVE REVIEW PROCESS.

(1) An area agency on aging aggrieved by an action of

the department regarding a plan submitted under the provisions of the Older Americans Act has the right to an ~~((administrative hearing))~~ adjudicative proceeding. The ~~((hearing))~~ proceeding shall be governed by the Administrative Procedure Act (chapter ~~((34.04))~~ 34.05 RCW) and ~~((chapter 10-08 WAC, and the provisions of))~~ chapter 388-08 WAC ~~((that do not conflict with this section)).~~ If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(2) ~~((To make a request for an administrative hearing,))~~ An area agency on aging's ((shall file a)) application for an adjudicative proceeding shall be written ((appeal with)) and filed at the department's Office of ((administrative regulations and hearings. The appeal shall be filed)) Appeals, P.O. Box 2465, Olympia, WA 98504 within thirty days of the date the department first gave notice of the aggrieving action to the area agency. A copy of the ((appeal)) application shall be sent to the unit of the department which gave notice of the aggrieving action to the area agency. The ((notice)) application shall:

(a) State specifically the issue or issues and regulation or regulations involved and the basis for considering the aggrieving action to be in error((-);

(b) Include any supporting documents; and

(c) Include a copy of the department decision being appealed or a description of that decision.

~~((3) The administrative decision-making procedure is the initial decision-petition for administrative review-review decision process. See WAC 388-08-409 and 388-08-413.))~~

WSR 89-22-098

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF ECOLOGY

[Memorandum—November 1, 1989]

Federal 205 (j)(1) Water Quality Management Planning Grants Program Adoption of the State Centennial Clean Water Fund Program Guidelines Application and Project Priority Rating System

The Washington Department of Ecology is seeking public comment on a proposed change to the Federal 205 (j)(1) Water Quality Management Planning Grants Program. The department proposes to adopt the existing state Centennial Clean Water Fund Program Guidelines application and project priority rating system in place of the old 205 (j)(1) Guidelines application and project priority rating system.

A hearing will be held on Tuesday, December 5, 1989, from 10:00 a.m. to noon to receive testimony regarding the proposed change. The project priority rating systems will be discussed. The hearing will be located at:

Rowesix
EFSEC Building
4224 6th Avenue S.E.
Lacey, WA 98503

The existing 205 (j)(1) Guidelines and the Centennial Clean Water Fund Program Guidelines are available from Bill Semmes, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, or by telephone (206) 459-6028 or 585-6028 scan.

The department encourages all interested parties to provide testimony. Written comments will be accepted through December 12, 1989. Persons unable to attend the hearing may mail comments to the Washington Department of Ecology, Bill Semmes, Mailstop PV-11, Olympia, Washington 98504.

WSR 89-22-099

ATTORNEY GENERAL OPINION

Cite as: AGO 1989 No. 20

[October 27, 1989]

CITIES—FIREFIGHTERS—POLICE—CIVIL SERVICE

Because of RCW 41.08.040 and RCW 41.12.040, the secretary/chief examiner of a civil service commission created under chapter 41.08 or chapter 41.12 RCW must be either an existing employee of the city or a city resident; these provisions were left undisturbed when the current versions of RCW 41.08.075 and 41.12.075 were enacted.

Requested by:

Honorable George W. Walk
State Representative
Twenty-Fifth District
435 House Office Building
Olympia, Washington 98504

WSR 89-22-100

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed November 1, 1989, 11:04 a.m.]

Original Notice.

Title of Rule: Amending WAC 458-40-628 Definition; 458-40-660 Stumpage value tables; and 458-40-670 Stumpage value adjustments.

Purpose: To establish the stumpage values for reporting and payment of the timber excise tax.

Statutory Authority for Adoption: RCW 34.05.320.

Statute Being Implemented: RCW 84.33.091.

Summary: The rule establishes the stumpage value of timber within the state of Washington. These values are to be used by harvesters to compute their timber tax liability for the period from January 1, 1990, through June 30, 1990, (first half 1990).

Name of Agency Personnel Responsible for Drafting: Gordon S. Gienty, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 586-2903; Implementation: John B. Conklin, 6004 South Capitol Boulevard, Tumwater, WA 98501, (206) 753-2871; and Enforcement: Department of Revenue.

Name of Proponent: Department of Revenue, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes the stumpage value of timber, and adjustments, throughout the state of Washington. These values are to be used by harvesters to determine their taxable stumpage value when calculating their timber tax liability.

Proposal Changes the Following Existing Rules: This rule changes the stumpage values of timber throughout the state.

Small Business Economic Impact Statement: The Department of Revenue has reviewed administrative provisions contained in WAC 458-40-610, 458-40-660, and 458-40-670 in order to determine the economic impact on small businesses.

The new provisions incorporated in this rule do not change the reporting frequency of tax returns; require new forms; or alter long standing and generally accepted recordkeeping requirements.

This rule will have no economic impact on business.

The economic impact of actual tax liability is beyond the scope of the small business economic impact statement and therefore, not addressed.

The department does not have the legal authority to exempt small businesses from statutory requirements merely repeated in this rule.

Taxpayers report liability on the forest excise tax return. Records that a taxpayer must keep are those necessary to determine actual tax liability or those which show a harvester's right to a deduction, credit, or exemption. There is no other compliance requirement imposed by this rule.

Hearing Location: Department of Revenue, Conference Room, Third Floor, Northtown Office Building, North 4407 Division Street, Spokane, WA, on December 6, 1989, at 1:00 p.m.; and at the Evergreen Plaza Building, Red Carpet, 2nd Floor Conference Room, 711 South Capitol Way, Olympia, WA, on December 8, 1989, at 10:00 a.m.

Submit Written Comments to: John B. Conklin, Assistant Director, Forest Tax, General Administration Building, Mailstop AX-02, Olympia, Washington 98504, by December 8, 1989.

Date of Intended Adoption: December 29, 1989

November 1, 1989

John B. Conklin

Assistant Director

Forest Tax

AMENDATORY SECTION (Amending Order 86-4, filed 12/31/86)

WAC 458-40-628 **TIMBER EXCISE TAX—TAX LIABILITY—PUBLIC TIMBER**~~((TAX DUE WHEN BILLED BY THE SELLER))~~ **LUMP SUM VS. SCALE SALES.** For purposes of determining the proper quarter in which to pay taxes on timber harvested from public land, the taxes due under RCW 84.33.041 shall be due and payable as follows:

(1) **LUMP SUM SALE:** The tax shall be due and payable on the last day of the month following the quarter in which the purchaser is billed by the seller for the timber ~~((harvested))~~: **PROVIDED,** That if payments are made to the seller before any harvest, road construction or

other work has begun on the timber sale contract, taxes may be deferred until the quarter in which harvest or other contract work begins. In the quarter that harvest commences, taxes shall become due and payable on all ((payments made to the seller)) billings accrued by the buyer in all prior quarters as well as the current quarter.

(2) SCALE SALE: The tax shall be due and payable on the last day of the month following the end of the calendar quarter in which the timber was harvested. For tax purposes the timber is to be considered harvested in the quarter for which the volumes and values appear on the monthly billing statements. Indexing or escalation amounts shall be included in the quarter in which they apply.

(3) OTHER CONSIDERATIONS: Tax due on considerations other than cash shall be due and payable not later than the last quarter of harvest: PROVIDED, That if road credits (United States Forest Service Sales) are used as payment for stumpage, the tax is due in the quarter in which the road credits are applied as payment.

AMENDATORY SECTION (Amending Order FT-89-2, filed 6/30/89)

WAC 458-40-660 **TIMBER EXCISE TAX-STUMPAGE VALUE TABLES.** The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((July)) January 1 through ((December 31, 1989)) June 30, 1990:

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$375	\$368	\$361	\$354	\$347
		2	309	302	295	288	281
		3	305	298	291	284	277
		4	253	246	239	232	225
		5	200	193	186	179	172
		6	133	126	119	112	105
Western Redcedar ²	RC	1	492	485	478	471	464
		2	464	457	450	443	436
		3	269	262	255	248	241
		4	249	242	235	228	221
Sitka Spruce	SS	1	480	473	466	459	452
		2	440	433	426	419	412
		3	276	269	262	255	248
		4	209	202	195	188	181
		5	185	178	171	164	157
		6	146	139	132	125	118
Western Hemlock ³	WH	1	392	385	378	371	364
		2	264	257	250	243	236
		3	213	206	199	192	185
		4	212	205	198	191	184
		5	187	180	173	166	159
		6	115	108	101	94	87
Other Conifer	OC	1	392	385	378	371	364
		2	264	257	250	243	236
		3	213	206	199	192	185
		4	212	205	198	191	184
		5	187	180	173	166	159
		6	115	108	101	94	87
Red Alder	RA	1	101	94	87	80	73
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	10	10	10	10	10

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska-Cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble

Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 2—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1989**

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Quality Code	Hauling Distance Zone Number					
		1	2	3	4	5	
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

**TABLE 3—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1989**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Quality Code	Hauling Distance Zone Number					
		1	2	3	4	5	
Douglas-Fir	DF	1	\$446	\$439	\$432	\$425	\$418
		2	347	340	333	326	319
		3	284	277	270	263	256
		4	235	228	221	214	207
		5	175	168	161	154	147
		6	158	151	144	137	130
Western Redcedar ²	RC	1	516	509	502	495	488
		2	445	438	431	424	417
		3	371	364	357	350	343
		4	176	169	162	155	148
Sitka Spruce	SS	1	428	421	414	407	400
		2	254	247	240	233	226
		3	231	224	217	210	203
		4	223	216	209	202	195
		5	182	175	168	161	154
		6	140	133	126	119	112
Western Hemlock ³	WH	1	276	269	262	255	248
		2	263	256	249	242	235
		3	225	218	211	204	197
		4	207	200	193	186	179
		5	143	136	129	122	115
		6	65	58	51	44	37
Other Conifer	OC	1	276	269	262	255	248
		2	263	256	249	242	235
		3	225	218	211	204	197
		4	207	200	193	186	179
		5	143	136	129	122	115
		6	65	58	51	44	37

TABLE 3—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Red Alder	RA	1	79	72	65	58	51
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood-Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska-Cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees	DFX	1	0.25	0.25	0.25	0.25	0.25
Frac Fir & Other Christmas Trees	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 1989

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$480	\$473	\$466	\$459	\$452
		2	334	327	320	313	306
		3	320	313	306	299	292
		4	316	309	302	295	288
		5	200	193	186	179	172
		6	133	126	119	112	105

TABLE 5—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar	RC	1	399	392	385	378	371
		2	356	349	342	335	328
		3	279	272	265	258	251
		4	252	245	238	231	224
Western Hemlock	WH	1	349	342	335	328	321
		2	307	300	293	286	279
		3	243	236	229	222	215
		4	235	228	221	214	207
		5	159	152	145	138	131
		6	123	116	109	102	95
Other Conifer	OC	1	349	342	335	328	321
		2	307	300	293	286	279
		3	243	236	229	222	215
		4	235	228	221	214	207
		5	159	152	145	138	131
		6	123	116	109	102	95
Red Alder	RA	1	94	87	80	73	66
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood-Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	15	15	15	15	15

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 6—Stumpage Value Table
Stumpage Value Area 3
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees	DFX	1	0.25	0.25	0.25	0.25	0.25
Frac Fir & Other Christmas Trees	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

²Stumpage value per 8 lineal feet or portion thereof.

³Stumpage value per lineal foot.

**TABLE 7—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1989**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$389	\$382	\$375	\$368	\$361
		2	322	315	308	301	294
		3	298	291	284	277	270
		4	222	215	208	201	194
		5	180	173	166	159	152
		6	132	125	118	111	104
Western Redcedar ³	RC	1	441	434	427	420	413
		2	318	311	304	297	290
		3	270	263	256	249	242
		4	242	235	228	221	214
Western Hemlock ⁴	WH	1	376	369	362	355	348
		2	279	272	265	258	251
		3	238	231	224	217	210
		4	231	224	217	210	203
		5	158	151	144	137	130
		6	141	134	127	120	113
Other Conifer	OC	1	376	369	362	355	348
		2	279	272	265	258	251
		3	238	231	224	217	210
		4	231	224	217	210	203
		5	158	151	144	137	130
		6	141	134	127	120	113
Red Alder	RA	1	73	66	59	52	45
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	6	6	6	6	6

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 8—Stumpage Value Table
Stumpage Value Area 4
July 1 through December 31, 1989**

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54

**TABLE 8—cont:
Stumpage Values per Product Unit**

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25

True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50
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¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

**TABLE 9—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1989**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$490	\$483	\$476	\$469	\$462
		2	296	289	282	275	268
		3	290	283	276	269	262
		4	214	207	200	193	186
		5	174	167	160	153	146
		6	133	126	119	112	105
Western Redcedar ³	RC	1	514	507	500	493	486
		2	488	481	474	467	460
		3	384	377	370	363	356
		4	216	209	202	195	188
Western Hemlock ⁴	WH	1	410	403	396	389	382
		2	334	327	320	313	306
		3	211	204	197	190	183
		4	195	188	181	174	167
		5	143	136	129	122	115
		6	130	123	116	109	102
Other Conifer	OC	1	410	403	396	389	382
		2	334	327	320	313	306
		3	211	204	197	190	183
		4	195	188	181	174	167
		5	143	136	129	122	115
		6	130	123	116	109	102
Red Alder	RA	1	88	81	74	67	60
Black Cottonwood	BC	1	52	45	38	31	24
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	5	23	23	23	23	23
Conifer Utility	CU	5	7	7	7	7	7

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1989

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$409	\$402	\$395	\$388	\$381
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	158	151	144	137	130
Western Redcedar & Other Posts ²	RCP	1	0.54	0.54	0.54	0.54	0.54
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$180	\$174	\$168	\$162	\$156
Engelmann Spruce	ES	1	79	73	67	61	55
Lodgepole Pine	LP	1	79	73	67	61	55
Ponderosa Pine	PP	1	311	305	299	293	287
		2	143	137	131	125	119
Western Redcedar ³	RC	1	169	163	157	151	145
True Firs ⁴	WH	1	135	129	123	117	111
Western White Pine	WP	1	169	163	157	151	145
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	12	12	12	12	12

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1989

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1989

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Fimber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$114	\$108	\$102	\$96	\$90
Engelmann Spruce	ES	1	87	81	75	69	63
Lodgepole Pine	LP	1	93	87	81	75	69
Ponderosa Pine	PP	1	178	172	166	160	154
		2	118	112	106	100	94
Western Redcedar ³	RC	1	164	158	152	146	140
True Firs ⁴	WH	1	90	84	78	72	66
Western White Pine	WP	1	202	196	190	184	178
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	11	11	11	11	11

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 14—Stumpage Value Table
Stumpage Value Area 7
July 1 through December 31, 1989**

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

**TABLE 15—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1989**

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$289	\$283	\$277	\$271	\$265
		2	198	192	186	180	174
		3	129	123	117	111	105
Engelmann Spruce	ES	1	122	116	110	104	98
		2	117	111	105	99	93
		3	112	106	100	94	88
Lodgepole Pine	LP	1	117	111	105	99	93
		2	112	106	100	94	88
		3	106	100	94	88	82
Ponderosa Pine	PP	1	230	224	218	212	206
		2	212	206	200	194	188
		3	120	114	108	102	96
Western Redcedar ³	RC	1	269	263	257	251	245
		2	198	192	186	180	174
		3	127	121	115	109	103
True Firs ⁴	WH	1	326	320	314	308	302
		2	190	184	178	172	166
		3	151	145	139	133	127
Western White Pine	WP	1	224	218	212	206	200
		2	206	200	194	188	182
		3	128	122	116	110	104
Hardwoods	OH	1	61	55	49	43	37
Utility	CU	5	7	7	7	7	7

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
²Includes Western Larch.
³Includes Alaska Cedar.
⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 16—Stumpage Value Table
Stumpage Value Area 10
July 1 through December 31, 1989**

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$54	\$48	\$42	\$36	\$30
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
²Stumpage value per 8 lineal feet or portion thereof.
³Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴Stumpage value per lineal foot.

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1990**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$730	\$723	\$716	\$709	\$702
		2	349	342	335	328	321
		3	345	338	331	324	317
		4	277	270	263	256	249
		5	261	254	247	240	233
		6	237	230	223	216	209
Western Redcedar ²	RC	1	521	514	507	500	493
		2	500	493	486	479	472
		3	335	328	321	314	307
		4	313	306	299	292	285
Sitka Spruce	SS	1	543	536	529	522	515
		2	438	431	424	417	410
		3	283	276	269	262	255
		4	208	201	194	187	180
		5	193	186	179	172	165
		6	177	170	163	156	149
Western Hemlock ³	WH	1	437	430	423	416	409
		2	325	318	311	304	297
		3	263	256	249	242	235
		4	239	232	225	218	211
		5	217	210	203	196	189
		6	214	207	200	193	186
Other Conifer	OC	1	437	430	423	416	409
		2	325	318	311	304	297
		3	263	256	249	242	235
		4	239	232	225	218	211
		5	217	210	203	196	189
		6	214	207	200	193	186
Red Alder	RA	1	121	114	107	100	93
Black Cottonwood	BC	1	76	69	62	55	48
Other Hardwood	OH	1	82	75	68	61	54

TABLE 1—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Hardwood Utility	HU	5	27	27	27	27	27
Conifer Utility	CU	5	21	21	21	21	21

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 2—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1990

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$370	\$363	\$356	\$349	\$342
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	157	150	143	136	129
Western Redcedar & Other Posts ²	RCP	1	0.59	0.59	0.59	0.59	0.59
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

² Stumpage value per 8 lineal feet or portion thereof.

³ Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1990

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$724	\$717	\$710	\$703	\$696
		2	514	507	500	493	486
		3	303	296	289	282	275
		4	263	256	249	242	235
		5	223	216	209	202	195
		6	206	199	192	185	178
Western Redcedar ²	RC	1	687	680	673	666	659
		2	635	628	621	614	607
		3	331	324	317	310	303
		4	256	249	242	235	228
Sitka Spruce	SS	1	550	543	536	529	522
		2	415	408	401	394	387
		3	278	271	264	257	250

TABLE 3—cont.
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number						
			1	2	3	4	5		
Western Hemlock ³	WH	4	245	238	231	224	217		
		5	237	230	223	216	209		
		6	206	199	192	185	178		
		1	456	449	442	435	428		
		2	356	349	342	335	328		
		3	234	227	220	213	206		
Other Conifer	OC	4	229	222	215	208	201		
		5	171	164	157	150	143		
		6	151	144	137	130	123		
		1	456	449	442	435	428		
		2	356	349	342	335	328		
		3	234	227	220	213	206		
Red Alder	RA	4	229	222	215	208	201		
		5	171	164	157	150	143		
		6	151	144	137	130	123		
		1	102	95	88	81	74		
		Black Cottonwood	BC	1	76	69	62	55	48
		Other Hardwood	OH	1	82	75	68	61	54
Hardwood Utility	HU	5	27	27	27	27	27		
Conifer Utility	CU	5	37	37	37	37	37		

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 4—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1990

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$370	\$363	\$356	\$349	\$342
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	157	150	143	136	129
Western Redcedar & Other Posts ²	RCP	1	0.59	0.59	0.59	0.59	0.59
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

² Stumpage value per 8 lineal feet or portion thereof.

³ Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 3
 January 1 through June 30, 1990

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$629	\$622	\$615	\$608	\$601
		2	410	403	396	389	382
		3	355	348	341	334	327
		4	298	291	284	277	270
		5	291	284	277	270	263
		6	164	157	150	143	136
Western Redcedar ³	RC	1	584	577	570	563	556
		2	384	377	370	363	356
		3	333	326	319	312	305
		4	288	281	274	267	260
Western Hemlock ⁴	WH	1	446	439	432	425	418
		2	368	361	354	347	340
		3	267	260	253	246	239
		4	258	251	244	237	230
		5	239	232	225	218	211
		6	234	227	220	213	206
Other Conifer	OC	1	446	439	432	425	418
		2	368	361	354	347	340
		3	267	260	253	246	239
		4	258	251	244	237	230
		5	239	232	225	218	211
		6	234	227	220	213	206
Red Alder	RA	1	79	72	65	58	51
Black Cottonwood	BC	1	76	69	62	55	48
Other Hardwood	OH	1	82	75	68	61	54
Hardwood Utility	HU	5	27	27	27	27	27
Conifer Utility	CU	5	15	15	15	15	15

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 6—Stumpage Value Table
Stumpage Value Area 3
 January 1 through June 30, 1990

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar-Shake Blocks & Boards ¹	RCS	1	\$370	\$363	\$356	\$349	\$342
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	157	150	143	136	129
Western Redcedar & Other Posts ²	RCP	1	0.59	0.59	0.59	0.59	0.59

TABLE 6—cont.
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 4
 January 1 through June 30, 1990

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$630	\$623	\$616	\$609	\$602
		2	419	412	405	398	391
		3	325	318	311	304	297
		4	250	243	236	229	222
		5	196	189	182	175	168
		6	144	137	130	123	116
Western Redcedar ³	RC	1	414	407	400	393	386
		2	312	305	298	291	284
		3	293	286	279	272	265
		4	291	284	277	270	263
Western Hemlock ⁴	WH	1	424	417	410	403	396
		2	332	325	318	311	304
		3	256	249	242	235	228
		4	248	241	234	227	220
		5	191	184	177	170	163
		6	120	113	106	99	92
Other Conifer	OC	1	424	417	410	403	396
		2	332	325	318	311	304
		3	256	249	242	235	228
		4	248	241	234	227	220
		5	191	184	177	170	163
		6	120	113	106	99	92
Red Alder	RA	1	92	85	78	71	64
Black Cottonwood	BC	1	76	69	62	55	48
Other Hardwood	OH	1	82	75	68	61	54
Hardwood Utility	HU	5	27	27	27	27	27
Conifer Utility	CU	5	20	20	20	20	20

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 8—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1990

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$370	\$363	\$356	\$349	\$342
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	157	150	143	136	129
Western Redcedar & Other Posts ²	RCP	1	0.59	0.59	0.59	0.59	0.59
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 9—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1990

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$606	\$599	\$592	\$585	\$578
		2	464	457	450	443	436
		3	336	329	322	315	308
		4	217	210	203	196	189
		5	182	175	168	161	154
		6	170	163	156	149	142
Western Redcedar ³	RC	1	716	709	702	695	688
		2	610	603	596	589	582
		3	503	496	489	482	475
		4	275	268	261	254	247
Western Hemlock ⁴	WH	1	423	416	409	402	395
		2	326	319	312	305	298
		3	282	275	268	261	254
		4	240	233	226	219	212
		5	177	170	163	156	149
		6	134	127	120	113	106
Other Conifer	OC	1	423	416	409	402	395
		2	326	319	312	305	298
		3	282	275	268	261	254
		4	240	233	226	219	212
		5	177	170	163	156	149
		6	134	127	120	113	106
Red Alder	RA	1	113	106	99	92	85
Black Cottonwood	BC	1	76	69	62	55	48
Other Hardwood	OH	1	82	75	68	61	54
Hardwood Utility	HU	5	27	27	27	27	27
Conifer Utility	CU	5	21	21	21	21	21

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 10—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1990

WESTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Shake Blocks & Boards ¹	RCS	1	\$370	\$363	\$356	\$349	\$342
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	157	150	143	136	129
Western Redcedar & Other Posts ²	RCP	1	0.59	0.59	0.59	0.59	0.59
Douglas-Fir Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
True Fir & Other Christmas Trees ³	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot.

TABLE 11—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1990

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$156	\$150	\$144	\$138	\$132
Engelmann Spruce	ES	1	118	112	106	100	94
Lodgepole Pine	LP	1	143	137	131	125	119
Ponderosa Pine	PP	1	423	417	411	405	399
		2	161	155	149	143	137
Western Redcedar ³	RC	1	160	154	148	142	136
True Firs ⁴	WH	1	163	157	151	145	139
Western White Pine	WP	1	110	104	98	92	86
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	8	8	8	8	8

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 12—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1990

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$150	\$144	\$138	\$132	\$126
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

TABLE 13—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1990

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$146	\$140	\$134	\$128	\$122
Engelmann Spruce	ES	1	94	88	82	76	70
Lodgepole Pine	LP	1	91	85	79	73	67
Ponderosa Pine	PP	1	265	259	253	247	241
		2	166	160	154	148	142
Western Redcedar ³	RC	1	170	164	158	152	146
True Firs ⁴	WH	1	113	107	101	95	89
Western White Pine	WP	1	203	197	191	185	179
Hardwoods	OH	1	23	17	11	5	1
Utility	CU	5	2	2	2	2	2

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

TABLE 14—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1990

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS
Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks ¹	RCF	1	\$150	\$144	\$138	\$132	\$126
Lodgepole Pine & Other Posts ²	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ³	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.
² Stumpage value per 8 lineal feet or portion thereof.
³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁴ Stumpage value per lineal foot.

TABLE 15—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1990

EASTERN WASHINGTON MERCHANTABLE SAWTIMBER
Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$328	\$322	\$316	\$310	\$304
		2	187	181	175	169	163
		3	116	110	104	98	92
Engelmann Spruce	ES	1	204	198	192	186	180
		2	169	163	157	151	145
		3	134	128	122	116	110
Lodgepole Pine	LP	1	147	141	135	129	123
		2	142	136	130	124	118
		3	137	131	125	119	113
Ponderosa Pine	PP	1	423	417	411	405	399
		2	145	139	133	127	121
		3	137	131	125	119	113
Western Redcedar ³	RC	1	322	316	310	304	298
		2	243	237	231	225	219
		3	165	159	153	147	141
True Firs ⁴	WH	1	255	249	243	237	231
		2	208	202	196	190	184
		3	154	148	142	136	130
Western White Pine	WP	1	224	218	212	206	200
		2	169	163	157	151	145
		3	138	132	126	120	114
Hardwoods	OH	1	61	55	49	43	37
Utility	CU	5	6	6	6	6	6

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

**TABLE 16—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1990**

EASTERN WASHINGTON SPECIAL FOREST PRODUCTS

Stumpage Values per Product Unit

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks¹							
	RCF	1	\$150	\$144	\$138	\$132	\$126
Lodgepole Pine & Other Posts²							
	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees³							
	PX	1	0.25	0.25	0.25	0.25	0.25
Douglas-Fir & Other Christmas Trees⁴							
	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Stumpage value per MBF net Scribner Scale. See conversion methods WAC 458-40-684 and 458-40-686.

² Stumpage value per 8 lineal feet or portion thereof.

³ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁴ Stumpage value per lineal foot.

AMENDATORY SECTION (Amending Order FT-89-2, filed 6/30/89)

WAC 458-40-670 TIMBER EXCISE TAX—STUMPAGE VALUE ADJUSTMENTS. Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

(1) No harvest adjustment shall be allowed against conifer utility, hardwood utility, or any of the special forest products.

(2) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

(3) Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage values. Such applications should contain a map with the legal descriptions of the area, a description of the damage sustained by the timber, and a list of estimated costs to be incurred. Such applications shall be sent to the department before the harvest commences. Upon receipt of such application, the department will determine the amount of adjustment allowed, and notify the harvester. Such amount may be taken as a credit against tax liabilities or, if harvest is terminated, a refund may be authorized. In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application not later than ninety days following completion of the harvest unit.

The following harvest adjustment tables are hereby adopted for use during the period of ~~((July))~~ January 1 through ((December 31, 1989)) June 30, 1990:

**TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5
((July)) January 1 through
~~((December 31, 1989))~~ June 30, 1990**

WESTERN WASHINGTON MERCHANTABLE SAWTIMBER

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	-\$4.00

TABLE 1—cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	-\$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	-\$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	-\$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	- (((\$18.00)) <u>\$22.00</u>
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$35.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- (((\$92.00)) <u>\$84.00</u>
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning (see WAC 458-40-610(20))		
Class 1	Average log volume of 50 board feet or more.	-\$25.00
Class 2	Average log volume of less than 50 board feet.	-\$35.00
TABLE 2—Harvest Adjustment Table Stumpage Value Areas 6, 7, and 10 ((July)) <u>January 1 through</u> ((December 31, 1989)) <u>June 30, 1990</u>		
EASTERN WASHINGTON MERCHANTABLE SAWTIMBER		
Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	-\$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	-\$10.00
II. Logging conditions		
Class 1	Favorable logging conditions and easy road construction. No significant rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	\$0.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	- (((\$18.00)) <u>\$22.00</u>
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	-\$35.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- (((\$92.00)) <u>\$84.00</u>
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

Table 3—Domestic Market Adjustment

Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska yellow cedar. (Stat. Ref. - 36 CFR 223.10)

State Timber Sales: Western red cedar only. (Stat. Ref. - 50 USC appendix 2406.1)

The adjustment amounts shall be as follows:

Class 1: All eligible species in Western Washington (SVA's 1 through 5) - ~~\$(28.00)~~ 63.00 per MBF

Class 2: All eligible species in Eastern Washington (SVA's 6, 7, and 10) - \$17.00 per MBF

Note: The adjustment will not be allowed on conifer utility, hardwood utility or special forest products.

WSR 89-22-101
PROPOSED RULES
BOARD OF PHARMACY
[Filed November 1, 1989, 11:17 a.m.]

Original Notice.

Title of Rule: WAC 360-10-050 Requirements for preceptor certification.

Purpose: To extend the time limit for pharmacist preceptors to have completed the board approved training program.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

Summary: The requirement for completion of the training program would be extended one year.

Reasons Supporting Proposal: Additional time is needed to implement the training program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 319 East Seventh Avenue, Olympia, WA 98504, (206) 753-6834.

Name of Proponent: Washington State Board of Pharmacy, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 360-10-050 which includes a requirement for pharmacist preceptors to complete an approved training program would be revised to provide additional time to develop and implement the training program.

Proposal Changes the Following Existing Rules: In WAC 360-10-050 the date January 1, 1990, is changed to January 1, 1991.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing, Wright Building, 3rd Floor Conference Room, 464 12th Avenue, Seattle, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, Board of Pharmacy, 319 East Seventh Avenue, Olympia, WA 98504, by December 13, 1989.

Date of Intended Adoption: December 14, 1989.

October 30, 1989

John H. Keith
Assistant Attorney General
Board Counsel

AMENDATORY SECTION (Amending Order 211, filed 3/2/88)

WAC 360-10-050 REQUIREMENTS FOR PRECEPTOR CERTIFICATION. (1) A pharmacist who is licensed and actively engaged in practice in a Class A pharmacy in the state of Washington, and who has met certification requirements prescribed in this section of the regulation and who has completed a board approved training program within the last five years, and who has been certified by the board of pharmacy shall be known as "pharmacist preceptor." The requirement for completion of an approved training program becomes effective January 1, ~~(1990)~~ 1991.

(2) The pharmacist preceptor must have completed twelve months as a licensed pharmacist engaged in the practice of pharmacy as defined in RCW 18.64.011(11).

(3) Any preceptor or preceptor applicant who has been found guilty of a drug or narcotic violation or whose pharmacist license has been revoked, suspended, or placed on probation by the state board of pharmacy shall not be eligible for certification as a preceptor, until completion of the probationary period, and a showing of good cause for certification as a pharmacist preceptor.

(4) The preceptor shall be responsible for the quality of the internship training under his/her supervision and he/she shall assure that the intern actually engages in pharmaceutical activities during that training period.

(5) The board of pharmacy shall withdraw a preceptor's certification upon proof that the preceptor failed to meet or maintain the requirements as stated in this section.

(6) In considering the approval of special internship programs pursuant to WAC 360-10-080, the board may approve alternative qualification requirements for the preceptors of such programs.

WSR 89-22-102
PERMANENT RULES
DEPARTMENT OF LICENSING
(Optometry Board)

[Filed November 1, 1989, 11:19 a.m.]

Date of Adoption: October 20, 1989.

Purpose: To provide for the identification of optometrists authorized to prescribe legend drugs.

Statutory Authority for Adoption: RCW 18.54.070.

Pursuant to notice filed as WSR 89-18-083 on September 6, 1989.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-53-350(1) was revised to permit prescription authorization information to be on file at a pharmacy.

Effective Date of Rule: Thirty-one days after filing.

October 20, 1989

Jeffrey A. Forrey, O.D.
Chairman

NEW SECTION

WAC 308-53-350 OPTOMETRIST WITH PRESCRIPTIVE AUTHORIZATION. (1) Each prescription issued by an optometrist, who is certified by the board to prescribe legend drugs for therapeutic purposes, shall include on the prescription his/her license number and the letters "TX." These letters shall represent the authority which has been granted to the practitioner by

the board and will serve to assure pharmacists that the prescription has been issued by an authorized practitioner. When the prescription is orally transmitted to a pharmacist, this information shall be included or shall be on file at the pharmacy.

(2) Any optometrist who issues a prescription without having: (a) Received appropriate certification from the board, or (b) fails to include the identifying information on the prescription, or (c) prescribes outside their scope of practice or for other than therapeutic or diagnostic purposes, or (d) violates any state or federal law or regulations applicable to prescriptions, may be found to have committed an act of unprofessional conduct and may be disciplined in accordance with the provisions of chapter 18.130 RCW.

WSR 89-22-103
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed November 1, 1989, 1:06 p.m.]

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective October 31, 1989.

Statutory Authority for Adoption: See below; see also RCW 34.05.220.

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudical [adjudicative] proceedings in programs the department administers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bill Williams, 12th and Franklin, Olympia, Washington, 586-6500.

Name of Proponent: Department of Health, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To amend program rules, to conform to the new Administrative Procedure Act and other recent statutory changes.

Proposal Changes the Following Existing Rules: See below.

The Administrative Procedure Act, chapter 34.05 RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. His [These] model rules are codified under chapter 10-08 WAC. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

CHAPTERS 10-08 AND 248-08

248-08
section;
new, amend, 10-08
repeal section comparison of the two chapters and reasons for variations

410 001 Application of chapter 248-08 WAC
Amend
The DOH section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 248-08 applies only to DOH programs. The DOH section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.

413 035 Application for an Adjudicative Proceeding
New
The department's rule contains the requirements of Model Rule section 035 and more. The Model Rule does not state who can file and where to file an application nor clearly specify the contents of an application. The department rule does.

425 New	040(3), 050(2), 190, 200, and none	Administrative Law Judge -- Authority -- Application of Law -- Assignment
425(1)(a)	none	The Secretary intends that adjudicative proceedings be <u>de novo</u> . This rule makes that explicit.
425(1) (b)-(j)	200(1)-(9)	These nine subsections of the DSHS rule are the same as Model Rule 200(1) through (9).
425(1)(k)	190	This subsection comes from Model Rule 190 as limited by APA section 449(5).
425(1)(l)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The department rule at subsection (1)(l) deletes "statute" so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non-department rules in accordance with subsection (2) of this rule.
425(1)(m)	see 040(3)	Subsection (1)(m) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in department hearings where presiding officers must routinely rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived the right to representation.
425(2)	none	The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule covers that gap.
425(3),(4)	050(2)	These sections are the same as Model Rule 050(2) reworded for ease of reading and understanding.
425(5)	none	APA section 425(6) states that the APA petition for disqualification provision is in addition to the RCW 34.12.050 motion of prejudice. The procedure for the APA petition differs from an RCW 34.12.040 motion. The Model Rules do not make the differences clear. The variation in the department rule is to clarify the differences.

428 New	none	Representation Comments on the draft rules indicated some people did not understand APA section 428 dealing with representation. The department's rule covers the topic in clear everyday English to avoid any misunderstanding.
431 New	130	Prehearing Conference The Model Rule is reworded and renumbered to make reading and understanding easier.
434 New	040	Notice of Hearing Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier. The Model Rule's restating APA provisions is not included in the department's rule. Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the department rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in department rule section 425(1)(m).
437 New	110	Filing and Service of Papers The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt of all papers at the office responsible for the adjudicative proceeding.
440 Amend	none	Vacating an Order of Dismissal for Reason of Default or Withdrawal. There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This department rule sets a 14 day period after service of the order to file a motion to vacate a dismissal based on a default or a withdrawal and it contains the procedures.
446 New	120	Subpoenas The department rule follows the Model Rule.

449 New	170;180	Teleconference Hearing
449(1), (2)	180	APA section 449(3) permits a hearing to be conducted by electronic means. Model Rule section 180 treats this subject. The department's section 449(1) contains two differences from the Model Rule. First, the department rule contains the agency's concurrence to conducting its hearings by electronic means so that agreement in each case is not necessary. Second, the APA conditions conducting a hearing by electronic means to it being "technically and economically feasible" for the participants to see the proceeding and the department's rule uses this standard instead of the Model Rule's limitation of only "technically feasible".
none	170	APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. The department did not adopt the Model Rule because it adds nothing to the APA requirement.
452 New	140;160(1)	Rules of Evidence The first five subsections of the department rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting off the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department prefers to give the party in such a situation the opportunity to seek relief. Model Rule 160(1), requiring testimony to be under oath or affirmation, is contained in APA section 452(3). The Model Rule adds nothing to the APA provision so is not adopted in the department's rules.
461 New	210	Contents of Orders The department rule adopts only those parts of Model Rule section 210 that are not restatements of the requirements imposed by APA section 461.
464 New	211	Petition for Review -- Response to Petition -- Disqualification of a Review Judge Department rule section 464 loosely follows Model Rule section 211. Differences are:

- . Subsection 1 is the department's rule providing that initial orders in specified classes of cases become final without further department action when no petition for review is filed. Legal authority for this provision is APA section 464(1).
- . Subsections 2 and 3 on who may petition and the contents of the petition are the same as Model Rule 211(1) and (3).
- . Subsection 4 of the department rule sets a fourteen day time limit for filing a petition and that it can be extended or waived by a reviewing officer. These are changes from the Model Rule which sets a 20 day petition filing period or different place and time as stated in the initial order. This was rejected as (a) too rigid a time frame and (b) too long, or if the presiding officer sets a different time/place, too uncertain to assure that adjudicative orders will be made within reasonable time limits.
- . Subsection 5 requires the petition to be in writing and specifies where it is to be filed. Permitting filing in another place stated in the initial order as allowed in the Model Rules was rejected as too uncertain to assure that adjudicative orders will be made in a reasonable time.

Unlike Model Rule 211(2), copies are not required to be served on other parties and representatives. See comments immediately below.

- . Subsection 6 of the department rule has no counterpart in the Model Rules. It states the agency will give the nonpetitioning party notice that a petition for administrative review was filed. This is to assure that the party is aware of the petition and apprized of the right to respond. The section is necessary because some petitioners, especially pro se clients, fail to serve the other party. The department's curing the error is preferable to dismissing the petition on the procedural defect.

- . Subsection (7) is the same as Model Rule 211 subsection (4) except the period to file a response to a petition is seven (instead of ten) days from the department's mailing the notice acknowledging receipt of the petition (instead of the date the petitioner served the petition) and the reviewing officer can extend the period.
- . Subsection 8 covers disqualification of a reviewing officer. The Model Rules are silent. The department rule contains the procedures necessary to implement the right.

470 Amend	215	Reconsideration	The department rule is the same as the Model Rule except it states the office for filing a petition for reconsideration of a review decision.
515 New	045	Notice to Limited-English-Speaking Parties	Department section 515 is the same as Model Rule 045 with slight wording changes for clarity.
525 New	150;160(2)	Interpreters	Department subsection 525(1) through (11) are the same as Model Rule 150(1) through (11). Subsection 525(12) is the same as Model Rule 160(2). Subsections 525(13) through (18) are the same as Model Rule 150(12) through (17).
535 New	none	Group Hearing	This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.
545 New	090	Continuance	Department section 545 is the same as Model Rule section 080 with slight rewording for clarity.
565 New	080	Computation of Time	Section 565 is the same as Model Rule section 090.

575 New	none	<p>Judicial Review of Final Adjudicative Order</p> <p>Judicial review of agency action is dealt with in Part V of the APA. The provisions on initiating judicial review of a final adjudicative order are scattered and difficult for some to follow. Also, nonagency staff comments on draft rules recommended that the rules specify which department office (other than the Secretary's office) was a proper one for delivering a petition for judicial rule under APA section 542(4). This rule responds to the above concerns.</p>
none	230(1)	<p>Informal Settlement</p> <p>The APA section 060 encourages agencies to offer informal settlement procedures that may make more elaborate proceedings unnecessary. The APA section permits an agency to establish informal settlement procedures by rule. The Model Rule would establish a single procedure for all informal settlements. The department is not adopting the Model Rule for two reasons. First, the department has created many informal settlement processes and they are tailored to best meet the needs of the kinds of disputes that arise in a particular program. The Model Rule's uniform procedure does not recognize this need for various procedures. Second, while some of the department's informal settlement procedures are in rules, not all are. The department prefers to be able to use nonrule material for some informal settlements.</p>
none	230(2)	<p>Adjudicative Proceeding Settlement</p> <p>Model Rule 230(2) deals with settlements in adjudicative proceedings. These settlements are, under the Model Rule, concluded by stipulation of the parties, withdrawal of the application, or withdrawal of the aggrieving agency action. The Model Rule then requires the stipulation to be signed by the parties or recited on the record and for the presiding officer to enter an appropriate order. The procedure for stipulations under this Model Rule provision appears to differ from a stipulation obtained at a prehearing conference. See Model Rules 130(1)(c), (3) and 170. The content of the settlement order appears to differ from that specified for initial orders in Model Rule 210.</p> <p>The department has not proposed to adopt Model Rule 230(2) to avoid these possible conflicts and because its proposed sections 425(1); 431(1)(c), (2), and (3); 440; 452(6); 461; and 464 cover the topic adequately and consistently.</p>

248-08 sections: 001, 010, 020, 030, 040, 050, 060, 070, 075, 080, 090, 100, 110, 120, 130, 140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260, 270, 280, 290, 300, 310, 320, 330, 340, 350, 360, 370, 380, 390, 400, 420, 430, 450, 460, 480, 490, 500, 510, 520, 530, 540, 550, 560, 570, 580, 590, 700, 705, 710, 715, 720, 725, 730, 735, 740, 750, 755, 760, 765, 770, 775, 780, 785, 790, 800, 805, 810, 815, 820, 825, 830, 835, 840, and 845 are each repealed.

CHAPTERS 10-08 AND 248-320 WAC

<u>248-320 section</u>	<u>10-08 section</u>	<u>comparison of the two chapters and reasons for variations</u>
340 New	not applicable	Delegation of Authority by Secretary. This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 248-320 WAC.
350 New	250	Declaratory Orders - Forms, Content, and Filing The department rule is the same as the Model Rule.
360 New	251	Declaratory Orders - Procedural Rights of Persons in Relation to Petition
370 New	252	Declaratory Orders - Disposition of Petition The department rule is the same as the Model Rule.
400 New	250	Petition for Rule Making - Form, Content, and Filing The department rule is the same as the Model Rule.
410 New	261	Petition for Rule Making - Consideration and Disposition The department rule is the same as the Model Rule.
500 New	not applicable	Updating Mailing Lists This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 248-320 WAC.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by January 3, 1990.

Date of Intended Adoption: January 10, 1990.

October 31, 1989
Pam Campbell Mead
for Kristine Gebbie
Secretary

AMENDATORY SECTION (Regulation 08.410, effective 3/11/60)

WAC 248-08-410 ((~~FORM AND CONTENT~~)) APPLICATION OF ((DECISIONS IN CONTESTED CASES)) CHAPTER 248-08 WAC. ((Every decision and order, whether proposed, initial, or final, shall:))

(1) ((Be correctly captioned as to name of agency and name of proceeding:)) Scope. This chapter applies to adjudicative proceedings, begun on or after July 1, 1989, in programs administered by the department of health. The definition of the word "begun" is the department's receipt of the application for an adjudicative proceeding. Proceedings begun before July 1, 1989, are governed by the procedural rules in effect on June 30, 1989. Legal authority for adopting this chapter is RCW 34.05.220 (1)(a).

(2) ((Designate all parties and counsel to the proceeding:)) Conflict in rules. If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

(3) ~~((Include a concise statement of the nature and background of the proceeding;~~

~~(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;~~

~~(5) Whenever practical, include the reason or reasons for the particular order or remedy afforded;~~

~~(6) Wherever practical, be referenced to specific provisions of law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same)) Physical and mailing addresses. The presiding officer is generally an administrative law judge (ALJ) from the office of administrative hearings. Presiding officer administrative and field office addresses are listed under WAC 10-04-020. The reviewing officer is generally the secretary or the secretary's designee. The secretary's address for professions governed by the Uniform Disciplinary Act is the legal support section of the investigation, legal and audit unit, which is located at 1300 Quince, Olympia, and the mailing address is Legal Support Section, P.O. Box 2245, Olympia, WA 98507-2245. The reviewing officer's address for other programs is the office of appeals which is located in office building number 2, Twelfth and Franklin, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465.~~

NEW SECTION

WAC 248-08-413 APPLICATION FOR AN ADJUDICATIVE PROCEEDING. (1) Uniform Disciplinary Act application. A person contesting a decision or statement of charges under the Uniform Disciplinary Act shall file a written application for an adjudicative proceeding with the legal support section of the investigation, legal and audit unit. The application must be filed within twenty days of the person's receipt of the decision or statement of charges.

(2) Other program application. A person contesting a department decision in a program not governed by the Uniform Disciplinary Act shall file a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals within twenty-eight days of receipt of the decision.

(3) Application contents. The application must include or have attached:

- (a) A specific statement of the issue or issues and law involved;
- (b) The grounds for contesting the department decision or statement of charges; and
- (c) A copy of the contested department decision or statement of charges.

NEW SECTION

WAC 248-08-425 ADMINISTRATIVE LAW JUDGE (ALJ)—AUTHORITY—APPLICATION OF LAW—ASSIGNMENT—DISQUALIFICATION. (1) Authority. The ALJ shall:

- (a) Conduct the hearing de novo;
- (b) Determine the order of presentation of evidence;
- (c) Administer oaths and affirmations;
- (d) Issue subpoenas;
- (e) Rule on procedural matters, objections, and motions;
- (f) Rule on offers of proof and receive relevant evidence;
- (g) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;
- (h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;
- (i) Take any appropriate action necessary to maintain order during the hearing;
- (j) Permit or require oral argument or briefs and determine the time limits for submission thereof;
- (k) Permit photographic and recording equipment at hearings subject to conditions imposed by the ALJ to preserve confidentiality or to prevent disruption;
- (l) Permit a person to waive any right conferred upon that person by chapters 34.05 RCW and/or chapter 248-08 WAC, except to the extent precluded by another provision of law; and
- (m) Take any other action necessary and authorized by any applicable rule.

(2) Application of law. The ALJ shall:

- (a) Apply as the first source of law governing an issue the rules of the department as adopted in the Washington Administrative Code (WAC);

(b) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington constitutions, statutes and regulations, and court decisions;

(c) Not declare any department rule invalid;

(d) If the validity of any department rule is raised as an issue at any proceeding, permit arguments to be made on the record concerning that issue for subsequent review purposes; and

(e) If the sole issue is one of federal or state law requiring adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument to be made on the record regarding the validity of the law.

(3) Assignment of ALJ. If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

- (a) Make such assignment five days or more before the hearing; and
- (b) Disclose the assignment to any party or representative making inquiry.

(4) Motion of prejudice.

(a) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed at least three days before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling.

(b) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) Petition for disqualification. An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

NEW SECTION

WAC 248-08-428 REPRESENTATION. (1) Appellant representation.

(a) The appellant may represent himself or herself, or the appellant may be represented by a lawyer or paralegal or by a relative, friend, or other person.

(b) The appellant may not be represented in an adjudicative proceeding by an employee of the department.

(c) Nothing in this regulation shall be construed as prohibiting an employee of the department from:

- (i) Acting as a witness on behalf of an appellant; or
- (ii) Referring an appellant to legal resources in the community; or
- (iii) Assisting the appellant in obtaining nonconfidential information available to the appellant; or
- (iv) Advising the appellant of possible arguments made against the contested decision.

(2) Department representation. The department may be represented by a department employee or by the office of the attorney general.

NEW SECTION

WAC 248-08-431 PREHEARING CONFERENCE. (1) Request, purpose, order, and objection. Upon the administrative law judge's (ALJ) own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

- (i) Simplification of issues;
- (ii) The necessity or desirability of amendments to the pleadings;
- (iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;
- (iv) Limitations on the number and consolidation of the examination of witnesses;
- (v) Procedural matters;
- (vi) Distribution of written testimony and exhibits to the parties before the hearing; and
- (vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) The ALJ may conduct a prehearing conference by telephone conference call, in person, or other manner.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

- (i) Action taken at the conference;
- (ii) Amendments allowed to the pleadings; and
- (iii) Agreements the parties made concerning all of the matters considered.

(d) If no objection to such order is filed within ten days after the date such order is served, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Conference on day of hearing. Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Not a limit to informal settlement. Nothing in this rule shall limit the right of any agency to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 248-08-434 NOTICE OF HEARING. (1) Served by. The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives.

(2) Contents.

(a) If the hearing is conducted by teleconference call, the notice shall so state.

(b) The notice shall state:

(i) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(ii) There shall be no cost to the party or witness for the interpreter.

(c) The notice shall include a form for a party to:

(i) Indicate the need for an interpreter; and

(ii) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 248-08-437 FILING AND SERVICE OF PAPERS. (1) Service required when filing. A party filing a pleading, brief, or other paper, except an application for an adjudicative proceeding, with the support section of the investigation, legal and audit unit, or with the office of appeals, or on the administrative law judge (ALJ) shall serve a copy of the paper upon:

(a) Every other party; or

(b) If the other party is represented or has an agent, the other party's representative or agent.

(2) Filing and service made by. Unless otherwise provided by law, filing and service shall be made by:

(a) Personal service;

(b) First class, registered, or certified mail;

(c) Telegraph;

(d) Electronic telefacsimile transmission and same-day mailing of copies; or

(e) Commercial parcel delivery company.

(3) Filing complete. Filing with the support section of the investigation, legal and audit unit or with the office of appeals shall be complete upon actual receipt during office hours at the appropriate office. Filing with the ALJ shall be complete upon actual receipt during office hours at the office of the ALJ.

(4) Service complete. Service shall be complete when:

(a) Personal service is made;

(b) Mail is properly stamped, addressed, and deposited in the United States mail;

(c) A properly addressed telegram is deposited with a telegraph company with charges prepaid;

(d) An electronic telefacsimile transmission produces proof of transmission; or

(e) A commercial parcel is delivered to the parcel delivery company with charges prepaid.

(5) Proof of service. Where proof of service is required by statute or rule, filing the papers with the ALJ, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service;

(b) A certificate of service including the date the papers were served upon all parties and the signature of the serving party indicating service was completed by:

(i) Personal service;

(ii) Mailing a copy properly addressed with postage prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iii) Telegraphing a copy properly addressed with charges prepaid to each party to the proceeding, or the party's representative or authorized agent; or

(iv) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party to the proceeding, or the party's representative or authorized agent; or

(v) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

AMENDATORY SECTION (Regulation 08.440, effective 3/11/60)

WAC 248-08-440 ~~((PREHEARING CONFERENCE RULE=RECORD)) VACATING A DISMISSAL FOR REASON OF ((CONFERENCE ACTION)) DEFAULT OR WITHDRAWAL.~~ ~~((The board or department or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements, and such order or statement shall control the subsequent course of the proceeding unless modified for))~~ (1) Right to request. A party against whom a dismissal for reason of default or withdrawal is entered shall have the right to file a written request that the order be vacated.

(2) Contents. The request shall state the grounds relied upon.

(3) Filed at. The request shall be filed at the legal support section of the investigation, legal and audit unit for Uniform Disciplinary Act proceedings or the office of appeals for other programs within fourteen days from the date the dismissal order was served.

(4) Grounds to vacate an order of dismissal. If, in the reasoned opinion of the administrative law judge (ALJ), good cause ~~((by subsequent order))~~ to grant the relief is shown, the ALJ shall vacate the order of dismissal and reinstate the application.

NEW SECTION

WAC 248-08-446 SUBPOENAS. (1) Statutory requirements. The administrative law judge, the department, and attorneys for parties may issue a subpoena. A subpoena shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Contents. Every subpoena shall:

(a) Identify the party causing issuance of the subpoena;

(b) State the name of the agency as the department of health;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) Service. A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Exhibiting and reading the subpoena to the witness;

(b) Giving the witness a copy; or

(c) Leaving a copy at the place of the witness' residence.

(4) Proof of service. When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) Quashing, modifying, conditioning. The administrative law judge, upon request made promptly and in any event at or before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable and oppressive; or

(b) Condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION

WAC 248-08-449 TELECONFERENCE HEARING. (1) When authorized. The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) Documentary evidence. When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 248-08-452(2).

NEW SECTION

WAC 248-08-452 RULES OF EVIDENCE. (1) Objections. The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence pursuant to RCW 34.05.452.

(2) Submission in advance. The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence not submitted in advance as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) Portions of a document. When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) Expert witness limitation. No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) Witness refusal to answer. The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) Stipulation, admission. A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw it in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

(7) A person called as a witness in a hearing shall swear or affirm that the testimony the witness is about to give in the hearing shall be the truth under the provisions of RCW 5.28.020, 5.28.030, 5.28.040, 5.28.050, and 5.28.060.

NEW SECTION

WAC 248-08-461 CONTENTS OF ORDERS. Every order shall correctly caption both the name of the agency and the proceeding and shall designate the parties and representatives participating in the proceeding.

NEW SECTION

WAC 248-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Initial orders that may become final orders.

(a) If a petition for review is not filed within fourteen days from service of the initial order, the initial order shall, subject to the provisions of this section, become the final order.

(b) An initial order shall not become the final order in proceeding governed by the Uniform Disciplinary Act. Each party shall have the right to file a petition for review of the administrative law judge's order. Whether a petition for review is or is not filed, the secretary or designee shall enter the final order.

(2) Who may petition. Each party has the right to file a petition for review of an order entered by an administrative law judge.

(3) Petition contents. The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) Petition time limits.

(a) The period to timely file a petition for review is fourteen days from the date the initial decision was served.

(b) The secretary or designee shall extend the fourteen-day period to file a petition for review upon request of a party when:

(i) The request is made during the fourteen-day period; and

(ii) Good cause for the extension is shown.

(c) The secretary or designee shall waive the fourteen-day limit for filing a petition for review when:

(i) A petition for review is filed within thirty days of the date the initial order becomes final; and

(ii) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(A) A mistake, inadvertence, or excusable neglect on the part of the petitioner; or

(B) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(5) Petition filing and service. The petition for review shall be in writing and filed with the secretary or designee. The petitioner shall serve copies of the petition upon the other parties or their representative at the time the petition is filed. A petition in a proceeding governed by the Uniform Disciplinary Act shall be filed on the secretary or designee at the legal support section of the investigation, legal and audit unit. A petition in other programs shall be filed on the secretary or designee at the office of appeals.

(6) Notice of petition. When a petition for review is filed, the secretary or designee shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(7) Response time limit, filing, service.

(a) The nonpetitioning party shall file any response with the secretary or designee within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(b) The nonpetitioning party shall serve a copy of the response upon the petitioner and any other party or, if represented, on the representative at the time the response is filed.

(c) A secretary or designee may extend the period to file a response upon request of a party showing good cause.

(8) Disqualification. The secretary or designee shall disclose the assignment of the reviewing officer to any party or representative making inquiry. An individual petitioning to disqualify a reviewing officer under RCW 34.05.425 shall file such petition with the reviewing officer assigned to the proceeding.

AMENDATORY SECTION (Regulation 08.470, effective 3/11/60)

WAC 248-08-470 (~~EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES~~) RECONSIDERATION. (~~That the hearing examiner or other appropriate officer in all classes~~) Within ten days of service of (~~cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the~~) a review order, any party may file a petition for reconsideration. The petition shall state the specific grounds upon which relief is requested. A petition for reconsideration shall be filed at the legal support section of the investigation, legal and audit unit for proceedings governed by the Uniform Disciplinary Act. A petition for reconsideration in other (~~(parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance)~~) programs shall be filed at the office of (~~(the hearing to permit the other interested parties to investigate such qualifications)~~) appeals.

NEW SECTION

WAC 248-08-515 NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal shall:

(1) Be written in the primary language of the party; or

(2) Include a notice in the primary language of the party describing:

(a) The significance of the notice; and

(b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

NEW SECTION

WAC 248-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

- (a) Hearing impaired person; or
- (b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

- (i) Specialist certificate-legal;
- (ii) Master's comprehensive skills certificate; or
- (iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

(a) Testimony or stated needs of the impaired person;

(b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;

(c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and

(d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 248-08-535 GROUP HEARING. (1) When applicable. When two or more appellants file applications contesting a similar issue, the applications may be consolidated by the department or the administrative law judge (ALJ) and heard as a group. The ALJ may consolidate on the ALJ's own motion or on a party's request.

(2) Withdrawal from group.

(a) An appellant scheduled for a group hearing may request to withdraw from the group hearing in favor of an individual hearing. An appellant's request to withdraw from a group hearing shall be granted if the motion is filed before the:

(i) Administrative law judge (ALJ) has made a discretionary ruling; and

(ii) Date of the hearing.

(b) The ALJ may grant a motion to withdraw filed at any time when good cause is shown.

(3) Right to representation. Each appellant in a group hearing shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 248-08-545 CONTINUANCE. (1) Authority to grant. The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the request of any party, with notice to all other parties, showing good and sufficient cause.

(2) When, how requested. A request for a continuance made before the hearing date may be either oral or in writing. The party seeking the continuance shall:

(a) Notify the other parties before presenting the request to the ALJ; and

(b) Inform the ALJ whether the other parties agreed to the continuance. If the other parties did not agree to the continuance, the ALJ shall promptly schedule a prehearing conference to receive evidence and/or argument and to rule on the request.

NEW SECTION

WAC 248-08-565 COMPUTATION OF TIME. (1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday.

(3) When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(4) When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

NEW SECTION

WAC 248-08-575 JUDICIAL REVIEW OF FINAL ADJUDICATIVE ORDER. (1) Right to judicial review; exclusive remedy. An appellant or intervener aggrieved, as described under RCW 34.05.530, by the final decision or order in a department of health (DOH) adjudicative proceeding may appeal the decision or order to court. Judicial review shall only be obtained under chapter 34.05 RCW. Judicial review may not be obtained through any other procedure. Chapter 34.05 RCW contains the pertinent provisions of law.

(2) Instituting judicial review; filing and serving the petition. As described under RCW 34.05.542(2), within thirty days after the secretary or designee mails the final decision, the petitioner shall file the petition for judicial review with the court and serve a copy of the petition on DOH, the office of the attorney general, and all parties of record.

(a) A petition shall be filed in the Superior Court, at the petitioner's option, for:

(i) Thurston County;

(ii) The county of the petitioner's residence or principal place of business; or

(iii) Any county where property affected by the decision is located.

(b) Service of a copy of the petition for judicial review on DOH may be had by personally serving a copy of the petition on the office of appeals.

(c) Service of a copy of the petition for judicial review on the office of the attorney general may be had by mailing a copy of the petition, postage prepaid, to the Office of the Attorney General, Highway-Licenses Building, PB-71, Olympia, WA 98504.

(d) Service of a copy of the petition for judicial review on other parties of record may be had by mailing the copy of the petition to the other parties, properly addressed and postage prepaid.

REPEALER

The following sections of the Washington Administrative Code are repealed:

248-08-001 DEFINITIONS.

248-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR.

248-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE IN CERTAIN PROCEEDINGS MAY BE LIMITED TO ATTORNEYS.

248-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—SOLICITATION OF BUSINESS UNETHICAL.

248-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT.

248-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF BOARD OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF.

248-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS.

248-08-070 COMPUTATION OF TIME.

248-08-075 NOTICE OF APPEAL.

248-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES.

248-08-090 SERVICE OF PROCESS—BY WHOM SERVED.

248-08-100 SERVICE OF PROCESS—UPON WHOM SERVED.

248-08-110 SERVICE OF PROCESS—SERVICE UPON PARTIES.

248-08-120 SERVICE OF PROCESS—METHOD OF SERVICE.

248-08-130 SERVICE OF PROCESS—WHEN SERVICE COMPLETE.

248-08-140 SERVICE OF PROCESS—FILING WITH AGENCY.

248-08-150 SUBPOENAS WHERE PROVIDED BY LAW—FORM.

248-08-160 SUBPOENAS WHERE PROVIDED BY LAW—ISSUANCE TO PARTIES.

248-08-170 SUBPOENAS WHERE PROVIDED BY LAW—SERVICE.

248-08-180 SUBPOENAS WHERE PROVIDED BY LAW—FEES.

248-08-190 SUBPOENAS WHERE PROVIDED BY LAW—PROOF OF SERVICE.

248-08-200 SUBPOENAS WHERE PROVIDED BY LAW—QUASHING.

248-08-210 SUBPOENAS WHERE PROVIDED BY LAW—ENFORCEMENT.

248-08-220 SUBPOENAS WHERE PROVIDED BY LAW—GEOGRAPHICAL SCOPE.

248-08-230 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.

248-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.

248-08-250 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.

248-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.

248-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS.

248-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.

248-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.

248-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.

248-08-310 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT.

248-08-320 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEONENTS.

248-08-330 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.

248-08-340 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.

248-08-350 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.

- 248-08-360 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.
- 248-08-370 OFFICIAL NOTICE—MATTERS OF LAW.
- 248-08-380 OFFICIAL NOTICE—MATERIAL FACTS.
- 248-08-390 PRESUMPTIONS.
- 248-08-400 STIPULATIONS AND ADMISSIONS OF RECORD.
- 248-08-420 DEFINITION OF ISSUES BEFORE HEARING.
- 248-08-430 PREHEARING CONFERENCE RULE—AUTHORIZED.
- 248-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE.
- 248-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE.
- 248-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS.
- 248-08-490 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.
- 248-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE WITH WAC 248-08-470 OR 248-08-480.
- 248-08-510 CONTINUANCES.
- 248-08-520 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.
- 248-08-530 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS.
- 248-08-540 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION.
- 248-08-550 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—REQUISITES.
- 248-08-560 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—AGENCY MUST CONSIDER.
- 248-08-570 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—NOTICE OF DISPOSITION.
- 248-08-580 DECLARATORY RULINGS.
- 248-08-590 FORMS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF NURSING HOMES, SPECIALIZED NURSING HOMES AND BOARDING HOMES FOR THE AGED

- 248-08-700 MEANING OF WORDS TO CONFORM WITH STATUTORY MEANING.
- 248-08-705 REASONS AND CITATIONS TO ACCOMPANY ORDERS.
- 248-08-710 NOTICE OF HEARINGS.
- 248-08-715 HEARING EXAMINERS.
- 248-08-720 PARTIES TO HEARING.
- 248-08-725 BURDEN OF PROOF.
- 248-08-730 RECORD OF TESTIMONY AND PROCEEDINGS.
- 248-08-735 DECISIONS.
- 248-08-740 NOTICE OF DECISION.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF HOSPITALS

- 248-08-750 MEANING OF WORDS.
- 248-08-755 REASONS AND CITATIONS TO ACCOMPANY ORDERS.
- 248-08-760 NOTICE OF HEARINGS.
- 248-08-765 HEARING EXAMINERS.
- 248-08-770 PARTIES.
- 248-08-775 BURDEN OF PROOF.
- 248-08-780 RECORD OF TESTIMONY AND PROCEEDINGS.
- 248-08-785 DECISIONS OF BOARD.
- 248-08-790 NOTICE OF DECISIONS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF PRIVATE PSYCHIATRIC HOSPITALS AND MATERNITY HOMES FOR UNMARRIED MOTHERS

- 248-08-800 REASONS AND CITATIONS TO ACCOMPANY ORDERS.
- 248-08-805 NOTICE OF DENIALS, SUSPENSIONS AND REVOCATIONS—OPPORTUNITY FOR HEARING.

- 248-08-810 HEARING EXAMINERS.
- 248-08-815 DECISIONS AND WHEN FINAL.
- 248-08-820 POWERS OF HEARING EXAMINERS.
- 248-08-825 PARTIES.
- 248-08-830 BURDEN OF PROOF.
- 248-08-835 RECORD OF TESTIMONY AND PROCEEDINGS.
- 248-08-840 DECISIONS.
- 248-08-845 NOTICE OF DECISIONS.

**Chapter 248-320 WAC
ADMINISTRATIVE PROCEDURES**

NEW SECTION

WAC 248-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under section 106, chapter 9, Laws of 1989 1st ex. sess., certain powers and duties may be delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 248-320-350 DECLARATORY ORDERS—FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Department of Health, 1300 Quince Street, MS EY-12, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-360 DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 248-320-370 DECLARATORY ORDERS—DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 248-320-400 PETITION FOR RULE MAKING—FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second

paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Department of Health, 1300 Quince Street, MS EY-12, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 248-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

**WSR 89-22-104
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Nursing)**

[Filed November 1, 1989, 1:22 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-120-165 Failures—Repeat examination; and adopting WAC 308-120-620 Provision for clean intermittent catheterization in schools.

Purpose: Implements RCW 18.88.295 and 18.88.140.

Statutory Authority for Adoption: RCW 18.88.080.

Statute Being Implemented: RCW 18.88.140, as amended by section 5, chapter 114, Laws of 1989 and RCW 18.88.295.

Summary: Deletion of a no-fee requirement for examination following a first-examination failure, and requirements for clean, intermittent catheterization in schools.

Reasons Supporting Proposal: To implement the statutes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Constance Roth, RN, Ed.D, Executive Secretary, Department of Health, Professional Licensing Services, P.O. Box 1099, Olympia, WA 98507-1099, (206) 753-2686 comm, 234-2686 scan.

Name of Proponent: State of Washington Board of Nursing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-120-165 amends out the requirement of allowing the candidate failing a first examination to be reexamined at the next scheduled examination at no additional fee. This deletion reflects the deletion of the requirement in RCW 18.88.140; and WAC 308-120-620 implements RCW 18.88.295, which requires the Board of Nursing to adopt rules in catheterization of school students.

Proposal Changes the Following Existing Rules: WAC 308-120-165, as described above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Fife Executive Inn, Lido Room, 5700 Pacific Highway East, Fife, WA 98424, on December 8, 1989, at 8:45 a.m.

Submit Written Comments to: Board of Nursing, Constance Roth, Department of Health, Professional Licensing Services, P.O. Box 1099, Olympia, WA 98507-1099, by December 5, 1989.

Date of Intended Adoption: December 9, 1989.

October 31, 1989

Constance Roth

Executive Secretary

AMENDATORY SECTION (Amending Order PM 691, filed 11/18/87)

WAC 308-120-165 FAILURES—REPEAT EXAMINATION.

(1) The application forms to rewrite the examination and fees shall be filed on or before May 1 for the July examination and December 1 for the February examination.

(2) Candidates who fail the examination will be permitted to rewrite the examination three times within the two-year period from the month of first writing.

(3) ~~((If the candidate fails the first examination, the state will require no additional fee from the candidate who takes the next scheduled examination:~~

~~(4))~~ Candidates who fail to pass the examination within the time period specified in ~~((2) above))~~ subsection (2) of this section shall be required to complete a program of study approved by the board. Upon successful completion of the approved program, the candidate shall be required to write the entire examination.

NEW SECTION

WAC 308-120-620 PROVISION FOR CLEAN, INTERMITTENT CATHETERIZATION IN SCHOOLS. Public school districts and private schools that offer classes for any of the grades kindergarten through twelve may provide for clean, intermittent catheterization of students or assisted self-catheterization of students who are in the custody of the school district at the time in accordance with the following rules:

(1) The student's medical file shall contain a written request from the parent(s) or guardian for the clean, intermittent catheterization of the student.

(2) The student's medical file shall contain written permission from the parent(s) or guardian for the performance of the clean, intermittent catheterize procedure by the nonlicensed school employee.

(3) The student's medical file shall contain a current written order for clean, intermittent catheterization from the student's physician and shall include written instructions for the procedure. The order shall be reviewed and/or revised each school year.

(4) The service shall be offered to all handicapped students and may be offered to the nonhandicapped students, at the discretion of the school board.

(5) The licensed registered nurse shall develop instructions specific to the needs of the student. These shall be made available to the nonlicensed school employee and shall be updated each school year.

(6) The supervision of the self-catheterizing student shall be based on the needs of the student and the skill of the nonlicensed school employee.

(7) The licensed registered nurse, designated by the school board, shall be responsible for the training of the nonlicensed school employees who are assigned to perform clean, intermittent catheterization of the students.

(8) The training of the nonlicensed school employee shall include but not be limited to:

(a) An initial inservice training of at least ten hours.

(b) An update of the instructions and a review of the procedure each school year.

(c) Anatomy, physiology, and pathophysiology of the urinary system including common anomalies for the preschool through adolescent aged student.

(d) Techniques common to the urinary catheterization procedure.

(e) Identification and care of the required equipment.

(f) Common signs and symptoms of infection and recommended procedures to prevent the development of infections.

(g) Identification of the psychosocial needs of the parent/guardian and the students with emphasis on the needs for privacy and confidentiality.

(h) Documentation requirements.

(i) Communication skills including the requirements for reporting to the registered nurse or the physician.

(j) Medications commonly prescribed for the clean, intermittent catheterization patient and their side effects.

(k) Contraindications for clean, intermittent catheterization and the procedure to be followed if the nonlicensed school employee is unable to catheterize the student.

(l) Training in catheterization specific to the student's needs.

(m) Developmental growth patterns of the preschool through adolescent aged student.

(n) Utilization of a teaching model to demonstrate catheterization techniques with return demonstration performed by the nonlicensed school employee, if a model is available.

(9) The training of the nonlicensed school employee shall be documented in the employee's permanent file.

WSR 89-22-105

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 009—Filed November 1, 1989, 1:28 p.m.]

Date of Adoption: October 27, 1989.

Purpose: To eliminate recommendations presently in WAC and to update minimum standards for general areas in hospitals including referenced standards from the private industries.

Citation of Existing Rules Affected by this Order: Repealing WAC 248-18-710 and 248-18-718; amending WAC 248-18-515 and 248-18-99902; and new WAC 248-18-711 and 248-18-719.

Statutory Authority for Adoption: RCW 70.41.030.

Pursuant to notice filed as WSR 89-17-125 on August 23, 1989.

Changes Other than Editing from Proposed to Adopted Version: Clarification of cites in WAC 248-18-99902.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Pam Campbell Mead
for Kristine Gebbie
Secretary

AMENDATORY SECTION (Amending Order 2729, filed 11/18/88)

WAC 248-18-515 DESIGN AND CONSTRUCTION STANDARDS, GENERAL. (1) Exemptions, substitutions, and interpretations. A hospital may request an exemption, substitution, or interpretation as described in WAC 248-18-010.

(2) Industry standards, guides, and codes adopted by reference.

(a) At least once every two years, the department shall:

(i) Review industry standards referenced in the construction section of chapter 248-18 WAC and update, as necessary; and

(ii) Adopt the revised list of referenced standards, if required.

(b) Hospitals shall:

(i) Submit preliminary drawings for hospital construction projects conforming to industry standards, guides, and codes appearing in the current chapter 248-18 WAC;

(ii) Follow applicable standards, guides, and codes of chapter 248-18 WAC existing at the time the preliminary document was submitted for the duration of construction project; except as specified in subsection (2)(c) of this section.

(c) The department may respond to a hospital's written request by giving written approval to use a more recent edition of an industry standard, guide, or code under the following conditions:

(i) The standard, guide, or code was adopted after preliminary drawings were developed; and

(ii) The request is received by the department prior to the department's final approval of project design and authorization for construction per WAC 248-18-510 (3)(a).

(3) Hospitals and the department shall interpret construction WAC as follows:

(a) Rules concerning the size, location, function, and major equipment of rooms and areas are generally found under headings for particular departments or facilities;

(b) Some service facilities common to several departments or units are grouped under "GENERAL REQUIREMENTS FOR SERVICE FACILITIES," WAC ((248-18-710)) 248-18-711;

(c) Mechanical and electrical requirements and detailed architectural requirements are included in "GENERAL DESIGN REQUIREMENTS," WAC ((248-18-718)) 248-18-719;

(d) Equipment specified in rule includes only equipment frequently built in or attached to the building;

(e) WAC section titles describe the category of facilities, requirements, or information to which the contents of that section relates; and

(f) Except for sections adopted after July 1, 1989, in "NEW CONSTRUCTION REGULATIONS," WAC 248-18-

500 through ((248-18-718)) 248-18-719 and WAC 248-18-99902:

(i) Capital letters designate a requirement or all requirements;

(ii) Lower case letters designate options, suggestions, recommendations, or explanations;

(iii) Hospitals including any equipment, area, room, unit, service, or other facility designated in lower case letters (suggested or optional) shall comply with applicable standards in chapter 248-18 WAC;

(iv) If a WAC title denotes a unit, service, department, or other category of facilities required only under certain circumstances:

(A) The circumstances are stated following the title; and

(B) If included, constructed according to applicable rules and standards in chapter 248-18 WAC.

(v) The words "Optional. SHALL MEET REQUIREMENTS, IF INCLUDED." following a WAC title indicate:

(A) The particular unit, service, department, or other category of facilities is only recommended and not mandatory; and

(B) If included, constructed according to applicable rules and standards in chapter 248-18 WAC.

NEW SECTION

WAC 248-18-711 GENERAL REQUIREMENTS FOR SERVICE FACILITIES. General requirements for service facilities constructed in certain rooms and areas required by other sections of these rules as follows:

(1) General design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage meeting requirements under WAC 248-18-719;

(2) At least one cleaning facility for carts and large equipment with the floor drain connected to a sanitary sewerage system;

(3) Each clean materials room considered part of a system for storage and distribution of clean and sterile supplies and materials, with sufficient space for parking of clean supply carts;

(4) Each clean utility room with:

(a) Work counter;

(b) Sink or lavatory;

(c) Enclosed and open storage; and

(d) Dispensers or equivalent for towels and liquid detergent.

(5) Each clean-up room for the surgery or delivery suite, or equivalent, separate from the clean materials room or clean utility room, with:

(a) A clinic service sink;

(b) Work counter;

(c) Adequate storage space; and

(d) A double-compartment sink integral with the counter and space on either side to accommodate equipment and materials to be cleaned.

(6) Each housekeeping supply room with:

(a) A service sink or equivalent;

(b) Soap and towel dispenser or equivalent;

(c) Mop rack; and

(d) Storage area.

(7) Each medicine distribution facility, if planned, in a room designed to minimize traffic, with:

(a) Lavatory;

(b) Working surface, either on a cart or counter;

(c) Lockable drug storage;

(d) Enclosed cabinet or equivalent for storage;

(e) Storage space for the medicine cart; and

(f) Space and electrical receptacle for a refrigerator.

(8) Each soiled materials room with:

(a) A clinic service sink unless:

(i) A toilet containing bedpan flushing attachment adjoins each patient room; or

(ii) A soiled utility room is on the same nursing unit.

(b) Space for waste container, linen hampers, carts, and other large equipment; and

(c) Handwashing sink or equivalent.

(9) Each soiled utility room with:

(a) A double-compartment sink to accommodate equipment to be cleaned;

(b) A three-foot long work surface which may be moveable;

(c) Storage cabinets sufficient to store cleaning supplies;

(d) Clinic service sink with bedpan flushing attachment; and

(e) Space for waste containers, linen hampers, and other large equipment.

(10) Each storage room with:

(a) Arrangement to separate clean and sterile supplies and equipment from used or soiled items;

(b) Enclosed storage units or carts or shelves, or drawers for clean and sterile supplies, unless provided in a clean utility room under WAC 248-18-711(4);

(c) Storage for large nursing and medical patient care equipment; and

(d) Shared use by one or more adjacent units or areas permitted.

(11) Alcove space in corridor permitted to accommodate equipment such as stretchers, wheelchairs, walkers, and lifts.

AMENDATORY SECTION (Amending Order 2667, filed 8/2/88)

WAC 248-18-99902 APPENDIX B—DATES OF DOCUMENTS ADOPTED BY REFERENCE IN CHAPTER 248-18 WAC. (1) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire Protection Association (NFPA), 99, Chapter 12, 1987. Required.

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

(3) (~~UNIFORM PLUMBING CODE~~) Uniform Plumbing Code Standards, WAC 51-16-060, as hereaf- ter amended, ((International Association of Plumbing and Mechanical Officials (IAPMO);)) 1985 edition. Required.

(4) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire Protection Association (NFPA), 99, Chapter 4, 1987. Required.

(5) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire Protection Association (NFPA), 90A-1985. Required.

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

(7) (~~Recommend use of the following standards~~) Recommended are:

(a) "~~(Classification of Etiologic Agents on the Basis of Hazard~~"

~~United States Department of Health and Human Services Publication~~

~~Public Health Service~~

~~Centers for Disease Control~~

~~Office of Biosafety~~

~~Atlanta, Georgia 30333))Biosafety in Microbiological and Biomedical Laboratories," Appendix A; "Biological Safety Cabinet," United States Department of Health and Human Services, Publication No. (NIH) 88-8395, Second Edition, May 1988.~~

(b) "~~(Selecting a Biological Safety Cabinet~~"

~~United States Department of Health and Human Services~~

~~Public Health Service~~

~~National Institutes of Health~~

~~National Cancer Institute~~

~~Office of Research Safety~~

~~Bethesda, Maryland 20014~~

(c) ~~For the design, construction, and performance of~~ National Sanitation Foundation Standard No. 49 (NSF No. 49) for Class II Biohazard Cabinetry ((NSF No. 49

~~National Science Foundation~~

~~NSF Building~~

~~Ann Arbor, Michigan 48105)), " revised June 1987.~~

(8) (~~UNIFORM MECHANICAL CODE (UMC), International Association of Plumbing and Mechanical Officials (IAPMO), 1985 edition~~) Uniform Mechanical Code, WAC 51-16-040, as now and hereafter amended. Required.

(9) (~~UNDERWRITERS LABORATORIES~~) Underwriters Laboratories (UL), 181 Factory Made Air Ducts and Connectors, 1984 edition. Required.

(10) (~~SHEET METAL AND AIR CONDITIONING CONTRACTORS' NATIONAL ASSOCIATION, INC~~) Sheet Metal and Air Conditioning Contractors' National Association, Inc., (SMACNA), Duct Liner Application Standard, 1985. Required.

(11) Compressed Gas Association, Inc., Pamphlet Number P-2.1-1983, "Recommendations for Medical-Surgical Vacuum Systems," 1983 edition. Recommended.

(12) Illuminating Engineers Lighting Handbook (IES), 1987 Application Volume. Recommended.

(13) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire Protection Association (NFPA) 70-1987. Required.

(14) (~~METHOD OF TESTING AIR-CLEANING DEVICES USED IN GENERAL VENTILATION~~

~~FOR REMOVING PARTICULATE MATTER)) Method of Testing Air-Cleaning Devices Used In General Ventilation for Removing Particulate Matter, American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), Standard 52-76, 1976 edition. Required.~~

(15) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire Protection Association (NFPA) 30-1987. Required.

(16) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire Protection Association (NFPA) 99, CHAPTER 7, 1987. Required.

(17) (~~NATIONAL FIRE PROTECTION ASSOCIATION~~) National Fire protection Association (NFPA) 43C-1986. Required.

(18) (~~NATIONAL COUNCIL ON RADIATION PROTECTION HANDBOOK NO~~) National Council on Radiation Protection Handbook No. 49. Required.

(19) Chapter 51-10 WAC Washington State Regulations for Barrier-Free Facilities, second edition. Required.

(20) Uniform Building Code Standards, ((1988)) WAC 51-16-030, as now and hereafter amended. Required.

(21) Chapter 248-54 WAC Public Water Supplies. Required.

(22) Chapter 248-92 WAC Public Sewage. Required.

(23) Chapter 248-96 WAC On-Site Sewage Disposal. Required.

(24) National Institute for Occupational Safety and Health (NIOSH) Standard. Required.

(25) Chapter 212-12 WAC Fire Marshal Standards. Required.

(26) Guidelines for Construction and Equipment of Hospital and Medical Facilities, Department of Health and Human Services, 1987. Required.

(27) Chapter 402-24 WAC Standards for Protection Against Radiation. Required.

(28) WAC 296-62-07353 General Occupational Health Standards for Ethylene Oxide. Required.

Reviser's note: RCW 34.05.395 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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

248-18-710 GENERAL REQUIREMENTS FOR SERVICE FACILITIES.

248-18-718 GENERAL DESIGN REQUIREMENTS.

NEW SECTION

WAC 248-18-719 GENERAL DESIGN REQUIREMENTS. Hospitals planning new construction shall include the following general design elements for certain rooms or areas required by other sections of this chapter:

(1) Architectural components including:

(a) Aisles between fixed elements wide enough to allow unimpeded movement of equipment and personnel within rooms or suites meeting requirements under WAC 248-18-99902(19);

(b) Ceiling heights meeting requirements in Table 719-1, Minimum Clear Opening for Doors and Nominal Ceiling Heights;

(c) A corridor system established throughout the hospital designed for traffic circulation providing patient privacy and preventing through traffic in examination, observation, treatment, and diagnostic areas, with width:

(i) Eight feet and restrictions of no more than seven inches for nonambulatory patient areas;

(ii) Existing seven feet minimum permitted in alteration projects; and

(iii) Meeting requirements under WAC 248-18-99902 (19) and (20) in all other areas with:

(A) Five feet for corridors permitted when serving ambulatory patient traffic within a single department; and

(B) Four feet minimum permitted for nonpatient areas and departments when there is a five-by-five foot turnaround at least every seventy-five feet.

(d) Handrails on both sides of corridors used by patients on orthopedic units, rehabilitation nursing units, nursing home units, and other long-term nursing units with dimensions as follows:

(i) Top of the handrail thirty-two to thirty-four inches above the floor;

(ii) Projecting a maximum of three and one-half inches from wall; and

(iii) End of handrail returning to wall.

(e) Doors:

(i) With widths meeting requirements under WAC 248-18-99902(20) and Table 719-1, Minimum Clear Opening for Doors and Nominal Ceiling Heights;

(ii) Designed to prevent swinging into established corridor widths, except those from small unoccupied spaces, such as small closets;

(iii) In patient rooms designed to swing to a full, open position;

(iv) With provision for immediate emergency access to patient toilets, showers, and bathrooms; and

(v) With vision panels required in all pairs of opposite swinging doors.

(f) At least one elevator in multi-story hospital designed for patient transport with minimum dimensions of:

(i) Five feet four inches inside width;

(ii) Eight feet six inches inside length; and

(iii) Four feet wide door openings.

(g) Stairways and ramps with:

(i) Skid-resistant surfaces;

(ii) Handrails, guardrails, and other safety devices on all stair-wells and ramps meeting requirements under WAC 248-18-99902 (19) and (20);

(iii) Slope of ramps used for patients not to exceed one unit of vertical rise for every twelve units of horizontal run; and

(iv) Slope of all other ramps meeting requirements under WAC 248-18-99902(20).

(h) Construction to control entrance and infestation by pests, such as mammals, birds, and insects;

(i) Windows in patient rooms, except in labor rooms and nurseries, with:

(i) A clear glass area of at least one-tenth of the floor space or meeting requirements under WAC 248-18-99902(20);

(ii) Location in the outside walls and:

(A) Twenty feet or more from another building or opposite wall or court;

(B) Ten feet or more from property line except on street side; and

(C) Allowance for a satisfactory amount of unobstructed natural light.

(iii) Location in interior common walls rather than in outside walls only when meeting requirements in WAC 248-18-99902(20);

(iv) Sills:

(A) No higher than three feet from the floor;

(B) No higher than four feet from the floor in critical care rooms;

(C) With exterior grade a minimum of six inches below window sill; and

(D) With exterior grade sloping away from building for at least ten feet.

(v) Sixteen mesh screens on all operable windows.

(2) Heating, ventilation, and cooling including:

(a) A heating system with capacity to maintain a temperature of seventy-five degrees Fahrenheit or more in each room or occupied space;

(b) A cooling system with capacity to cool patient areas to a temperature of seventy-five degrees Fahrenheit or below;

(c) Heating and cooling controls with:

(i) Individual thermostatic control in each patient room; and

(ii) All other areas suitably zoned and thermostatically controlled consistent with WAC 248-18-99902(2).

(d) Piping and duct systems insulated to control excessive heat transfer and condensation;

(e) Air balancing of distribution systems to maintain air changes and pressure relationships meeting requirements in Table 719-3, General Pressure Relationships and Ventilation of Certain Hospital Areas, in this section;

(f) Air handling duct system:

(i) Meeting requirements under WAC 248-18-99902(5);

(ii) With fiberglass ducts, if installed, of nonerosive wearing surfaces specified under WAC 248-18-99902 (9) and (10); and

(iii) With fiberglass-lined ducts, if installed, serving sensitive areas with ninety percent efficiency filters installed downstream of the duct lining.

(g) The use of space above ceilings for exhaust and return plenums restricted to nonclinical and nonpatient care areas, such as administrative, public waiting, and meeting areas;

(h) Air supply and exhaust locations:

(i) Meeting requirements under WAC 248-18-99902 (2) and (8);

(ii) With outdoor intakes located to the extent practical and possible as follows:

(A) Directionally different exposures twenty feet or more from:

(I) Combustion equipment stacks;

(II) Ventilation exhaust outlets from the hospital or adjoining buildings including fume hoods and ethylene oxide systems;

(III) Medical-surgical vacuum systems;

(IV) Plumbing vent stacks; and

(V) Areas that may collect vehicular exhaust and other noxious fumes.

(B) Bottom of intake six feet or more above ground level or three feet or more above roof level specified under WAC 248-18-99902(2).

(iii) Exhaust air discharge located to avoid cross circulation to supply air intakes or operable windows.

(i) Filters installed in central ventilation or air conditioning systems with:

(i) Filter beds and filter efficiencies meeting requirements under Table 719-4, Ventilation and Air Conditioning Systems: Filter Efficiencies in Hospitals;

(ii) Filter bed No. 2 downstream of the last component of any central air handling unit except:

(A) Steam injection-type humidifier permitted downstream of filter bed No. 2;

(B) Terminal reheat coils permitted downstream of filter bed No. 2; and

(C) Terminal cooling coils permitted downstream of filter bed No. 2 with additional filtration downstream of coil meeting requirements of filter bed No. 2.

(iii) Filter frames tight to the enclosing duct work; and

(iv) A manometer or equivalent installed across each filter bed serving sensitive areas of central air systems.

(j) Fire shutdown in accordance with WAC 248-18-99902 (5) and (25).

(k) Exhaust hoods or other approved exhaust devices over equipment likely to produce excessive heat, moisture, odors, or contaminants, and properly designed for intended use.

(l) Laboratory hoods for handling infectious materials meeting requirements under WAC 248-18-99902(7) with:

(i) A minimum face velocity of seventy-five feet per minute at maximum operating level of sash;

(ii) Served by independent exhaust system with the exhaust fan located at the discharge end of the system;

(iii) Duct with welded joints or equivalent from the hood to filter enclosure;

(iv) Filters with 99.97 percent efficiency dioctyl-phthalate (DOP) test method in the exhaust stream; and

(v) Designed and equipped to permit the safe removal of contaminated filters.

(m) Laboratory hood for venting radioactive particulate aerosols with:

(i) A minimum face velocity of one hundred feet per minute at a maximum operating level of sash;

(ii) An independent exhaust system with an exhaust fan at the discharge end of the system;

(iii) Ducts with welded joints or equivalent from the hood to the filter enclosure;

(iv) Exhaust stream filters with 99.97 percent efficiency using the dioctyl-phthalate (DOP) test method;

(v) Designed and equipped for the safe removal of contaminated filters; and

(vi) Provisions for washdown.

(n) Laboratory hoods for processing strong oxidizing agents with:

(i) A minimum face velocity of one hundred feet per minute at maximum operating level of sash;

(ii) An independent exhaust system and explosion-proof exhaust fan at the discharge end of the system;

(iii) Ducts of welded stainless steel or equivalent throughout the exhaust system; and

(iv) Hood and exhaust duct system equipped with complete coverage washdown facilities.

(o) Noncentral supply ventilation systems:

(i) Serving sensitive areas meeting the filtering requirements for central systems under Table 719-4, Ventilation and Air Conditioning Systems: Filter Efficiencies in Hospitals; and

(ii) In other areas with outdoor air for individual rooms and units meeting filtering requirements for central systems under Table 719-4, Ventilation and Air Conditioning Systems: Filter Efficiencies in Hospitals.

(p) Equipment to provide relative humidity as follows:

(i) Forty percent minimum to sixty percent maximum at seventy-two degrees Fahrenheit in:

(A) Operating rooms;

(B) Delivery rooms;

(C) Special procedure rooms;

(D) Anesthetizing locations;

(E) Critical care patient rooms, such as intensive and coronary care; and

(F) Recovery rooms.

(ii) Forty percent minimum to sixty percent maximum at seventy-five degrees Fahrenheit in all nursery facilities.

(3) Plumbing components including:

(a) Design and installation meeting requirements under:

(i) WAC 248-18-99902 (3) and (21); and

(ii) WAC 248-18-99902(19) when rooms and areas are designated for use by the handicapped.

(b) Backflow prevention device on water supply and plumbing equipment meeting requirements under WAC 248-18-99902 (3) and (21);

(c) Trap primers in floor drains and stand pipes subject to infrequent use meeting requirements under WAC 248-18-99902(3);

(d) Lavatories in each toilet room except where provided in connecting patient room, dressing or locker room;

(e) Skid-resistant floor surfaces in tubs and showers;

(f) Wrist, knee, or foot faucet controls or equivalent and gooseneck spouts:

(i) On lavatories in patient rooms;

(ii) In toilet rooms adjoining patient rooms except those for psychiatric patients per program requirements; and

(iii) On all lavatories and sinks for personnel use where required to control cross infection, unless the fixture is used for soiled functions only and another sink

equipped with appropriate controls is located in the same area of the room.

(g) Foot, knee, or equivalent faucet controls and gooseneck spouts on lavatories and scrub sinks in:

- (i) All nursery rooms;
 - (ii) Birthing rooms;
 - (iii) Surgery and delivery; and
 - (iv) Other sensitive areas.
- (h) Drinking fountains or equivalent at suitable locations, with at least one on each floor;

(i) Insulation installed on:

- (i) Hot water piping systems as required to control excessive heat transfer and to provide safety;

- (ii) Cold water and drainage piping as required to control condensation; and

- (iii) Piping exposed to outside temperatures, designed to prevent freezing.

(j) Hot water supply meeting requirements under WAC 248-18-99902 (2) and (21);

(k) Equipment to deliver hot water at temperatures measured at point of use as follows:

- (i) One hundred sixty degrees Fahrenheit or more for laundry;

- (ii) One hundred twenty degrees Fahrenheit or more for mechanical dishwashers and laundry washers using chemical sanitization;

- (iii) One hundred fifty degrees Fahrenheit or more for high temperature sanitization dishwashers; and

- (iv) One hundred twenty degrees Fahrenheit or less at patient sinks, lavatories, and bathing facilities.

(l) Sewage disposal systems meeting requirements under WAC 248-18-99902 (22) and (23);

(m) Vacuum and medical gas systems:

- (i) Installed and tested to meet requirements under WAC 248-18-99902 (4) and (11); and

- (ii) Located to meet requirements under Table 719-2, Medical Gases, Vacuum, and Waste Gas Evacuation.

(n) Waste gas evacuation system:

- (i) Installed and tested to meet requirements under WAC 248-18-99902(24); and

- (ii) Located to meet requirements under Table 719-2, Medical Gases, Vacuum, and Waste Gas Evacuation.

(4) Electrical requirements including:

(a) General electrical service as follows:

- (i) Electrical receptacle outlets meeting requirements under Table 719-5, Single Electrical Receptacle Outlet Requirements;

- (ii) Capacity limited to twelve single electrical receptacle outlets or six duplex electrical receptacle outlets, or equivalent, per twenty amp circuit in all inpatient or outpatient care areas; and

- (iii) Convenience electrical receptacle outlets to accommodate cleaning equipment and accessories such as floor polishers, vacuums, and televisions.

(b) Electrical service in critical care units and areas as follows:

- (i) Dedicated circuits to serve designated electrical receptacle outlets located at the head of each bed;

- (ii) Capacity limited to six single electrical receptacle outlets or three duplex electrical receptacle outlets or equivalent per twenty amp circuit; and

- (iii) Branch circuit panels located within the area providing ready accessibility to circuit breakers for staff.

(c) Emergency electrical service with:

- (i) Critical emergency power electrical receptacle outlets meeting requirements under Table 719-5, Single Electrical Receptacle Outlet Requirements; and

- (ii) Additional emergency power and lighting meeting requirements under WAC 248-18-99902(13).

(d) Lighting with:

- (i) Fixtures of the number, type, and location to provide adequate illumination for the functions of each area meeting requirements under WAC 248-18-99902(12);

- (ii) A reading light and control conveniently located for use by the patient at each bed in the patient rooms;

- (iii) Protective lens or diffusers on overhead light fixtures;

- (iv) Night light for each bed located below the level of the bed to dimly light pathway in the room;

- (v) Night light switches and general illumination switches located adjacent to the opening side of patient room doors, except psychiatric patient security and seclusion rooms, where switches are located outside of the rooms; and

- (vi) Lighting fixtures in psychiatric security and seclusion rooms of tamper-resistant design.

(e) Electrical/electronic equipment including:

- (i) Call systems meeting requirements under Table 719-6, Call Systems;

- (ii) Annunciator at control point of department or unit and additional staff duty stations such as utility, medication, and nourishment rooms and staff lounges; and

- (iii) Film illuminators, or equivalent, accommodating at least two x-ray films in all areas where films are viewed, except in private offices.

(5) Interior finishes with:

- (a) Floor finishes suitable to the function of each area and:

- (i) Easily cleanable;

- (ii) Skid-resistant material at entrances and other areas used while wet; and

- (iii) Coved base integral with floors or top set base with toe tight to the walls.

- (b) Carpets, if installed, of:

- (i) Easily cleanable material;

- (ii) Construction to prevent or reduce static build-up;

- (iii) Finish classification with a:

- (A) Radiant panel test class I, a minimum flux of 0.45 watts per centimeter squared; and

- (B) Smoke density test class A, 450 or less on the smoke test scale.

- (iv) Average pile density of 4,000 ounces per cubic yard calculated by:

$$\frac{\text{Yarn weight (ounces per square yard)} \times 36}{\text{Pile height (inches)}} = \text{Average pile density (ounces per cubic yard)}$$

- (v) Maximum pile height of .312 inches;

- (vi) Padding, if used, that is water resistant and permanently bonded to the carpet backing;

- (vii) Cemented to the floor; and

(viii) Edges covered and top set base with toe at all wall junctures.

(c) Ceiling finishes or construction suitable to the functions of each area with:

(i) Monolithic or bonded construction for ceilings in patient rooms of psychiatric nursing units, security and seclusion rooms;

(ii) Concealed duct work and piping in occupied spaces;

(iii) Easily cleanable;

(iv) Smooth finish without visible joints or crevices in areas where surgical asepsis must be maintained, such as operating rooms, delivery rooms, and emergency treatment rooms;

(v) Finished to minimize glare in patient rooms, labor rooms, birthing rooms, operating rooms, delivery rooms, and emergency treatment rooms; and

(vi) Finished to minimize reflection of ultraviolet radiation when ultraviolet radiation generators are used.

(d) Wall finishes suitable to the functions of each area meeting requirements under WAC 248-18-99902(20) which are:

(i) Protected from impact in high traffic areas;

(ii) Easily cleanable;

(iii) Smooth finish without open joints or crevices in areas where surgical asepsis must be maintained, such as operating rooms, delivery rooms, and emergency treatment rooms;

(iv) Finished to minimize glare in patient rooms and labor rooms;

(v) Water-resistant paint, glaze, or similar water-resistant finish extending above the splash line in all rooms or areas subject to splash or spray; and

(vi) Protected by corner guards on external angles to resist impact in areas of heavy traffic.

(e) Safety of occupants assured during installation or application with room or area:

(i) Well-ventilated;

(ii) Unoccupied; and

(iii) Unavailable for use until the room or area is free of volatile fumes and odors.

(6) Accessories for bathroom and toilet rooms with:

(a) Backing to support the mounting of all accessories;

(b) Special requirements for accessories as follows:

(i) At bathing facilities, water closets, dressing rooms, and examination rooms, except in psychiatric unit:

(A) Toilet paper holder at water closets;

(B) Towel bar, hook, or ring; and

(C) Robe hook.

(ii) Suitable shelving or equivalent with a mirror at each lavatory in:

(A) Toilet room,

(B) Patient room,

(C) Birthing room,

(D) Dressing room, and

(E) Locker room.

(iii) Provision of dispensers for single-use towels or equivalent at all lavatories and sinks mounted to avoid contamination from splash and spray;

(iv) Provision for soap at each lavatory, sink, and bathing facility; and

(v) Grab bars as follows:

(A) Meeting the requirements under WAC 248-18-99902(19);

(B) Easily cleanable, resistant to corrosion, functionally designed, securely mounted;

(C) On two sides of each standard bathtub and shower; and

(D) At least one horizontal grab bar extended eighteen inches or more in front of the water closet.

(c) Accessories in bathing and toilet rooms designated for the handicapped meeting requirements under WAC 248-18-99902(19).

(7) Signage for identification of:

(a) Rooms and spaces; and

(b) Electric panel boards meeting requirements under WAC 248-18-99902(13).

TABLE 719-1
MINIMUM CLEAR OPENING FOR DOORS AND NOMINAL CEILING HEIGHTS

AREA/ROOM NAME	MINIMUM CLEAR OPENING FOR DOORS	NOMINAL CEILING HEIGHT
Anesthetizing and Special:		
Delivery	3'-10"	9'-0"
Fracture	3'-10"	8'-0"
Recovery	3'-10"	8'-0"
Surgery	3'-10"	9'-0"
Trauma	3'-10"	9'-0"
Critical Care:		
Intensive care	3'-10"	8'-0"
Nursing:		
Birthing	3'-10" (1)	8'-0"
Nurseries, all	3'-10" (1)	8'-0"
Patient	3'-10" (1)	8'-0"
Radiology and Imaging:		
Computerized tomography	3'-10"	8'-0"
Radiation therapy	3'-10"	9'-0"
Fluoroscopy	3'-10"	8'-0"
Nuclear medicine	3'-10"	8'-0"
X-ray	3'-10"	8'-0"
Diagnostic and treatment:		
Physical treatment therapy	3'-10" (1)	8'-0"
General:		
Bathrooms and toilets	2'-8" (2)	7'-6"

NOTES:

(1) Existing 3'-8" clear opening door permitted in alterations.

(2) Existing 2'-6" clear opening door permitted in alterations except in nursing home rehabilitation units.

TABLE 719-2
MEDICAL GASES, VACUUM, AND WASTE GAS EVACUATION

AREA/ROOM NAME	MEDICAL GASES				WASTE GAS EVACUATION ¹
	OXYGEN	MEDICAL AIR	NITROUS OXIDE	VACUUM	
Anesthetizing and Special:					
Cystoscopic	D	E		D	
Delivery	B,G	A,G	A	D,G	E
Operating	B	A	A	D,H	E
Operating patient hold area	B			B	
Recovery	B	A-Infants Only		C	
Recovery (delivery)	A,G	G		B,G	
Special procedures	D	E	A	D	E
Trauma	D	E		D	E
Critical Care:					
Coronary care	B	B		C	
Intensive care	B	B		C	
Nursing:					
Birthing (Labor, Delivery and Recovery)	A			B	
Examination, treatment	A			A	
Labor	B			B	
Nursery:					
Intermediate care	F	F		G	
Neonatal intensive care	F	F		G	
Newborn	A			A	
Patient:					
Medical, surgical and obstetrical	B			B	
Outpatient	B			B	
Pediatrics	B	B		B	
Radiology and Imaging :					
Imaging services	B			B	
Diagnostic and Treatment:					
Autopsy				E	
Emergency treatment	A	E		E	E

NOTES:

- A One outlet accessible to each bed, stretcher, bassinet, or equivalent; one outlet may serve two beds or two bassinets.
- B Separate outlet for each bed, stretcher, bassinet, or equivalent.
- C Two outlets for each bed.
- D Two outlets per room intended for one patient at any one time.
- E One outlet per room.
- F Two outlets per station.
- G Separate outlets for infants.
- H If used for delivery, must include G.
- I Required only when general anesthesia is used.

TABLE 719-3
GENERAL PRESSURE RELATIONSHIPS AND
VENTILATION OF CERTAIN HOSPITAL AREAS

Area/Room Name	Pressure Relation- Ship To Adjacent Areas	Minimum Air Changes Of Outdoor Air Per Hour Supplied To Room	Minimum Total Air Changes Per Hour Supplied To Room	All Air Exhausted Directly To Outdoors	Recir- culated Within Room Units
ANESTHETIZING AND SPECIAL:					
Operating and obstetrical delivery (recirculating air system)	P	3	15	Optional	No ¹
Operating and obstetrical delivery (all outdoor air system) ⁶	P	15	15	Yes	No
Recovery ²	P	2	6	Optional	No ¹
Trauma ²	P	3	15	Optional	No ¹
CRITICAL CARE:					
Intensive care	P	2	6	Optional	No
NURSING:					
Birthing	P	5	12	Optional	No ¹
Nursery, newborn	P	2	6	Optional	No ¹
Patient	NA	2	2	Optional	Optional
Patient Corridor	NA	2	4	Optional	Optional
Patient isolation ³	P or N	2	6	Yes	No
Patient isolation alcove or anteroom ³	P or N	2	10	Yes	No
Patient toilet	N	Optional	10	Yes	No
RADIOLOGY AND IMAGING:					
Darkroom	N	2	10	Optional	No
X-ray	NA	2	6	Optional	Optional
DIAGNOSTIC AND TREATMENT:					
Autopsy	N	2	12	Yes	No
Body holding, nonrefrigerated ⁴	N	Optional	10	Yes	No
Examination	NA N or P	2	6	Optional	Optional
Medication	P	2	4	Optional	Optional
Nuclear medicine	N	2	6	Yes	No
Pharmacy	P	2	4	Optional	Optional
Physical therapy and hydrotherapy	N	2	6	Optional	Optional
Treatment	NA	2	6	Optional	Optional
LABORATORY:					
Bacteriology	N	2	6	Yes	No
Biochemistry	P	2	6	Optional	No
Cytology	N	2	6	Yes	No
Glass washing	N	2	10	Yes	Optional
Histology	N	2	6	Yes	No
Media transfer	P	2	4	Optional	No ²
Pathology	N	2	6	Yes	No
Serology	P	2	6	Optional	No
Sterilizing	N	Optional	10	Yes	No

TABLE 719-3
GENERAL PRESSURE RELATIONSHIPS AND
VENTILATION OF CERTAIN HOSPITAL AREAS

Area/Room Name	Pressure Relationship To Adjacent Areas	Minimum Air Changes Of Outdoor Air Per Hour Supplied To Room	Minimum Total Air Changes Per Hour Supplied To Room	All Air Exhausted Directly To Outdoors	Recirculated Within Room Units
CENTRAL SERVICE:					
Clean workroom and sterile storage	P	2	4	Optional	Optional
Equipment storage ETO sterilizer ⁷	NA	2 (Optional)	2	Optional	Optional
Sterilizer equipment	N	Optional	10	Yes	No
KITCHEN AND DIETARY:					
Dietary day storage	NA	Optional	2	Optional	No
Food preparation centers	NA	2	10	Yes	No
Ware washing	N	Optional	10	Yes	No
GENERAL:					
Bathroom	N	Optional	10	Yes	No
Bedpan	N	Optional	10	Yes	No
Janitors closet	N	Optional	10	Yes	No
Utility, clean	P	2	4	Optional	Optional
Utility, soiled	N	2	10	Yes	No

ABBREVIATIONS:

P = Positive

N = Negative

NA = Not Applicable (Continuous Direction Control Not Required)

NOTES:

- 1 Recirculating room units meeting the filtering requirements for the space may be used.
- 2 The term "trauma room" used in Table 719-3 is the operating room space in the trauma center routinely used for emergency surgery. The first aid room and/or "emergency room" used for general initial treatment of accident victims may be ventilated as noted for the "treatment room."
- 3 The isolation rooms described in the standards might be used in the average community hospital. The assumption is the isolation procedures will be for infectious patients and the room should also be suitable for normal private patient use when not needed for isolation.
- 4 The nonrefrigerated body-holding room would be applicable only for facilities not performing autopsies on site and using the space for a short period while waiting for body transfer to be completed.
- 5 Food preparation centers shall have ventilation systems with an excess of air supply for positive pressure when hoods are not in operation.
- 6 The number of air changes may be reduced when areas are not occupied.
- 7 See WAC 248-18-99902 (15) and (28).

TABLE 719-4
VENTILATION AND AIR CONDITIONING SYSTEMS
FILTER EFFICIENCIES IN HOSPITALS

AREA/ROOM NAME	FILTER BED 1 %	FILTER BED 2 %
Anesthetizing and Special:		
Operating and delivery	25	90
Organ transplant	25	90 (A)
Recovery	25	90
Special procedures	25	90
Critical Care:		
Intensive and CCU	25	90
Nursing:		
Birthing	25	90 (B)
Labor	25	90 (B)
Nursery, newborn	25	90
Patient	25	90 (B)
Patient treatment	25	90 (B)
Postpartum	25	90 (B)
Radiology and Imaging:		
X-Ray	25	90 (B)
Fluoroscopy	25	90 (B)
Laundry:	80	NA

TABLE 719-4
VENTILATION AND AIR CONDITIONING SYSTEMS
FILTER EFFICIENCIES IN HOSPITALS

AREA/ROOM NAME	FILTER BED 1 %	FILTER BED 2 %
Kitchen and Dietary:		
Food preparation	80	NA
Storage, bulk	25	NA
General:		
Administration	25	NA
Utility, soiled	25	NA

NOTES:

(A) 99.9% recirculating air.

(B) 80% acceptable with total outside air.

NA Not applicable.

TABLE 719-5
PATIENT CARE AREA
SINGLE ELECTRICAL RECEPTACLE OUTLET REQUIREMENTS

AREA/ROOM NAME	LOCATION IN ROOM (*ACCORDING TO PROGRAM UNLESS OTHERWISE STATED)	TOTAL	CRITICAL EMER- GENCY POWER	SPECIAL REQUIREMENTS (*HOSPITAL GRADE)
ANESTHETIZING AND SPECIAL:				
Delivery	*	12	12	*
Trauma	*	6	6	*
Patient holding	*	4	4	*
Operating	*	12	12	*
Recovery	Head of each bed	4	4	*
Special procedures	*	12	12	*
CRITICAL CARE:				
Intensive care and other	Head of each bed	12	12	*
NURSING:				
Birth and LDR	* for woman and infant	6	2	*
Nursery	Between every two bassinets and *	4	4	
Nursery, intermediate care	Each station and *	6	6	*
Nursery, neonatal intensive care	Each station and *	12	12	*
Pediatric	Head of bed	4	2	Tamper- resistant safety receptacles

TABLE 719-5
PATIENT CARE AREA
SINGLE ELECTRICAL RECEPTACLE OUTLET REQUIREMENTS

AREA/ROOM NAME	LOCATION IN ROOM (*ACCORDING TO PROGRAM UNLESS OTHERWISE STATED)	TOTAL	CRITICAL EMER- GENCY POWER	SPECIAL REQUIREMENTS (*HOSPITAL GRADE)
Pediatric critical care	Head of bed and *	12	12	*
Psychiatric	Head of bed	2	0	Tamper-resistant safety receptacles
DIAGNOSTIC AND TREATMENT:				
Emergency examination	One per wall	4	4	*
Emergency, minor	One per wall	6	6	*
Physical therapy		2 (A)		(B)
Occupational therapy	*			
Radiology and imaging	*	(C)		
LABORATORY:				
General	*			
Critical equipment	*	2	2	(D)
GENERAL:				
Patient lavatories		2	0	(E)
Other lavatories		0	0	(E)
All bathing facilities		0	0	(E)

NOTES:

- (A) Per treatment area sufficient to support diagnostic and treatment activities.
- (B) Ground fault circuit interrupter when installed within five feet of wet areas.
- (C) Sufficient to support diagnostic and treatment.
- (D) With grounding conductor and dedicated circuits as required per each piece of equipment and sufficient to support work station.
- (E) When installed within five feet of lavatories and bathing facilities, ground fault circuit interrupter required.

TABLE 719-6
CALL SYSTEMS

AREA/ROOM NAME	SYSTEM TYPE	INITIATION LOCATION	INDICATOR TYPE	INDICATOR LOCATION
ANESTHETIZING AND SPECIAL:				
Delivery	MES	H	E	E
Trauma	MES	H,A	E	E
Operating	MES	H	E	C
Patient holding area	PNC	A	B	B
Patient induction	PNC	A	B	B
	MES	H	E	E
Recovery stations	PNC	A	G	C
	MES	H		
CRITICAL CARE:				
Intensive and coronary care	PNC	A	B	B
	MES	H,A	E	E

TABLE 719-6
CALL SYSTEMS

AREA/ROOM NAME	SYSTEM TYPE	INITIATION LOCATION	INDICATOR TYPE	INDICATOR LOCATION
NURSING:				
Birthing	PNC	A	B	B
	MES	A,H	E	E
Labor	PNC	A	B	B
	MES	H	E	E
Nursery, neonatal intensive care	MES	H	E	E
Nursery, intermediate care	MES	H	E	E
Nursery, newborn	MES	H	E	E
Nurses station			Annunciator panel for PNC/MES	
Patient dressing	PNC	F	B,D	B
Patient	PNC	A	B	B
Patient shower, bathroom and toilet	PNC	F	B,D	B
Psychiatric activity	MES	H,I,C	C	
Psychiatric patient	MES	H	C	
Psychiatric seclusion	MES	H	C	
RADIOLOGY AND IMAGING:				
X-ray, Fluoroscopy	MES	H	E	E
DIAGNOSTIC AND TREATMENT:				
Emergency exam	PNC	A	B	C
	MES	H	E	E
Minor treatment	PNC	A	B,C	B,C
	MES	H	E	E
Nuclear medicine	MES	H	E	E

TABLE 719-6
CALL SYSTEMS

AREA/ROOM NAME	SYSTEM TYPE	INITIATION LOCATION	INDICATOR TYPE	INDICATOR LOCATION
Physical therapy	PNC	I	B,C	B,C
	MES	H	E	E
Occupational therapy	MES	H	E	E

GENERAL:

Emergency entrance	Doorbell	Outside hospital door	AS/VL	At a 24-hour monitored duty station
Utilities	AS/VL		AS/VL	Duty station

ABBREVIATIONS:

- PNC = Patient nurse call
- MES = Medical emergency signal
- AS = Audible signal
- VL = Visual light

NOTES:

- A Head of bed.
- B Register by light at corridor door or treatment area and register by light and audible signal at the nurses' station and duty stations.
- C Call signals initiated by staff within a department by remote or other means to register at a staff control point from which assistance is always available.
- D Signals from toilets and bathing facilities to have distinctive light and distinctive audible signals.
- E Medical emergency system devices to register by distinctive light at the corridor door. Nurses' station annunciator or equivalent shall identify point of origin by a distinctive light and distinctive audible signal. Signal device to be reset only by staff at the point of origin. Distinctive visual and distinctive audible signals at locations from which additional staff assistance is always available.
- F A properly located signal device mounted no higher than six feet above the floor and activated by a nonconductive pull cord within easy grasp by a patient slumped forward on the floors of either the toilet, bathing facility, or dressing room.
- G Register by light and outside each patient station or register by light and audible signal at the nurses' station.
- H Properly located signal device within easy reach by staff.
- I Any area not within direct observation.
- J May be integrated with other systems.

WSR 89-22-106
PERMANENT RULES
DEPARTMENT OF HEALTH

[Order 010—Filed November 1, 1989, 1:29 p.m.]

Date of Adoption: October 27, 1989.

Purpose: To update operational and construction minimum standards for pediatric, obstetric and nursery services in hospitals consistent with minimum standards for safety and health of the patient.

Citation of Existing Rules Affected by this Order: Repealing WAC 248-18-215, 248-18-220, 248-18-222, 248-18-223, 248-18-539, 248-18-600, 248-18-

605, 248-18-607 and 248-18-615; amending WAC 248-18-001; and new WAC 248-18-216, 248-18-221, 248-18-224, 248-18-541, 248-18-601, 248-18-606, 248-18-608, 248-18-616 and 248-18-637.

Statutory Authority for Adoption: RCW 70.41.030.

Pursuant to notice filed as WSR 89-17-124 on August 23, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989
Pam Campbell Mead
for Kristine Gebbie
Secretary

AMENDATORY SECTION (Amending Order 2680, filed 8/30/88)

WAC 248-18-001 DEFINITIONS. For the purposes of ~~((these regulations))~~ chapter 248-18 WAC and chapter 70.41 RCW, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise. All adjectives and adverbs such as adequate, approved, suitable, properly, or sufficient used in these regulations to qualify a requirement shall be determined by the department.

(1) "Abuse" means the injury or sexual abuse of ~~((an individual))~~ a patient under circumstances indicating the health, welfare, and safety of the patient is harmed ~~((thereby))~~. Person "legally responsible" shall include a parent, guardian, or an individual to whom parental or guardian responsibility ~~((has been))~~ is delegated (e.g., teachers, providers of residential care ~~((and/or))~~ and treatment, and providers of day care):

(a) "Physical abuse" means damaging or potentially damaging nonaccidental acts or incidents which may result in bodily injury or death.

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

(2) "Accredited" means approved by the joint commission on accreditation of hospitals or the bureau of hospitals of the American Osteopathic Association.

(3) "Acute cardiac care unit" means an intensive care unit for patients with heart problems.

(4) "Adolescent" means an individual during that period of life beginning with the appearance of secondary sex characteristics and ending with the cessation of somatic growth.

(5) "Agent," when used in a reference to a medical order or a procedure for a treatment, means any power, principle, or substance, whether physical, chemical, or biological, capable of producing an effect upon the human body.

~~((5))~~ (6) "Alterations":

(a) "Alterations" means changes requiring construction in existing hospitals.

(b) "Minor alterations" means any physical or functional modification within existing hospitals not changing the approved use of the room or area. (Minor alterations performed under this definition do not require prior review of the department as specified in WAC 248-18-510 (3)(a); however, this does not constitute a release from other applicable requirements.)

~~((6))~~ (7) "Area" means a portion of a room containing the equipment essential to carrying out a particular function and separated from other facilities of the room by a physical barrier or adequate space, except when used in reference to a major section of the hospital.

~~((7))~~ (8) "Authenticate" means to authorize or validate an entry in a record by:

(a) A signature including first initial, last name, and discipline; or

(b) A unique identifier allowing identification of the responsible individual.

~~((8))~~ (9) "Bathing facility" means a bathtub or shower and does not include sitz baths or other fixtures designated primarily for therapy.

~~((9))~~ (10) "Birthing room" or "labor, delivery, recovery (LDR) room" or "labor-delivery-recovery-postpartum (LDRP) room" means a room designed ~~((;))~~ and equipped ~~((, and arranged))~~ to provide ~~((for the))~~ care of a woman, fetus, and newborn and to accommodate her support persons during the complete process of vaginal childbirth ~~((three stages of labor and recovery of woman and newborn))~~.

~~((10))~~ (11) "Children" means young persons of either sex between infancy and adolescence.

(12) "Clean" means space or spaces and/or equipment for storage and handling of supplies and/or equipment which are in a sanitary or sterile condition, when the word is used in reference to a room, area, or facility.

~~((11))~~ (13) "Department" means the Washington state department of ~~((social and))~~ health ~~((services))~~.

~~((12))~~ (14) "Dentist" means an individual licensed under chapter 18.32 RCW.

~~((13))~~ (15) "Diagnostic radiologic technician" means an individual:

(a) Certified or eligible for certification as a diagnostic radiologic technologist under chapter 18.84 RCW; or

(b) Trained by a radiologist and approved by a radiologist member of medical staff to perform specified diagnostic radiologic procedures.

(16) "Dietitian" means an individual meeting the eligibility requirements for active membership in the American Dietetic Association described in Directory of Dietetic Programs Accredited and Approved, American Dietetic Association, edition 100, 1980.

~~((14))~~ (17) "Double-checking" means verification of patient identity, agent to be administered, route, quantity, rate, time, and interval of administration by two persons legally qualified to administer prior to administration of the agent.

(18) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given to a patient by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails:

(a) Removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container) ~~((;))~~;

(b) Reviewing the label on the container with a verified transcription, a direct copy or the original medical practitioner's orders ~~((;))~~;

(c) Giving the individual dose to the proper patient ~~((;))~~; and

(d) Properly recording the time and dose given.

~~((15))~~ (19) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, proper selection, measuring, labeling, packaging, and issuance of the drug for a patient or for a service unit of the facility.

~~((16))~~ (20) "Easily cleanable" means of material or finish and so fabricated to allow complete removal of residue by normal cleaning methods.

(21) "Electrical receptacle outlet" means an outlet where one or more electrical receptacles are installed.

(22) "Facilities" means a room or area ~~((and/or))~~ and equipment ~~((to serve))~~ serving a specific function.

~~((17))~~ (23) "Faucet controls" means wrist, knee, or foot control of the water supply:

(a) "Wrist control" means water supply controls not ~~((to exceed))~~ exceeding four and one-half inches overall horizontal length designed and installed to be operated by the wrists;

(b) "Knee control" means the water supply is controlled through a mixing valve designed and installed to be operated by the knee;

(c) "Foot control" means the water supply control is through a mixing valve designed and installed to be operated by the foot.

~~((18))~~ (24) "Governing body" means the person or persons responsible for establishing the purposes and policies of the hospital.

~~((19))~~ (25) "Grade" means the level of the ground adjacent to the building 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))~~ (26) "Handwashing facility" means a lavatory or a sink properly designed and equipped to serve for handwashing purposes.

~~((21))~~ (27) "He, him, his, or himself" means a person of either sex, male, or female, and does not mean preference for nor exclude reference to either sex.

~~((22))~~ (28) "High-risk infant" means an infant, regardless of gestational age or birth weight, whose extra-uterine existence is compromised by a number of factors, ~~((f))~~ prenatal, natal, or postnatal ~~((, and who is in need of))~~ needing special medical or nursing care.

~~((23))~~ (29) "Hospital" means any institution, place, building, or agency ~~((which provides))~~ providing accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include:

(a) Hotels, or similar places furnishing only food and lodging, or simply domiciliary care; ~~((nor does it include))~~

(b) Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; ~~((nor does it include))~~

(c) Nursing homes, as defined and which come within the scope of chapter 18.51 RCW; ~~((nor does it include))~~

(d) Maternity homes, which come within the scope of chapter 18.46 RCW; ~~((nor does it include))~~

(e) Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW; nor

(f) Any other hospital~~(;)~~ or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

(g) Furthermore, nothing in this chapter shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

~~((24))~~ (30) "Infant" means a baby or very young child up to one year of age.

~~((25))~~ (31) "Infant station" means a space for a bassinet, incubator, or equivalent, including support equipment used for the care of an individual infant.

~~((26))~~ (32) "Intensive care unit" means a special physical and functional unit for the segregation, concentration, and close or continuous nursing observation and care of patients critically, seriously, or acutely ill, and in need of intensive, highly skilled nursing service.

~~((27))~~ (33) "Intermediate care nursery" means an area designed, organized, staffed, and equipped to provide constant care and treatment for mild to moderately ill infants not requiring neonatal intensive care, but requiring or may require physical support and treatment beyond support required for a normal neonate and may include the following:

(a) Electronic cardiorespiratory monitoring;

(b) Gavage feedings;

(c) Parenteral therapy for administration of drugs;
and

(d) Respiratory therapy with intermittent mechanical ventilation not to exceed a continuous period of twenty-four hours for stabilization when trained staff are available.

(34) "Investigational drug" means any article not approved for use in the United States, but for which an investigational drug application (IND) ~~((has been))~~ is approved by the Food and Drug Administration.

~~((28))~~ (35) "Island tub" means a bathtub placed in a room to permit free movement of a stretcher, patient lift, or wheelchair to at least one side of the tub, and movement of people on both sides and at the end of the tub.

~~((29))~~ (36) "Lavatory" means a plumbing fixture of adequate design and size for washing hands.

~~((30))~~ (37) "Legend drugs" means any drugs required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

~~((31))~~ (38) "Licensed practical nurse," abbreviated L.P.N., means an individual licensed under provisions of chapter 18.78 RCW.

~~((32))~~ (39) "May" means permissive or discretionary on the part of the board or the department.

~~((33))~~ (40) "Medical staff" means physicians and may include other practitioners appointed by the governing body to practice within the parameters of governing body and medical staff bylaws.

~~((34))~~ (41) "Movable equipment" means equipment not built-in, fixed, or attached to the building.

~~((35))~~ (42) "Neglect" means ~~((negligent treatment))~~ mistreatment or maltreatment; an act or omission evincing; a serious disregard of consequences of ~~((such))~~ a magnitude ~~((as to constitute))~~ constituting a clear and present danger to an individual patient's health, welfare, and safety.

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

(b) "Emotional neglect" means acts such as rejection, lack of stimulation, or other acts of commission or omission which may result in emotional or behavioral problems, physical manifestations, and disordered development.

~~((36))~~ (43) "Nuclear medicine technologist" means an individual certified or eligible for certification as a nuclear medicine technologist under chapter 18.84 RCW.

(44) "Neonate" or "newborn" means a newly born infant through the twenty-seventh day of life or under twenty-eight days of age.

~~((37))~~ (45) "Neonatal intensive care nursery" means an area designed, organized, ~~((and))~~ equipped, and staffed to provide constant nursing and medical care ~~((to the))~~ and treatment for high-risk infants who may require:

(a) Continuous ventilatory support, twenty-four hours per day;

(b) Intravenous fluids or parenteral nutrition;

(c) Preoperative and postoperative monitoring when anesthetic other than local is administered; or

(d) Cardiopulmonary or other life support on a continuing basis.

(46) "Neonatologist" means a pediatrician who is board certified in neonatal-perinatal medicine or board eligible in neonatal-perinatal medicine, provided the period of eligibility does not exceed three years, as defined and described in Directory of Residency Training Programs by the Accreditation Council for Graduate Medical Education, American Medical Association, 1981-1982 or the American Osteopathic Association Yearbook and Directory, 1981-1982.

(47) "Newborn care" means provision of nursing and medical services described by the hospital and appropriate for well and convalescing infants including supportive care, ongoing physical assessment, and resuscitation.

~~((38))~~ (48) "New construction" means any of the following:

(a) New buildings to be used as hospitals;

(b) Additions to existing buildings to be used as hospitals;

(c) Conversion of existing buildings or portions thereof for use as hospitals;

(d) Alterations.

~~((39))~~ (49) "Nursing home unit" or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

~~((40))~~ (50) "Nursing unit, general" means a separate physical and functional unit of the hospital including a group of patient rooms, ancillary and administrative, and service facilities necessary to provide nursing service to the occupants of these patient rooms. Facilities serving other areas of the hospital and creating traffic unnecessary to the functions of the nursing unit are excluded.

~~((41))~~ (51) "Observation room" means a room for close nursing observation and care of one or more outpatients for a period of less than twenty-four consecutive hours.

~~((42))~~ (52) "Obstetrical area" means the portions or units of the hospital designated or designed for care and treatment of women during the antepartum, intrapartum, and postpartum periods, and/or areas designed as nurseries for care of newborns.

~~((43))~~ (53) "Occupational therapist" means an individual licensed under the provisions of chapter 18.59 RCW.

~~((44))~~ (54) "Patient" means an individual receiving (or has received) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative health services at the hospital. "Outpatient" means a patient receiving services that generally do not require admission to a hospital bed for twenty-four hours or more.

~~((45))~~ (55) "Patient care areas" means all nursing service areas of the hospital where direct patient care is rendered and all other areas of the hospital where diagnostic or treatment procedures are performed directly upon a patient.

~~((46))~~ (56) "Pediatrician" means a physician:

(a) Having successfully completed a residency program approved by the American Board of Pediatrics as described in the Directory of Residence Training Programs Accredited by the Accreditation Council for Graduate Medical Education, American Medical Association, 1981-1982; or

(b) Approved by the American Osteopathic Board of Pediatrics as described in the American Osteopathic Association Yearbook and Directory, 1981-1982; and

(c) Board certified or board eligible for period not to exceed three years.

(57) "Pediatric service" means any diagnostic, treatment, or care service provided for infants, children, or adolescents.

(58) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

~~((47))~~ (59) "Pharmacist" means an individual licensed by the state board of pharmacy to engage in the practice of pharmacy under the provisions of chapter 18.64 RCW as now or hereafter amended.

~~((48))~~ (60) "Pharmacy" means the central area in a hospital where drugs are stored and are issued to hospital departments or where prescriptions are filled.

~~((49))~~ (61) "Physical barrier" means a partition or similar space divider designed to prevent splash or spray between room areas.

~~((50))~~ (62) "Physical therapist" means an individual licensed under provisions of chapter 18.74 RCW.

~~((51))~~ (63) "Physician" means an individual licensed under provisions of chapter 18.71 RCW, Physicians, or chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery.

~~((52))~~ (64) "Physician's assistant" means an individual who is not a physician but ~~((is practicing))~~ practices medicine ((in accordance with the)) under provisions, rules, and regulations of chapter 18.71A RCW ((and the rules and regulations promulgated thereunder)), or ((in accordance with)) provisions ((of)), rules, and regulations under chapter 18.57A RCW ((and the rules and regulations promulgated thereunder)).

~~((53))~~ (65) "Physician member of medical staff qualified in nuclear medicine" means a physician with staff privileges who is:

(a) Certified or eligible for certification by the American Board of Radiology (ABR) or the American Board of Nuclear Medicine (ABNM) in radiologic physics including diagnostic, therapeutic, and medical nuclear physics; and

(b) Included in the 1987-1989 list of board-certified physicians maintained by ACR Professional Bureau, 1899 Preston White Drive, Reston, VA 22091.

(66) "Prescription" means an order for drugs for a specific patient given by a licensed physician, dentist, or other individual legally authorized to write prescriptions, transmitted to a pharmacist for dispensing to the specific patient.

~~((54))~~ (67) "Protocols" and "standing order" mean written descriptions of actions and interventions for implementation by designated hospital personnel under defined circumstances and authenticated by a legally authorized person under hospital policy and procedure.

(68) "Psychiatric unit" means a separate portion of the hospital specifically reserved for the care of psychiatric patients (a part of which may be unlocked and a part locked), as distinguished from "seclusion rooms" or "security rooms" as defined in ~~((subsections (65) and (66) of))~~ this section.

~~((55))~~ (69) "Psychiatrist" means a physician ~~((who has))~~ having successfully completed a three-year residency program in psychiatry and is eligible for certification by the American Board of Psychiatry and Neurology as described in the Directory of Residence Training Programs Accredited by the Accreditation Council for Graduate Medical Education, American Medical Association, 1981-1982, or eligible for certification by the American Osteopathic Board of Neurology and Psychiatry as described in the American Osteopathic Association Yearbook and Directory, 1981-1982.

~~((56))~~ (70) "Psychologist" means an individual licensed as a psychologist in the state of Washington under provisions of chapter 18.83 RCW.

~~((57))~~ (71) "Radiation oncologist" means a physician who successfully completed an approved residency program in therapeutic radiology and is either board certified or eligible for board certification in radiation oncology by:

(a) The American Board of Radiology described under Directory of Residency Programs Accredited by the Accreditation Council for Graduate Medical Education, American Medical Association, 1981-82, with:

(i) Certification in use of both external and brachytherapy techniques; and

(ii) Continuing education requirements of the board met; or

(b) The American Osteopathic Board of Radiology described in the American Osteopathic Association Yearbook and Directory, 1981-82 with:

(i) Certification in use of both external and brachytherapy techniques; and

(ii) Continuing education requirements of the board met.

(72) "Radiologist" means a physician who is board certified or eligible for certification in radiology and meeting continuing education requirements of:

(a) The American Board of Radiology described under Directory of Residency Programs Accredited by the Accreditation Council for Graduate Medical Education, American Medical Association, 1981-82; or

(b) The American Osteopathic Board of Radiology described under American Osteopathic Association Yearbook and Directory, 1981-82.

(73) "Recreational therapist" means an individual with a bachelors degree including a major or option in therapeutic recreation or recreation for the ill and handicapped.

~~((58))~~ (74) "Recovery unit" means a special physical and functional unit for the segregation, concentration, and close or continuous nursing observation and care of patients for a period of less than twenty-four hours immediately following anesthesia, obstetrical delivery, surgery, or other diagnostic or treatment procedures which may produce shock, respiratory obstruction or depression, or other serious states.

~~((59))~~ (75) "Referred outpatient diagnostic service" means a service provided to an individual receiving (~~his or her~~) medical diagnosis, treatment, and other health care services from one or more sources outside the hospital(~~;~~) limited to diagnostic tests and examinations:

(a) Not involving (~~the~~) administration of a parenteral injection, the use of a local or general anesthesia or the performance of a surgical procedure; and

(b) Ordered by a health care practitioner, legally permitted to order such tests and examinations, to whom the hospital reports the findings and results of the tests and examinations.

~~((60))~~ (76) "Registered nurse" means an individual licensed under the provisions of chapter 18.88 RCW and practicing in accordance with the rules and regulations promulgated thereunder.

~~((61))~~ (77) "Restraint" means any apparatus used for the purpose of preventing or limiting free body movement. This shall not be interpreted to include a safety device as defined herein.

~~((62))~~ (78) "Room" means a space set apart by floor-to-ceiling partitions on all sides with proper access to a corridor and with all openings provided with doors or windows.

~~((63))~~ (79) "Rooming-in" means an arrangement for mother and infant to room together with provision for family interaction within the hospital setting.

~~((64))~~ (80) "Safety device" means a device used to safeguard a patient who, because of (~~his or her~~) developmental level or condition, is particularly subject to accidental self-injury.

~~((65))~~ (81) "Seclusion room" means a small, secure room specifically designed and organized to provide for temporary placement, care, and observation of one patient and further providing an environment with minimal sensory stimuli, maximum security and protection, and visualization of the patient by authorized personnel and staff. Doors of seclusion rooms shall be provided with staff-controlled locks. There shall be security relites in the door or equivalent means affording visibility of the occupant at all times. Inside or outside rooms may be acceptable.

~~((66))~~ (82) "Security room" means a patient sleeping room designed, furnished, and equipped to provide maximum safety and security, including window protection or security windows and a lockable door with provision for observation of room occupant (~~or occupants~~).

~~((67))~~ (83) "Self-administration of drugs" means a patient administering or taking his or her own drugs from properly labeled containers: PROVIDED, That the facility maintains the responsibility for seeing the drugs are used correctly and the patient is responding appropriately.

~~((68))~~ (84) "Sensitive area" means a room used for surgery, obstetrical delivery, nursery, post-anesthesia recovery, special procedures where invasive techniques are used, or critical care including, but not limited to, intensive and cardiac care.

(85) "Shall" means compliance is mandatory.

~~((69))~~ (86) "Should" means a suggestion or recommendation, but not a requirement.

~~((70))~~ (87) "Sinks":

(a) "Clinic service sink (siphon jet)" means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inch diameter.

(b) "Scrub sink" means a plumbing fixture of adequate size and proper design for thorough washing of hands and arms, equipped with knee, foot, electronic, or equivalent control, and gooseneck spout.

(c) "Service sink" means a plumbing fixture of adequate size and proper design for filling and emptying mop buckets.

~~((71))~~ (88) "Social worker" means an individual holding a masters degree in social work from a graduate school of social work approved by the council on social work education.

~~((72))~~ (89) "Soiled" (when used in reference to a room, area, or facility) means space and equipment for collection ~~((and/or))~~ or cleaning of used or contaminated supplies and equipment ~~((and/or))~~ or collection ~~((and/or))~~ or disposal of wastes.

~~((73))~~ (90) "Stretcher" means a four-wheeled cart designed to serve as a litter for the transport of an ill or injured individual in a horizontal or recumbent position.

~~((74))~~ (91) "Surgical procedure" means any manual or operative procedure performed upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defect, prolonging life or relieving suffering, and involving any of the following:

(a) Incision, excision, or curettage of tissue or an organ;

(b) Suture or other repair of tissue or an organ including a closed as well as an open reduction of a fracture;

(c) Extraction of tissue including the premature extraction of the products of conception from the uterus; or

(d) An endoscopic examination with use of a local or general anesthesia.

~~((75))~~ (92) "Therapeutic radiologic technologist" means an individual certified or eligible for certification as a therapeutic radiologic technologist under chapter 18.84 RCW.

(93) "Through traffic" means traffic for which the origin and destination are outside the room or area serving as a passageway.

~~((76))~~ (94) "Toilet" means a room containing at least one water closet.

~~((77))~~ (95) "Tuberculous patient" means an individual receiving diagnostic or treatment services because of suspected or known tuberculosis.

~~((78))~~ (96) "Water closet" means a plumbing fixture for defecation fitted with a seat and device for flushing the bowl of the fixture with water.

~~((79))~~ (97) "Window" means a glazed opening in an exterior wall.

(a) "Maximum security window" means a window that can only be opened by keys or tools under the control of personnel. The operation ~~((of such))~~ shall be restricted to prohibit escape or suicide. Where glass fragments may create a hazard, safety glazing ~~((and/or))~~ and other appropriate security features shall be incorporated. Approved transparent materials other than glass may be used.

(b) "Relite" means a glazed opening in an interior partition between a corridor and a room or between two rooms to permit viewing.

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

NEW SECTION

WAC 248-18-216 PEDIATRIC SERVICES. (1) Hospitals admitting, treating, or diagnosing infants, children, and adolescents shall have readily available equipment and supplies of appropriate sizes including:

(a) Intubation equipment;

(b) Oxygen masks and ventilatory bags;

(c) Blood pressure cuffs;

(d) Stethoscope;

(e) Defibrillator and paddles;

(f) Emergency medications;

(g) Intravenous equipment and supplies; and

(h) Measuring devices for length, height, weight, and circumferences.

(2) Hospitals providing services for infants, children, and adolescents shall establish written policies and procedures specific to pediatric services, consistent with WAC 248-18-190 (2)(g), 248-18-202, and 248-18-336 and minimally including:

(a) Admission criteria;

(b) Conditions requiring transfer or transport;

(c) Room assignment of infants and children considering requirements for observation and developmental age level needs;

(d) Safety measures in terms of equipment, including but not limited to:

(i) Cribs, bassinets, and beds;

(ii) Restraint use;

(iii) Side rails;

(iv) Electrical outlet protection; and

(v) Toys.

(e) Placement of infants, children, and adolescents with infection, suspected infection, or exposure to infection;

(f) Nutritional guidelines for infants, children, and adolescents to include normal diets and diets for special nutritional needs;

(g) Safe administration of pediatric doses of blood, blood products, medications, intravenous fluids, and admixtures including:

(i) Intake and output;

(ii) Precalculated dosages of emergency drugs immediately available or posted;

(iii) An established list of pediatric dosages approved by the hospital pharmacist and the physician responsible for medical policies in pediatric services;

(iv) List of agents requiring double checking prior to administration; and

(v) Hospital-approved method of double checking by appropriately licensed personnel or medical staff which include nurses, physicians, or pharmacists.

(3) Hospitals providing organized, distinct pediatric units or service areas shall provide and establish:

(a) An accessible examination or treatment area;

(b) A sufficient area for diversional play activities;

(c) Criteria and procedures for use of established areas for isolation;

(d) Medical services directed by a physician member of medical staff having experience in treatment of infants, children, and adolescents whose functions and scope of responsibility are delineated by medical staff;

(e) Review of policies, procedures, protocols, and standing orders as necessary and at least every two years with revision as necessary;

(f) A registered nurse responsible for implementation of nursing policies and procedures;

(g) Adequate nursing staff for the pediatric unit or service area available to perform all the specialized nursing skills required.

(4) Hospitals providing nurseries in pediatric services or elsewhere in the hospital shall meet requirements for intermediate care nursery or neonatal intensive care nursery under WAC 248-18-224.

NEW SECTION

WAC 248-18-221 OBSTETRICAL SERVICES.

(1) Hospitals providing obstetrical services shall provide:

(a) Medical services directed by a physician member or members of the medical staff having experience in obstetrics and newborn care, whose functions and scope of responsibility are delineated by the medical staff;

(b) Adequate staff supervised by a registered nurse, prepared by education and experience in obstetrical and newborn care nursing;

(c) Capability for performing caesarean sections twenty-four hours per day.

(2) Hospitals providing obstetrical services shall establish written policies and procedures to include:

(a) Infection control principles under WAC 248-18-035 including:

(i) Room assignment and placement of obstetrical patients and newborns;

(ii) Visitors;

(iii) Special clothing requirements for staff and visitors;

(iv) Handwashing, posted as appropriate;

(v) Isolation;

(vi) Employee health; and

(vii) Handling and storage of breast milk and formula.

(b) Screening criteria to ascertain patients appropriate for each option of labor, delivery, postpartum, and newborn care;

(c) Provisions for transfer and transport of a woman or a newborn to obtain a more intensive level of medical and nursing care;

(d) Deliveries occurring outside the obstetrical service area or areas;

(e) Requirement for authentication of all orders, standing orders, and protocols with:

(i) Delineation of the circumstances when a particular protocol is used;

(ii) Provisions for notification of appropriate medical staff;

(iii) Description of minimum qualifications or training of persons required to execute a particular order or protocol;

(iv) Written approval of policies, standing orders, and protocols by appropriate representatives of the medical, nursing, and administrative staffs;

(v) Orders for drug or treatment administration including:

(A) A description of the treatment with the name of each drug or agent;

(B) The dosage and concentration of the drug or agent;

(C) The route or method of administration; and

(D) Where pertinent, the time interval, frequency, or duration of administration.

(f) Requirements for documenting orders and protocols in the patient's medical record;

(g) Provision for maintaining body heat of each newborn;

(h) Provision for intrapartum evaluation of fetal heart rate;

(i) Procedures and protocols for the management of obstetrical and newborn emergencies, including resuscitation;

(j) Review of policies, procedures, protocols, and standing orders as necessary and at least every two years with revisions if necessary; and

(k) Recordkeeping including, but not limited to:

(i) Specific notes describing the status of mother, fetus, and newborn during labor, birth, and postpartum;

(ii) Completion of birth and death certificates as necessary;

(iii) Hospital staff's verification of initial and discharge identification of the newborn;

(iv) Documentation that the metabolic screening test was obtained and forwarded, as required under RCW 70.83.020 and chapter 248-102 WAC, now or as hereafter amended;

(v) Documentation of newborn eye treatment, required under RCW 70.24.040 and chapter 248-100 WAC, now or as hereafter amended; and

(vi) Medical records register or registers and index or indexes described under WAC 248-18-440.

(3) A hospital providing obstetrical services shall:

(a) Designate and maintain facilities and equipment for care of woman, fetus, and newborn either in:

(i) Labor rooms with birth occurring in a delivery room; or

(ii) Birthing rooms including LDR and LDRP services; or

(iii) A combination of labor, delivery, and birthing rooms; or

(iv) Rooming-in, if provided.

(b) Locate any hospital room designated by the hospital as a labor room within the obstetrical service area;

(c) Utilize rooms designated by the hospital as labor rooms:

(i) For short-term patient occupancy of twenty-four hours or less; or

(ii) For patients in labor only unless the room meets the requirements for a patient room described under WAC 248-18-190.

(d) Maintain accommodations and environment in obstetrical delivery rooms, if present, including:

(i) Lighting and equipment for care of woman, fetus, and newborn during delivery including requirements described under WAC 248-18-251(2);

(ii) A minimum area of two hundred and seventy square feet with a minimum linear dimension of fifteen feet; and

(iii) A minimum room temperature of at least sixty-eight degrees Fahrenheit with a reliable method for monitoring temperature.

(e) Maintain systems for scrub up, clean up, sterilization, storage, housekeeping, and staff change room facilities; and

(f) Meet requirements described under WAC 248-18-253 and 248-18-256 for anesthesia and post-anesthesia recovery.

(4) Hospitals providing birthing or delivery services shall provide sufficient and appropriate area in rooms to accommodate not only patients, staff, and designated attendants, but also furnishings and equipment for the care of the woman, fetus, and newborn including:

(a) Adequate and appropriate equipment and supplies as follows:

(i) A bed or equivalent suitable for labor, birth, and post partum;

(ii) Oxygen with individual flow meters and mechanical suction for woman and newborn;

(iii) Newborn resuscitation bag, masks, endotracheal tubes, laryngoscopes, oral airways, and mechanical suction in the room for each birth;

(iv) Emergency equipment, medications, and supplies for care of newborn and woman required under WAC 248-18-251 (2)(b)(ii);

(v) Newborn beds available;

(vi) Radiant heat source available for the newborn;

(vii) General lighting source and provision for examination lights;

(viii) A clock with a sweep hand or equivalent second indicator visible from each patient's bedside;

(ix) Provision for receiving, covering, and transporting soiled linens and waste materials;

(x) Appropriate storage for necessary linens, instruments, supplies, medications, and equipment;

(xi) Work surfaces;

(xii) A signal device for use by staff and accessible to summon emergency back-up personnel when needed;

(xiii) Emergency power for lighting and operation of equipment;

(xiv) Easily cleanable floors, walls, cabinets, ceilings, and furnishings; and

(xv) Fetal monitoring equipment.

(b) Additional requirements if birthing rooms are provided including:

(i) A lavatory located within each birthing room;

(ii) A designated lavatory and water closet conveniently located for use of patient and support person or persons;

(iii) A bathing facility convenient for patient use;

(iv) Wardrobe unit or closets in the vicinity for the belongings of the patient and her support person or persons;

(v) A signaling device accessible for each woman; and

(vi) Room temperature of at least sixty-eight degrees Fahrenheit maintained with a reliable method for monitoring.

(5) Hospitals may use an operating room as a delivery room if the hospital has established policy and procedures about use of operating rooms including establishing priority over routine obstetrical procedures and non-emergent surgical procedures for:

(a) Patients with parturition imminent;

(b) Patients with obstetrical emergencies requiring immediate medical intervention to preserve life and health of woman and infant.

(6) Any hospital providing obstetrical services shall provide appropriate newborn care including, but not limited to:

(a) Devices for measuring weight, length, and circumference;

(b) Access to and availability of portable x-ray;

(c) Provisions for stabilization, transfer, and transport of high-risk newborns and infants;

(d) An established system to identify newborns prior to separation from mother;

(e) Established policies and procedures minimally including:

(i) Ongoing clinical assessment of newborn or infant;

(ii) Provisions for direct supervision of each newborn by nursing staff and family in a nonpublic area, considering:

(A) Physical well being;

(B) Safety; and

(C) Security, including prevention from abduction.

(f) Access to oxygen, oxygen analyzers, warmed and humidified oxygen, resuscitation equipment, emergency equipment, measuring devices, mechanical suction, medical air and supplies specifically for infants and newborns.

(7) Hospitals with a newborn and infant nursery shall provide services, facilities, and equipment including:

(a) Requirements in subsection (6) of this section;

(b) Wall clock with sweep second hand or equivalent second indicator visible from each nursery room;

(c) Oxygen source with provision for warming, humidifying, analyzing, and blending oxygen;

(d) A nursery room or rooms with at least twenty square feet per bassinets and with sufficient room to move between bassinets;

(e) Handwashing facilities located at the entrance to the nursery and in each nursery room;

(f) Emergency call systems from the nursery to another nearby appropriately staffed area;

(g) A system to maintain an environmental temperature of at least sixty-eight degrees Fahrenheit; and

(h) Appropriate emergency equipment, medications, and supplies for infant care and as required under WAC 248-18-251 (2)(b).

NEW SECTION

WAC 248-18-224 INTERMEDIATE CARE NURSERY SERVICE—NEONATAL INTENSIVE CARE NURSERY SERVICE. (1) Hospitals providing intermediate care nursery services or neonatal intensive care nursery services or both shall meet requirements described under WAC 248-18-221 (6) and (7).

(2) Additional requirements for hospitals providing intermediate care nursery service include:

(a) Infant stations having adequate space within each station to accommodate equipment, supplies, and staff required for treatment of intermediate care infants;

(b) Provision for emergency power to support equipment requirements for each infant station;

(c) Oxygen, air, and suction capabilities including:

(i) One oxygen outlet in each infant station with other sources of oxygen available;

(ii) One medical air source available for each infant station;

(iii) Provision for blending, warming, humidifying, and monitoring oxygen mixtures; and

(iv) One electrical-mechanical or pneumatic suction in each infant station with other mechanical suction available in the hospital.

(d) All equipment and supplies for infant resuscitation immediately available and present within the intermediate care nursery service area;

(e) One cardiorespiratory monitor in the intermediate care nursery area and others available;

(f) Sufficient micro-volumetric infusion pumps available;

(g) A waiting and instruction area available;

(h) A registered nurse responsible for neonatal nursing and implementation of policies;

(i) Provision of adequate nursing staff for the intermediate care nursery available to perform all the specialized nursing skills required;

(j) Laboratory, pharmacy, radiological, and respiratory care services appropriate for infants available at all times and in the hospital during assisted ventilation;

(k) Medical staff with experience in neonatal medicine available at all times during assisted ventilation;

(l) A physician with experience in neonatal medicine who is continuously available to come to the hospital as required;

(m) Medical services directed by a physician member or members of the medical staff having experience in neonatal intensive care whose functions and scope of responsibility are delineated by the medical staff;

(n) Requirements for authentication of all orders, standing orders, and protocols when used with:

(i) Delineation of the circumstances when a particular protocol is used;

(ii) Provision of notification of appropriate medical staff;

(iii) Description of minimum qualifications or training of persons required to execute a particular order or protocol;

(iv) Written approval of policies, standing orders, and protocols by appropriate members of the medical, nursing, and administrative staffs;

(v) Orders for drug or treatment administration including:

(A) A description of the treatment with the name of each drug or agent;

(B) The dosage and concentration of the drug or agent;

(C) The route or method of administration; and

(D) Where pertinent, the time interval, frequency, or duration of administration.

(vi) Review of policies, procedures, protocols, and standing orders at least every two years with revisions as necessary.

(o) A hospital-approved procedure for double checking certain drugs, biologicals, and agents by appropriately licensed personnel or medical staff including nurses, physicians, and pharmacists.

(3) Hospitals providing neonatal intensive care nursery service shall meet requirements described under WAC 248-18-221(6) and subsection (2) of this section, and additionally provide:

(a) At least fifty square feet within each infant station;

(b) Twelve electrical outlets, with at least eight clearly identified as being on emergency power, available in each infant station;

(c) Oxygen, air, and suction capabilities including:

(i) Two separate oxygen outlets in each infant station;

(ii) Two medical air outlets in each infant station;

(iii) One mechanism for blending oxygen and medical air for each infant station;

(iv) Sufficient numbers of oxygen analyzers available to continuously monitor oxygen;

(v) A means for warming, humidifying, and monitoring temperature of oxygen mixtures on a continuous basis; and

(vi) Two electrical-mechanical or pneumatic suction in each infant station with others available if needed.

(d) All equipment and supplies for infant resuscitation available and present within the neonatal intensive care nursery service area;

(e) Continuous ventilatory support equipment available at all times;

(f) Equipment for continuous monitoring of respirations and heart rate in each infant station;

(g) Equipment for continuous hemodynamic monitoring and status of oxygenation available;

(h) Equipment for continuous monitoring of body temperature available;

(i) Sufficient microvolumetric infant infusion pumps immediately available at all times in the neonatal intensive care nursery service area;

(j) Laboratory, radiology, and respiratory care and pharmacy services appropriate for neonates and infants available in the hospital at all times;

(k) Twenty-four-hour availability of an anesthesia services and a pharmacist to come to the hospital as required or requested available at all times;

(l) Provision of a registered nurse responsible for neonatal intensive care nursery services and implementation of policies;

(m) Provision of sufficient and adequate nursing staff in the neonatal intensive care nursery service to perform all specialized nursing skills required;

(n) Medical responsibility for intensive care nursery services by a neonatologist member of the medical staff;

(o) Twenty-four-hour availability of a neonatologist to come for in-house consultation as required or requested;

(p) A designated physician in the hospital available at all times to the neonatal intensive care nursery service with experience or skills including:

(i) Neonatal and infant resuscitation; and

(ii) Ventilator management including chest tube placement.

(q) Standing orders, protocols, patient discharge/transfer plans and evaluation of neonatal intensive care nursery services meeting requirements under subsection (2) of this section and WAC 248-18-221 (6)(c);

(r) Provision for referral or arranging for social work services as required; and

(s) Provision for patient access to other services as required.

NEW SECTION

WAC 248-18-541 PEDIATRIC NURSING UNIT. Hospitals planning new construction of a pediatric unit shall:

(1) Locate the pediatric unit to prevent unnecessary traffic through the service area;

(2) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage under WAC 248-18-719;

(3) Meet general requirements for certain service facilities under WAC 248-18-711 as follows:

(a) Locate for convenient use of staff;

(b) May be shared with other service areas when service is limited to sixteen patient beds or less in a combined-use area;

(c) Provide clean utility or materials room;

(d) Provide housekeeping room;

(e) Provide medication distribution facilities;

(f) Provide soiled utility or materials room; and

(g) Provide storage room.

(4) Design the pediatric unit to accommodate WAC 248-18-216 and meet the requirements under WAC 248-18-530 (6), (7), and (8), except as follows:

(a) Patient rooms with fifty square feet usable floor space per bassinets;

(b) Adjoining patient toilets may be omitted from bassinets rooms;

(c) Ratios of bathing facilities to beds may exclude cribs and bassinets; and

(d) At least one isolation room located in the pediatric area.

(5) Meet the requirements under WAC 248-18-530(9) for:

(a) Nurses' station or equivalent;

(b) Ice facilities;

(c) Drinking facilities;

(d) Nourishment facilities;

(e) Personnel facilities; and

(f) Treatment and examination room.

(6) Provide parents' waiting room with education facilities; and

(7) Provide multipurpose room with:

(a) Space for playing and dining;

(b) Separate activity area for adolescents; and

(c) Construction minimizing sound transmission.

NEW SECTION

WAC 248-18-601 OBSTETRICAL DELIVERY FACILITIES. Hospitals planning new construction of obstetrical delivery facilities shall:

(1) Locate delivery rooms to prevent traffic through delivery room service areas;

(2) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage meeting requirements under WAC 248-18-719.

(3) Meet general requirements for certain service facilities under WAC 248-18-711 and provide the following:

(a) Clean materials or clean utility room;

(b) Housekeeping facilities;

(c) Medicine distribution facility;

(d) Soiled utility room; and

(e) Storage room.

(4) Design delivery room or surgery room for obstetrical services to accommodate the requirements under WAC 248-18-221 and provide:

(a) Clock with sweep second hand and interval timer or equivalent;

(b) Film illuminators for at least two x-ray films or equivalent;

(c) Minimum gross area of three hundred and sixty square feet;

(d) Minimum dimension of eighteen feet; and

(e) Delivery room light.

(5) Provide scrub area located to provide direct access to the delivery room with:

(a) One scrub sink or equivalent for every delivery or surgery room;

(b) Dispenser at each scrub sink with foot control, or equivalent, if liquid hand cleaner is used;

(c) Storage for scrub equipment, masks, caps, nail cleaners, and shoe covers;

(d) Clock or timer within view from scrub sinks; and

(e) A towel dispenser or equivalent.

(6) Provide sterilizing facilities within the delivery service area and meeting requirements under WAC 248-18-680(4), or provide central processing meeting requirements under WAC 248-18-680(1).

(7) Provide anesthesia storage or anesthesia workroom meeting requirements under WAC 248-18-565 (12) or (13).

(8) Provide staff facilities meeting requirements under WAC 248-18-565(15).

NEW SECTION

WAC 248-18-606 FACILITIES FOR CARE OF PATIENTS IN LABOR. Hospitals planning new construction of labor rooms which are not birthing rooms shall:

(1) Locate labor rooms to prevent unnecessary traffic through the labor room service area;

(2) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage in accordance with WAC 248-18-719.

(3) Meet general requirements for certain service facilities under WAC 248-18-711 as follows:

(a) Locate for convenient use of staff;

(b) May be shared with other service areas;

(c) Provide medicine distribution facilities;

- (d) Provide clean materials room or clean utility room;
- (e) provide soiled materials room or soiled utility room; and
- (f) Provide housekeeping facilities.
- (4) Provide a labor room meeting requirements under WAC 248-18-530(6) with:
 - (a) Identification and location accommodating requirements under WAC 248-18-221(3); and
 - (b) A maximum capacity of two beds.
 - (5) Provide toilet and bathing facilities meeting requirements under WAC 248-18-530 (7) and (8) with:
 - (a) Water closets in ratio of at least one to every four labor beds or fraction thereof; and
 - (b) Showers in the ratio of at least one to every eight obstetrical service beds or fraction thereof.

NEW SECTION

WAC 248-18-608 BIRTHING ROOMS. Hospitals planning new construction of birthing rooms shall:

- (1) Locate birthing rooms to prevent unnecessary traffic through the obstetrical service area;
- (2) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage under WAC 248-18-719;
- (3) Meet general requirements for certain service facilities under WAC 248-18-711 as follows:
 - (a) Locate for convenient use by staff;
 - (b) May be shared with other service areas;
 - (c) Provide medicine distribution facilities;
 - (d) Provide clean utility room;
 - (e) Provide soiled utility room;
 - (f) Provide housekeeping facilities; and
 - (g) Provide storage room.
 - (4) Provide a nourishment facility which:
 - (a) Meets requirements under WAC 248-18-530(9); and
 - (b) May be shared with other service areas.
 - (5) Design each birthing room to accommodate the requirements under WAC 248-18-221(4) and provide:
 - (a) Area and dimensions meeting the requirements under WAC 248-18-530 (6)(d) and with a minimum usable floor space excluding lavatory, wardrobe, or closet, fixed or movable cabinets, storage facilities, and entry vestibules as follows:
 - (i) One hundred and sixty square feet total; and
 - (ii) Four feet at one side and at foot of bed.
 - (b) A lavatory in the room meeting requirements under WAC 248-18-719; and
 - (c) Privacy curtains or equivalent.
 - (6) Provide toilet and bathing facilities meeting requirements under WAC 248-18-530 (7) and (8) and with:
 - (a) Patient toilets adjoining birthing room and in a ratio of one toilet for each patient bed;
 - (b) Support persons' toilets, separate from patient toilet, and conveniently located; and
 - (c) Showers in a ratio of one shower to every eight patient beds in obstetrical service area.

(7) Provide nurses' station or equivalent meeting requirements under WAC 248-18-530 (9)(a).

(8) Provide staff facilities meeting requirements under WAC 248-18-070.

NEW SECTION

WAC 248-18-616 NEWBORN NURSERY FACILITIES. Hospitals planning new construction of newborn nursery facilities shall:

- (1) Locate the nursery facilities to prevent unnecessary traffic through the service area;
- (2) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage under WAC 248-18-719;
- (3) Provide service facilities:
 - (a) Convenient to nursery room;
 - (b) Shared with other nursery areas at hospital's discretion;
 - (c) Designed to separate clean and soiled areas and meeting the requirements under WAC 248-18-711 with:
 - (i) A clean utility room with accommodation for a refrigerator for infant feedings;
 - (ii) A soiled utility room;
 - (iii) Housekeeping room; and
 - (iv) Storage.
 - (4) Meet the requirements under WAC 248-18-221 (6) and (7);
 - (5) Provide nursery rooms with:
 - (a) No public access to the nursery except through handwashing and gowning area;
 - (b) Enough bassinets for newborn infants at least equal to anticipated need;
 - (c) An area of twenty-four square feet per bassinet;
 - (d) At least three feet between bassinets;
 - (e) A lavatory meeting the requirements of WAC 248-18-719 (3)(g) and (6)(b)(iv) and (v) and located at every entrance to each nursery room, and a ratio of one lavatory for every twelve bassinets or major fraction;
 - (f) Liquid detergent dispenser with foot control;
 - (g) A clock with sweep second hand or equivalent visible from all nursery rooms and service areas;
 - (h) Lighting level measured at height of infant station or treatment table:
 - (i) Minimum seventy foot candles; and
 - (ii) Maximum one hundred foot candles.
 - (i) Provision for viewing infants in the nursery rooms by visitors outside the nursery rooms;
 - (j) A charting area which may be shared with other nurseries, with provisions for:
 - (i) A writing desk or counter;
 - (ii) Chart rack; and
 - (iii) Use of telephone.
 - (6) Provide a handwashing and gowning area at the public entrance to the nursery room with:
 - (a) A lavatory with gooseneck spout and knee or foot faucet control or equivalent;
 - (b) Liquid detergent dispenser with foot control;
 - (c) Storage for linen and equipment; and
 - (d) Provision for hanging outer garments.

(7) Staff facilities meeting the requirements under WAC 248-18-070 which may be shared with other service areas.

NEW SECTION

WAC 248-18-637 INTERMEDIATE CARE NURSERY AND NEONATAL INTENSIVE CARE NURSERY. Hospitals planning new construction of intermediate care nurseries and neonatal intensive care nurseries shall:

- (1) Locate the nursery facilities to prevent unnecessary traffic through the service area;
- (2) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage under WAC 248-18-719;
- (3) Provide service facilities:
 - (a) Convenient to nursery room;
 - (b) Shared with other nursery areas at hospital's discretion; and
 - (c) Designed to separate clean and soiled areas and meeting the requirements of WAC 248-18-711 with:
 - (i) A clean utility room with accommodation for a refrigerator for infant feedings;
 - (ii) A soiled utility room;
 - (iii) Housekeeping room;
 - (iv) Storage; and
 - (v) Medicine distribution facilities.
- (4) Meet the requirements under WAC 248-18-221 (6) and (7);
- (5) Meet the requirements under WAC 248-18-224(2) for intermediate care nurseries;
- (6) Meet the requirements under WAC 248-18-224(3) for neonatal intensive care nurseries;
- (7) Meet all requirements under WAC 248-18-616 with additions as follows:
 - (a) Provide nursery rooms with film illuminators or equivalent to view a minimum of two x-ray films which may be shared between intermediate and neonatal intensive care nurseries; and
 - (b) Provide infant stations with:
 - (i) Minimal usable floor area exclusive of aisles with:
 - (A) Fifty square feet in intermediate care nursery; and
 - (B) Eighty square feet in neonatal intensive care nursery.
 - (ii) Space to accommodate monitors;
 - (iii) Work counter with provisions for a writing area; and
 - (iv) Closed storage for individual supplies and equipment.
 - (8) Provide scrub area including:
 - (a) A scrub sink for every eight infant stations or a major fraction thereof, with no less than two sinks;
 - (b) Germicidal dispenser, hand brush, sponge dispenser or equivalent, located at each scrub sink; and
 - (c) Clean storage for clean gowns, masks, nail cleaners, and shoe covers.
 - (9) Design any planned isolation room to meet the requirements under subsection (6)(b)(i), (ii), (iii), and (iv) of this section;

(10) Provide parent privacy room with education facilities providing cubicle curtains or equivalent for complete visual privacy;

(11) Provide conference or counseling room convenient to intermediate care and neonatal intensive care nursery rooms;

(12) Provide nurses' station or equivalent meeting the requirements under WAC 248-18-530 (9)(a); and

(13) Staff facilities meeting the requirements under WAC 248-18-070 which may be shared with other service areas.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 248-18-215 PEDIATRIC SERVICES.
- WAC 248-18-220 OBSTETRICAL DEPARTMENT.
- WAC 248-18-222 BIRTHING ROOMS.
- WAC 248-18-223 NEONATAL INTENSIVE CARE NURSERY.
- WAC 248-18-539 PEDIATRIC NURSING UNIT.
- WAC 248-18-600 OBSTETRICAL DELIVERY.
- WAC 248-18-605 FACILITIES FOR CARE OF PATIENTS IN LABOR.
- WAC 248-18-607 BIRTHING ROOM.
- WAC 248-18-615 NEWBORN NURSERY FACILITY.
- WAC 248-18-636 NEONATAL INTENSIVE CARE.

**WSR 89-22-107
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed November 1, 1989, 1:31 p.m.]**

Original Notice.

Title of Rule: Adjudicative proceedings, see below.

Purpose: To conform program rules on adjudicative proceeding to the new Administrative Procedure Act, chapter 34.05 RCW, and other recent statutory changes.

Other Identifying Information: This proposal was adopted as emergency rules effective October 31, 1989.

Statutory Authority for Adoption: See below, see also RCW 34.05.220.

Statute Being Implemented: Chapter 34.05 RCW, primarily sections in the 400 series.

Summary: This proposal conforms adjudicative proceeding to the new Administrative Procedure Act.

Reasons Supporting Proposal: To comply with statutory law and to achieve greater procedural uniformity in adjudical [adjudicative] proceedings in programs the department administers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bill Williams, 12th and Franklin, Olympia, Washington, 586-6500.

Name of Proponent: Department of Health, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: To amend program rules and to conform to the new Administrative Procedure Act and other recent statutory changes.

Proposal Changes the Following Existing Rules: See below. The Administrative Procedure Act, chapter 34.05

RCW, at section 250 requires the Chief Administrative Law Judge, Office of Administrative Hearings, to adopt model rules of procedure under the act. RCW 34.05.220 (1)(a) permits an agency to adopt its own rules. An agency must adopt as much of the model rules as is reasonable and state the reasons for any variation in the order of rule adoption. Variations from the model rules are described below.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-06-385		Amend		43.21C.120	<ol style="list-style-type: none"> 1. Subsection (2) sets an expected time limit for filing initial and review orders based on the likely complexity of the proceedings and the need for prompt orders. 2. Subsection (3) specifies that the adjudicative officers' authority is to approve the contested department action or to remand the matter to the department. When an action is not approved this procedure permits the agency to review all the data and get additional information before making a new decision as opposed to having the decision based solely on the adjudicative proceeding record.
248-15-110		Amend		18.71.205	Required by section 60 and to be consistent with section 95, chapter 175, Laws of 1989.
248-16-031		Amend		18.20.909	Required by section 63 and to be consistent with section 95, chapter 175, Laws of 1989.
248-17-060		Amend		Section 106, chapter 9, Laws of 1989, first ex.s.	To be consistent with section 95, chapter 175, Laws of 1989.
248-17-230		Amend		Same	Same
248-18-015		Amend		70.41.030	Required by section 128 and to be consistent with section 95, chapter 175, Laws of 1989.
248-19-480		Amend		70.38.135 (see also) section 607 chapter 9 Laws of 1989 first ex.s.)	Required by section 126 and be consistent with section 95, chapter 175, Laws of 1989.
248-22-005		Amend		Section 106, chapter 9, Laws of 1989 first ex.s.	Required by section 137 and to be consistent with section 95, chapter 175, Laws of 1989.
248-23-010		Amend		Same	Same

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-25-010		Amend		Same	Same
248-26-020		Amend		Same	Same
248-27-025		Amend		70.126.040	Housekeeping
248-27-035		Amend		Same	Housekeeping
248-27-045		Amend		Same	Housekeeping
248-27-055		Amend		Same	To be consistent with sections 95 and 96, chapter 175, Laws of 1989.
388-29-020		Amend		18.46.060	To conform to sections 63 and to be consistent with section 95, chapter 175, Laws of 1989.
388-31-025		Amend		70.126.040	Housekeeping
388-31-035		Amend		Same	Housekeeping
388-31-045		Amend		Same	Housekeeping
388-31-055		Amend		Same	To be consistent with sections 95 and 96, chapter 175, Laws of 1989.
248-36-025		Amend		Same	Housekeeping
248-36-035		Amend		Same	Housekeeping
248-36-045		Amend		Same	Housekeeping
<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-36-055		Amend		Same	To be consistent with sections 95 and 96, chapter 175, Laws of 1989.
248-55-220		Amend		70.119.050	To be consistent with section 95, chapter 175, Laws of 1989.
248-55-230			Repeal	Same	Housekeeping; the provisions in this section are at 248-08-413.
248-55-235	New			Same	Housekeeping
248-55-240 and 250		Amend	Repeal	Same Same	The department is authorized to use an initial order - petition for review - review order procedure by RCW 34.05.464(1) provided it do so by rule. This is the enabling rule for this program. The presiding officer is a board. The procedure for revocation, suspension, or modification of a certificate is that the presiding officer's order is final when the board rules in favor of the certificate holder. The presiding officer's decision is an initial order when the board rules against the certificate holder; the Secretary or designee is the reviewing officer.
248-55-260			Repeal	Same	This section states a right contained in chapter 34.05 RCW so is being repealed.
248-59-030		Amend		70.116.050	<ol style="list-style-type: none"> Subsections (1) and (2) are housekeeping. Subsection (3) is to continue to have these proceedings be based on the facts existing at the time the department acted as opposed to a <u>de novo</u> proceeding. If the parties agree this provision may be set aside. Subsection (4) specifies who has and what is the burden of proof.

<u>Washington Administrative Code (WAC)</u>	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	<u>Statutory authority (RCW or Session Law Chapter)</u>	<u>Additional reasons for proposal and variations from Model Rules</u>
248-59-040			Repeal	Same	<ol style="list-style-type: none"> Subsection (1) states the law regarding assigning administrative law judges to department proceedings that can be administratively reviewed, contains obsolete terminology, and incorrect references. As the items are dealt with in other law the subsection is being repealed. Subsections (2) and (3) are being moved to WAC 248-59-030.
248-59-050			Repeal	Same	<ol style="list-style-type: none"> This section's provisions are included in or conflict with section 95, chapter 175, Laws of 1989 and/or chapter 34.05 RCW and/or chapter 248-08 WAC or contain requirements in none of those laws. To achieve greater uniformity, they are being repealed.
248-59-060			Repeal	Same	To achieve greater uniformity among all department programs the petition for administrative review procedure in this rule is being repealed in favor of the general provisions in RCW 34.05.464 and WAC 248-08-464.
248-59-070			Repeal	Same	This section is being repealed because it contains provisions that are the same as or conflict with chapter 34.05 RCW and chapter 248-08 WAC.
248-59-080			Repeal	Same	The section states a right contained in chapter 34.05 RCW so is being repealed.
248-91-060		Amend		Section 106, chapter 9, Laws of 1989 first ex. s.	To be consistent with section 95, chapter 175, Laws of 1989.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on January 4, 1990, at 10:00 a.m.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by January 3, 1990.

Date of Intended Adoption: January 10, 1990.

October 31, 1989
Pam Campbell Mead
for Kristine Gebbie
Secretary

Reviser's note: The material contained in this filing will appear in the 89-23 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 89-22-108

PERMANENT RULES

DEPARTMENT OF HEALTH

(Facility Licensing and Certification Division)

Emergency Medical Services Training and Licensing)

[Order 007—Filed November 1, 1989, 1:33 p.m.]

Date of Adoption: October 30, 1989.

Purpose: Revise certification procedures for emergency medical technicians and first responders. Establish the amount of infectious disease education required for emergency medical technicians and first responders.

Citation of Existing Rules Affected by this Order: Amending WAC 248-17-020, 248-17-213 and 248-17-260.

Statutory Authority for Adoption: Chapter 18.73 RCW.

Pursuant to notice filed as WSR 89-17-128 on August 23, 1989.

Changes Other than Editing from Proposed to Adopted Version: Changes are a result of testimony received at the public hearing on October 3, 1989. In summary, testimony indicated that proposed rules may not meet the intent of the law. The enclosed revision delineates the responsibilities of the first responder supervisor and the medical program director.

Effective Date of Rule: Thirty-one days after filing.

October 30, 1989
Pamela Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 2138, filed 8/10/84)

WAC 248-17-020 DEFINITIONS. For the purpose of these regulations, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise.

(1) "Advanced first aid" means a course of instruction recognized by the American Red Cross, Department of Labor and Industries, the U.S. Bureau of Mines, or Washington state fire protection services/fire services training.

(2) "Aid director" means a person who is a director of a service which operates one or more aid vehicles provided by a volunteer organization or governmental agency.

(3) "Aid vehicle" means a vehicle used to carry first aid equipment and individuals trained in first aid or emergency medical procedures.

(4) "Aid vehicle operator" means a person who owns one or more aid vehicles and operates them as a private business.

(5) "Air ambulance" means a fixed or rotary winged aircraft that is currently certified under Federal Aviation Administration as an air taxi; that may be configured to accommodate a minimum of one litter and two medical attendants with sufficient space to provide intensive and life saving patient care without interfering with the performance of the flight crew; that has sufficient medical supplies and equipment to provide necessary medical treatment at the patient's origin and during flight; has radio equipment capable of two way communication ground-to-air, air-to-air, and air-to-ground including communication with physicians responsible for patient management; has been designed to avoid aggravating the patients condition as to cabin comfort, noise levels* and cabin pressurization*; has aboard survival equipment in sufficient quantity to accommodate crew and passengers; that has been inspected and licensed by the department as an air ambulance. *Not applicable to rotary winged aircraft.

((2)) (6) "Air ambulance service" means a service that is currently certified under Federal Aviation Administration (FAA) rules, 14 CFR Part 135, (Air Taxi Operators and Commercial Operators of Small Aircraft); has been inspected by the department and licensed as an air ambulance service and meets the minimum requirements for personnel and equipment as described elsewhere in this chapter.

((3)) (7) "Ambulance" means a vehicle designed and used to transport the ill and injured and to provide facilities and equipment to treat patients before and during transportation.

((4) "Attending physician" as applies to aeromedical evacuation, means a licensed doctor of medicine or osteopathy who provides direction for management of the patient either by attending the patient enroute, by ground-to-air radio communication or by written orders pertaining to inflight medical care. An attending physician must retain responsibility for the medical care of the patient until final destination is reached.

(5) "First aid vehicle" means a vehicle used to carry first aid equipment and individuals trained in first aid or emergency medical procedures.

(6) "Emergency medical technician (EMT)" means a person who has successfully completed a prescribed course of instruction and who has achieved a demonstrable level of performance and competence to treat victims of severe injury or other emergent conditions.

(7) "Advanced first aid" means a course of instruction recognized by the American Red Cross, Department of Labor and Industry, the U.S. Bureau of Mines, or Fire Services training program.)

(8) ("Standard first aid" means such a prescribed course of instruction recognized and offered by the American Red Cross, Department of Labor and Industries, the U.S. Bureau of Mines, or Fire Services training program.

(9) "Ambulance driver" means that person who drives an ambulance.

(10)) "Ambulance attendant" means that person who has responsibility for the care of patients both before and during transportation.

((11) "Ambulance operator" means a person who owns one or more ambulances and operates them as a private business.

(12)) (9) "Ambulance director" means a person who is a director of a service which operates one or more ambulances provided by a volunteer organization or governmental agency.

((13) "First aid vehicle operator" means a person who owns one or more first aid vehicles and operates them as a private business)) (10) "Ambulance driver" means that person who drives an ambulance.

(11) "Ambulance operator" means a person who owns one or more ambulances and operates them as a private business.

(12) "Approved emergency medical services (EMS) medical program director" means a doctor of medicine or osteopathy who has been certified by the department under RCW 18.71.205 and WAC 248-15-020.

(13) "Attending physician," as applies to aeromedical evacuation, means a licensed doctor of medicine or osteopathy who provides direction for management of the patient either by attending the patient enroute, by ground-to-air radio communication or by written orders pertaining to inflight medical care. An attending physician shall retain responsibility for the medical care of the patient until final destination is reached.

(14) ("First aid director" means a person who is a director of a service which operates one or more first aid vehicles provided by a volunteer organization or governmental agency)) Committee" means the emergency medical services committee.

(15) "Communications system" means a radio or landline network connected with a dispatch center which makes possible the alerting and coordination of personnel, equipment and facilities.

(16) "Department" means the Washington state department of ((social and)) health ((services)).

(17) "(Shall" means compliance is mandatory.

(18) "Should" means a suggestion or recommendation, but not a requirement.

(19) "Committee" means the emergency medical services committee.

(20) "Approved emergency medical services (EMS) medical program director" means a doctor of medicine or osteopathy who has been certified by the department under RCW 18.71.205 and WAC 248-15-020.

(21) "Medical control" means physician responsibility for supervision of EMT training programs, the establishment of field protocols, and the recommendation for certification and decertification of EMTs certified under this chapter.

(22) Medical control as defined above does not include first responders)) Department form" means a form developed by the department or developed by another agency and approved by the department.

(18) "Emergency medical technician (EMT)" means a person who:

(a) Successfully completed a prescribed course of instruction;

(b) Achieved a measurable level of performance and competence to treat victims of severe injury or other emergent conditions;

(c) Follows medical program director field protocols; and

(d) Is certified by the department.

(19) "First responder" means a person who:

(a) Successfully completed a department-approved course of instruction;

(b) Follows medical program director field protocols; and

(c) Is certified by the department.

(20) "First responder supervisor" means an individual who is:

(a) Identified by the local EMS agency;

(b) Recommended by the medical program director (MPD); and

(c) Approved by the department for the MPD-delegated responsibility of recommending or not recommending first responders to the department for certification/recertification.

(21) "Medical control" means for:

(a) EMTs, the physician responsibility for supervision of training programs, establishment of field protocols, and recommendations for certification and decertification of EMTs certified under this chapter; and

(b) First responders, a successful completion of a department-approved course curriculum and adherence to medical program director-approved field protocols.

(22) "Shall" means compliance is mandatory.

(23) "Should" means a suggestion or recommendation, but not a requirement.

(24) "Standard first aid" means a prescribed course of instruction recognized and offered by the American Red Cross, Department of Labor and Industries, the U.S. Bureau of Mines, or state fire protection services/fire services training.

Reviser's note: RCW 34.05.395 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 2138, filed 8/10/84)

WAC 248-17-213 EMERGENCY MEDICAL TECHNICIAN—CERTIFICATION AND RECERTIFICATION. (1) ((Upon successful completion of an EMT course,)) The department shall initially certify ((those eligible graduates who have passed either the state written examination or the NREMT written examination and the state practical examination and who have been recommended for certification by the physician coordinator)) an individual for a period of time not to exceed thirty-six months who successfully completed an EMT course when the individual has:

(a) Passed either the state written examination or the NREMT written examination;

(b) Passed the state practical examination; and

(c) Been recommended for certification by the EMS medical program director.

(2) The ((period of certification shall be for three years)) department shall consider currently certified EMTs eligible for recertification for a period of time not to exceed thirty-six months upon:

(a) Successful completion and documentation of a minimum of thirty hours of medical program director and/or department-approved continuing medical education (CME) during the thirty-six month certification period, including a minimum of six hours every twelve months in the following:

(i) Two hours of CPR and airway management;

(ii) One hour of patient medical extrication;

(iii) One hour of patient assessment; and

(iv) Two additional hours of CME; and

(b) Passing the state written and practical examinations; or

(c) Successful completion of a program of ongoing training and evaluation approved by the EMS medical program director and the department and passing the state written examination.

(3) ((Recertification of currently certified EMTs eligible for such recertification under WAC 248-17-211, shall be accomplished in the following manner:

(a) Completion of a minimum of thirty hours of continuing education during the period of certification consisting of the following mandatory and optional subject matter as indicated and under physician supervision:

(i) Cardiopulmonary resuscitation update of at least one hour per year including both adult and infant manikins using one and two person techniques administered under the supervision of a certified CPR instructor (mandatory);

(ii) Vehicle extrication techniques employing skill knowledge of wrecking tools used in gaining access to victims and use of short and long board extrication. A minimum of one hour per year administered under the supervision of a senior EMT instructor (mandatory);

(iii) Formal inservice training sessions covering basic life support knowledge skills such as bandaging and splinting, emergency child birth, recognition and treatment of shock, cold and heat caused injuries, patient handling and other basic life support skills using physicians, senior EMT instructors, audio-visual aids or other technical experts. Four hours per year minimum required and verified by a senior EMT instructor (mandatory). Attendance at workshops or seminars approved by the department may satisfy this requirement when authorized by the regional EMS coordinator.

(iv) Emergency ambulance/aid car runs involving the application of emergency care techniques may be used for credit at one hour per twenty-five emergency runs not to exceed five total hours during a period of certification when verified by emergency department staff or official run records and used as formal critique (optional).

Note: EMT dispatchers, employed by central dispatching centers, may substitute dispatches involving emergency, life-threatening responses when instructions on emergency medical care are given by phone/radio to persons attending the victim.

~~(v) Hospital emergency department, ICU, CCU or OB delivery room experience may be credited not to exceed two hours per year when verified by hospital or clinic department head (optional).~~

~~(vi) Membership in a national EMS organization where such membership includes subscriptions to professional journals and/or newsletters may be used for a maximum of one hour credit per year when proof of membership is verified by a senior EMT instructor (optional).~~

~~(vii) Completion of formal courses such as dispatcher training, extrication training, emergency vehicle defensive driving, EMT/defibrillation, inflatable trousers or other EMS-related topics. Five hours total per period of certification. Verified by course instructor (optional).~~

~~Note: It is recommended that a minimum of ten hours of continuing education be accomplished annually. Failure to complete thirty hours of continuing education during a period of certification shall result in termination of certification.~~

~~(b) Pass the state written and practical examination and being recommended for recertification by the approved EMS medical program director.~~

~~Note: Currently certified senior EMT instructors who have fulfilled the provisions of the senior EMT instructor agreement may recertify by passing the written recertification examination and by being recommended by the approved EMS medical program director.)~~

~~To meet the requirements of chapter 70.24 RCW, all persons certified under the authority of chapters 18.71 and 18.73 RCW shall:~~

~~(a) Complete four hours of training in infectious disease prevention with special emphasis on human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and Hepatitis B. Training shall be consistent with the curriculum manual Know - HIV/AIDS and HBV Prevention Education for EMS Personnel, June 15, 1989, published by the office on HIV/AIDS including, but not limited to, the following subjects:~~

- ~~(i) Etiology and epidemiology;
(ii) Clinical manifestation and treatment;
(iii) Infection control standards;
(iv) Psychosocial issues, including special populations;
and~~

~~(v) Legal and ethical issues.
(b) Provide proof of the training required in subsection (4)(a) of this section:~~

- ~~(i) Using forms provided by the department; and
(ii) Retaining forms for three years or more from the date of training.~~

~~(c) Complete two hours of continuing medical education in each subsequent certification period including:~~

- ~~(i) Disease prevention;
(ii) Infection control standards; and
(iii) HIV/AIDS and hepatitis.~~

~~(4) Certification by the department as an EMT does not warrant future performance of the individuals certified. It will indicate that the cognitive and performance capabilities met the requirements for certification established for the course at the time the testing or evaluation was performed.~~

AMENDATORY SECTION (Amending Order 2138, filed 8/10/84)

WAC 248-17-260 FIRST RESPONDER(;;)- CERTIFICATION AND RECERTIFICATION. (1) The department shall initially certify ((eligible graduates for a period of three years)) an individual for a period of time not to exceed thirty-six months who has successfully completed the department's first responder course when the individual has passed the state written examination and the state practical examination.

(2) ((Recertification of eligible first responders shall be for three years providing that)) The department shall consider currently certified first responders eligible for recertification for a period of time not to exceed thirty-six months upon:

(a) ((The applicants have completed a minimum of fifteen hours of approved continuing education identified in the procedures and guidelines, and)) Successful completion and documentation of a minimum of fifteen hours of department-approved CME during the certification period, including a minimum of five hours every twelve months in the following:

- (i) Two hours of CPR and airway management;
(ii) One hour of patient medical extrication;
(iii) One hour of patient assessment; and
(iv) One additional hour of CME during the certification period.

(b) ((The applicant shall successfully complete required)) Passing the state written and practical examinations; or

(c) Successful completion of a program of ongoing training and evaluation approved by the department and passing the state written examination.

(3) To meet the requirements of chapter 70.24 RCW, all persons certified under the authority of chapters 18.71 and 18.73 RCW shall:

(a) Complete four hours of initial training in infectious disease prevention with special emphasis on human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and Hepatitis B. Training shall be consistent with the curriculum manual Know - HIV/AIDS and HBV Prevention Education for EMS Personnel, June 15, 1989, published by the office on HIV/AIDS including, but not limited to, the following subjects:

- (i) Etiology and epidemiology;
(ii) Clinical manifestation and treatment;
(iii) Infection control standards;
(iv) Psychosocial issues, including special populations;
and

(v) Legal and ethical issues.
(b) Provide proof of the training required in subsection (4)(a) of this section:

- (i) Using forms provided by the department; and
(ii) Retaining forms for three years or more from the date of training.

(c) Complete two hours of continuing medical education in each subsequent certification period including:

- (i) Disease prevention;
(ii) Infection control standards; and
(iii) HIV/AIDS and hepatitis.

(4) A currently certified EMT whose duties no longer require EMT level of skill or who is not required to be in attendance to a patient during transport, may request reversion of the EMT certificate to that of first responder. In such case, the request shall be in writing and shall be accompanied by proof of required continuing education and the EMT certification card, which is being relinquished. A first responder certification will then be issued with the expiration date of the relinquished EMT certification.

NEW SECTION

WAC 248-17-261 RECERTIFICATION—GENERAL REQUIREMENTS. (1) The department's recertification procedures for EMTs and first responders, dated August 1, 1989, shall outline the program for ongoing training and evaluation, the written and practical examination process, associated forms, and administrative requirements.

(2) The EMS committee, established under RCW 18-73.040, shall review the department's recertification procedures at least once a biennium and provide recommendations if appropriate.

(3) An individual seeking recertification shall:

(a) Complete an ongoing program of training and evaluation and pass the state written recertification examination; or

(b) Pass the state practical and written recertification examinations.

(4) The department shall permit an individual no more than three attempts in a ninety-day period to successfully complete:

(a) Any skill in the ongoing evaluation program; or

(b) The state practical recertification examination; and

(c) The state written recertification examination.

(5) An individual shall not be permitted a total of more than three attempts at passing either the practical examination or the ongoing training and evaluation, or any combination of the two programs.

(6) An individual wishing to change from a practical examination program to ongoing training and evaluation shall do so before the second attempt at the practical examination.

(7) An individual wishing to change from the ongoing training and evaluation program to the practical examination program may do so by taking the practical examination before the end of the certification period.

(8) Each skill in the ongoing training and evaluation program will be evaluated at least once every certification period.

(9) An individual who does not successfully complete the ongoing training and evaluation program, or fails the practical examination program, or fails the written examination within the allowable attempts, or otherwise demonstrates inadequate performance is subject to the provisions of WAC 248-17-220, Revocation, Suspension or Modification of Certificate.

WSR 89-22-109

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 008—Filed November 1, 1989, 1:34 p.m.]

Date of Adoption: October 27, 1989.

Purpose: To update operational and construction minimum standards for imaging and radiology services in hospitals consistent with minimum standards of safety and health for handling and use of radioactive materials.

Citation of Existing Rules Affected by this Order: Repealing WAC 248-18-310 and 248-18-655.

Statutory Authority for Adoption: RCW 70.41.030.

Pursuant to notice filed as WSR 89-17-126 on August 23, 1989.

Effective Date of Rule: Thirty-one days after filing.

October 27, 1989

Pamela Campbell Mead
for Kristine M. Gebbie
Secretary

NEW SECTION

WAC 248-18-311 DIAGNOSTIC AND THERAPEUTIC RADIOLOGY AND OTHER IMAGING SERVICES. (1) Hospitals shall:

(a) Ensure availability of radiologic services appropriate to the type and scope of hospital services offered for inpatients and outpatients; and

(b) Provide a written description of the type and scope of nuclear medicine and other diagnostic and therapeutic imaging services when provided in the hospital for inpatients and outpatients.

(2) Hospitals with imaging services shall:

(a) Designate medical responsibility to a physician member of the medical staff and require access to a radiologist, if radiologic services are provided in the hospital;

(b) Designate medical responsibility to one or more physician members of the medical staff qualified in nuclear medicine, if nuclear medicine services are provided;

(c) Designate medical responsibility to one or more physician members of the medical staff qualified in the appropriate specific imaging specialty if other imaging services are provided;

(d) Require performance of radiology, nuclear, and other imaging services only when:

(i) Ordered, in writing, by a member of the medical staff; or

(ii) In accordance with hospital policy and procedures; and

(e) Provide sufficient numbers of personnel and medical staff qualified to safely deliver the type, scope, and volume within each imaging service including:

(i) At least one diagnostic radiologic technician, technologist, or physician available to come to the hospital to perform diagnostic procedures at all times;

(ii) Performance of therapeutic radiologic services by:

(A) A radiologist or radiation oncologist; or

(B) A therapeutic radiologic technologist directed by a radiologist or radiation oncologist;

(iii) Performance of diagnostic radiologic services by:

(A) A physician or radiologist; or

(B) A diagnostic radiologic technician under policies and procedures approved by a radiologist; and

(iv) After December 31, 1990, performance of nuclear medicine services by a nuclear medicine technologist or by a physician member of the medical staff qualified in nuclear medicine.

(f) Establish policies and procedures approved by administration, a radiologist, and other medical staff qualified in the specialties provided including:

(i) Protection of patients and others from radiation hazards including shielding for syringes, vials, and sources of radioactivity;

(ii) Patient preparation, patient examination, and administration of diagnostic agents;

(iii) Medical staff responsibility for preparation and administration of radiopharmaceuticals;

(iv) Designating authorized users of the equipment;

(v) Safe operation of equipment;

(vi) Safe handling, storage, preparation, labeling, transporting, and disposal of radioactive materials;

(vii) Precautions to minimize unnecessary radiation exposure to patients and others;

(viii) Actions required in event of radioactive contamination of patients, personnel, equipment, and environment;

(ix) Prevention of electrical, mechanical, fire, explosion, and other hazards; and

(x) Written reports on any adverse reaction of a patient to diagnostic or therapeutic agents, including notation in the medical record or outpatient report.

(3) Hospitals providing any imaging service shall provide:

(a) Adequate space and facilities for:

(i) Patient privacy;

(ii) Patient access to a toilet;

(iii) Patient examinations;

(iv) Patient reception;

(v) Patient dressing rooms;

(vi) Exposed and unexposed film storage; and

(vii) Safe storage, preparation, labeling, transportation, and disposal of radioactive materials.

(b) Maintenance of safe, clean equipment, facilities, and supplies appropriate for the type and scope of service offered;

(c) Maintenance of all patient care equipment in safe, operating condition;

(d) Emergency equipment, supplies, and medications required under WAC 248-18-251(5); and

(e) A method for summoning extra appropriate staff for emergencies arising in imaging service areas.

(4) Hospitals providing radiologic areas, rooms, and services shall:

(a) Conduct radiologic services in a safe, appropriately equipped area of the hospital, shielded as necessary to prevent radiation hazards to individuals;

(b) Maintain radiology equipment meeting applicable state rules for radiation protection under chapter 402-28 WAC; and

(c) Arrange for services of a qualified expert defined and described under WAC 402-32-100 as needed for:

(i) Consultation, including periodic radiologic safety testing;

(ii) Supervision of radiation safety measures; and

(iii) Participation in education programs.

(5) Hospitals with imaging services shall:

(a) Maintain authenticated and dated reports of diagnostic and therapeutic procedures, consultations, and interpretations in each patient's medical record;

(b) Retain hard copies or electronic access to authenticated interpretative reports for films, consultations, and therapeutic procedures in the imaging service area for a period defined by the hospital;

(c) Require hospital-authorized practitioners to provide a reason for each examination on all requests for services;

(d) Require authentication of interpretative reports by:

(i) The radiologist for radiology reports; or

(ii) A designated physician member of the medical staff qualified in the appropriate, specific imaging specialty.

(e) Retain patient logs for imaging services and records of equipment calibration inspections and quality assurance testing in the imaging service area for a period defined, in writing, by the hospital;

(f) Maintain records of receipt and disposition of radioactive materials; and

(g) Maintain documentation of:

(i) Maintenance and periodic calibration of all radiation safety equipment;

(ii) Maintenance of all patient care equipment in a safe, operating condition; and

(iii) Calibration of diagnostic and treatment radiologic equipment by:

(A) A qualified expert defined and required under WAC 402-34-190; or

(B) An individual qualified according to manufacturer's specifications for a particular piece of equipment.

NEW SECTION

WAC 248-18-656 RADIOLOGY AND OTHER IMAGING FACILITIES. Hospitals planning new construction of radiology and imaging facilities shall meet requirements under WAC 248-18-99902(18), WAC 248-28-032, and shall:

(1) Follow general design requirements for architectural components, electrical service, lighting, call systems, hardware, interior finishes, heating, plumbing, sewerage, ventilation/air conditioning, and signage under WAC 248-18-719.

(2) Meet general requirements for certain service facilities under WAC 248-18-711 and provide the following:

(a) Clean-up area;

(b) Housekeeping room; and

(c) Storage room or area.

(3) Provide radiographic room with:

(a) Location to minimize outpatient traffic through inpatient areas and convenient for the transport of patients from emergency department, surgery suite, and nursing units;

(b) Barrier-free access for wheeled stretcher or bed movement;

(c) Control area in accordance with WAC 402-28-032;

(d) Installations for imaging equipment, cobalt-60, or other sources of ionizing radiation, and radiation protection of floors, doors, walls, and ceilings in accordance with WAC 248-18-99902(18) and WAC 402-28-032;

(e) Grounding of table, tube stand and controls, and any associated electrical apparatus in accordance with WAC 248-18-99902(13);

(f) Facilities and equipment to provide infection control as required under WAC 248-18-035 and 248-18-311; and

(g) Lavatory in or immediately available to radiographic room or rooms.

(4) Provide contrast preparation area containing:

(a) A lavatory or sink with barium trap;

(b) Work counter; and

(c) Enclosed storage cabinets or movable enclosed storage cabinets.

(5) Provide processing or dark room or equivalent which is light-tight and has:

(a) A safe light which means an electric light that does not fog films;

(b) Developing tank with a thermostatic mixing valve, or automatic film processor with appropriate backflow protection;

(c) Film storage, shielded from stray radiation;

(d) Work counter;

(e) Sink, if dark room is provided; and

(f) Lighting provided for clean-up and maintenance purposes.

(6) Provide dressing area with rooms or booths providing privacy for dressing and including:

(a) Provision for clean and soiled linen storage in or near dressing rooms; and

(b) Access to at least one barrier-free booth or room to accommodate a wheelchair in or adjacent to the dressing area.

(7) Provide image viewing area with:

(a) Film illuminator or equivalent, for viewing at least two films; and

(b) Location to prevent public view of films.

(8) Provide waiting area with space for wheelchair patients, stretcher patients, and ambulatory patients.

(9) Provide toilet connected to or adjacent to radiographic room or rooms, with ratio of one toilet for every two radiographic rooms.

(10) Provide administrative facilities with:

(a) Office area, with provision for consultation; and

(b) An active film file area.

(11) Provide staff facilities separate or shared with other service areas meeting requirements under WAC 248-18-525(7).

(12) Meet the following requirements if planning new construction of imaging rooms listed below:

(a) Fluoroscopy room meeting requirements under subsection (3) of this section;

(b) Angiography room with scrub sinks designed to meet requirements under WAC 248-18-251(5) and 248-18-645(9);

(c) Cardiac laser, cardiac catheterization with angioplasty or valvuloplasty with scrub sink and designed to meet requirements under WAC 248-18-251(5), 248-18-645(9), and 248-18-711 (2), (4), and (10);

(d) Computerized tomography or computerized axial tomography (CT) room:

(i) With lavatory;

(ii) Meeting manufacturer's specifications for installation and safety; and

(iii) Meeting requirements under WAC 248-18-251(5) and 248-18-645(9).

(e) Lithotripsy room meeting requirements under WAC 248-18-251(5), 248-18-711 (2), (4), and (10), and accessible to cystoscopy, if appropriate, meeting requirements of WAC 248-18-645(9);

(f) Mammography room with provisions for patient privacy;

(g) Magnetic resonance imaging (MRI) room meeting manufacturer's specifications for installation and safety;

(h) Nuclear medicine room with a separate laboratory including a lavatory for preparation, storage, and safe disposal of radioactive materials meeting:

(i) Manufacturer's specifications for installation and safety; and

(ii) Requirements under WAC 248-18-99902(27).

(i) Other specialized rooms intended for invasive procedures meeting requirements under WAC 248-18-251(5) and 248-18-645(9).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 248-18-310 X-RAY.

WAC 248-18-655 RADIOLOGY FACILITIES.

WSR 89-22-110

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 89-134—Filed November 1, 1989, 1:35 p.m.]

Date of Adoption: November 1, 1989.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-36-02100H.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There are only 500 coho salmon available for harvest during remainder of the chum salmon fishery. This is not enough to support a 24-hour opening of the commercial fishery and a reduction to a 12-hour opening is necessary to stay within the coho constraint.

Effective Date of Rule: 6:00 a.m., November 2, 1989.
 November 1, 1989
 Judith Merchant
 Deputy Director
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-36-02100I GRAYS HARBOR GILL NET SEASON Notwithstanding the provisions of WAC 220-36-021, and WAC 220-36-031, effective immediately until further notice, it is unlawful to fish for, or possess salmon and sturgeon taken for commercial purposes from any Grays Harbor Salmon Management and Catch Reporting Areas except as provided for in this section:

Open to gill net gear:
 6 AM November 2 to 6 PM November 2 in SMCRA 2B
 Gill net gear shall be used as provided for in WAC 220-36-015

REPEALER

The following section of the Washington Administrative Code is repealed:
WAC 220-36-02100H GRAYS HARBOR GILL NET SEASON. (89-133)

When this rule was amended some of the rule was inadvertently left off of the filing to the Code Reviser. This proposal will correct that error.

Proposal does not change existing rules.
 No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, by December 12, 1989.

Date of Intended Adoption: December 14, 1989.
 October 25, 1989
 Dee W. Henderson, Director
 Secretary, Personnel Board

AMENDATORY SECTION (Amending Order 292, filed 1/19/88, effective 3/1/88)

WAC 356-34-030 SUSPENSION—DURATION—PROCEDURE. Appointing authorities may suspend a permanent employee without pay for cause as specified in these rules. The period of suspension shall not (~~exceed fifteen~~) exceed fifteen calendar days for a single penalty or for a total of 30 calendar days in any calendar year as a result of several penalties per RCW 41.06.170. The specified charges and duration of the action shall be furnished in writing to the employee not later than one calendar day after the suspension becomes effective. A copy shall be submitted to the director of personnel. Notice to the employee shall be made in the manner described in WAC 356-34-045. No qualifying time or seniority shall be denied for any period of suspension.

WSR 89-22-111
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed November 1, 1989, 1:37 p.m.]

WSR 89-22-112
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
 [Filed November 1, 1989, 1:38 p.m.]

Original Notice.
 Title of Rule: Amending WAC 356-34-030 Suspension—Duration—Procedure.
 Purpose: This rule describes the procedures to be used for suspending a permanent employee without pay.
 Statutory Authority for Adoption: RCW 41.06.040.
 Statute Being Implemented: RCW 41.06.150.
 Summary: This proposal is to correct the last filing on this rule when it was last amended.
 Reasons Supporting Proposal: When the last amendment was done to this rule, and it was filed, a portion of the rule was inadvertently left off. This proposal will correct that error.
 Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-1769; Implementation and Enforcement: Department of Personnel.
 Name of Proponent: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA, governmental.
 Rule is not necessitated by federal law, federal or state court decision.
 Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is the procedures involved when suspending a permanent employee without pay.

Original Notice.
 Title of Rule: WAC 356-30-145 Project employment; 356-30-180 Transfer requiring relocation of position with incumbent—Domicillary movement; 356-30-190 Transfer—Within class—Agency—Permitted—Report; 356-30-280 Probationary period—Transfer, intraagency appointment to higher class; and 356-30-320 Trial service—Reversion status.
 Purpose: These rules within chapter 30 [356-30] of the WAC pertain to employee rights relating to transfers within projects, relocation, within same class, probationary period and trial service periods.
 Statutory Authority for Adoption: RCW 41.06.040.
 Statute Being Implemented: RCW 41.06.150.
 Summary: In general, these proposals are housekeeping in nature and clarify the intent of the rule and also provide for uniform transfer rights to employees. This will allow employees to transfer within different status after having completed six months of their probationary periods.
 Reasons Supporting Proposal: DSHS has several classes with twelve month probationary periods. It would be advantageous to the employee and the department to allow transfers after completion of six months of the probationary period. This is also consistent with the

timeframes surrounding promotional eligibility under merit system rules.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Bonni Parker, Department of Social and Health Services, OB-13, 753-5184, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal will make transfers consistent with the timeframes surrounding promotional eligibility under current WAC's. It will provide uniform transfer rights to employees in project employment, relocating of position with incumbent, within the same class, within a probationary period and for reversion of employees who fail to satisfactorily complete the trial service period. These proposals are also in part clarifying in nature to emphasize the intent of the rule.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, FE-11, Olympia, WA 98507, by December 12, 1989.

Date of Intended Adoption: December 14, 1989.

November 1, 1989

Dee W. Henderson, Director
Secretary, Personnel Board

AMENDATORY SECTION (Amending Order 308, filed 9/7/88, effective 11/1/88)

WAC 356-30-145 PROJECT EMPLOYMENT. (1) Project employment when designated by the director, is the grouping together of employees whose length of employment is contingent on state, federal or other grant funding of specific and of time limited duration.

(2) Requests for the designation of project employment will be initiated by the proposing agency and made to the director. Such requests will include:

- (a) The nature and scope of the program.
- (b) Source and conditions of funding.
- (c) Explanation of why project status should be used rather than regular classified service.
- (d) Explanation of why competitive service is not practical to use if noncompetitive service is requested.
- (e) Relationship of project to regular operations and programs of the agencies.

- (f) Number of positions.
- (g) Duration.
- (h) Proof of notice to the employee organizations affected.
- (i) Project employees benefits.
- (3) The director may extend a project beyond its scheduled term.
- (4) Permanent employees in regular positions may transfer, promote, or voluntarily demote into project employment positions as provided by these rules unless prohibited by the contract that established the project.

(5) Positions in project employment will be in the competitive service unless the director determines otherwise. Grounds such as special requirements of the project contract, insufficient time to recruit and unavailability of a register, or other circumstances where a competitive exam is not practicable may warrant use of the noncompetitive service.

(6) Employees hired into project positions must be notified, in writing, of the expected ending date of their employment.

(7) Project employees who have entered into project employment without permanent status, will gain permanent project status upon completion of their probationary period and shall be entitled to appropriate rights within project employment and to those outlined below.

(a) Once permanent project status has been gained, project employees may have their names placed on the transfer or voluntary demotion register for regular positions in the same or similar job classes for which permanent project status has been gained.

(b) Permanent project employees who entered project employment via the noncompetitive process must be certified from the appropriate register in order to transfer, voluntarily demote, or promote directly into regular positions. These employees may continue to apply for regular positions via the open competitive route.

(c) Permanent project employees who entered project positions via the competitive process may transfer, voluntarily demote, or apply as promotional candidates to regular classified positions as though they were permanent employees unless permanent employees have been prohibited from competing for the project positions.

(d) Project employees who have gained permanent project status, and transfer or voluntarily demote into a regular position, will not be required to serve a probationary period.

(e) Project employees who are currently on the registers will continue to be on the registers and may be certified as provided in these rules.

(8) Employees who left a state agency with permanent status and came directly into project employment will continue to have (~~promotional opportunities~~) promotion, demotion, and transfer rights of their former position as though they were still employed in that agency. Upon obtaining permanent project status, permanent employees will also have transfer, demotion, and promotion rights from their project position in accordance with the provisions of subsection (7) of this section.

(9) Project employees will have reduction in force rights within their project boundaries only and will compete according to "seniority," except permanent employees who left regular classified positions to accept project employment will have the reduction in force rights of the position they left. Time spent in project employment will also be credited to the employees' seniority for use in competing in the regular state positions, provided there is no break in service. Names of project employees separated by reduction in force actions, who did not leave regular classified positions to accept project employment, will be placed on the reemployment register WAC 356-26-030(9) for the usual life of that register. Upon reduction in force from the project, project employees who entered the project through the competitive process and remain in project status for two years shall be eligible to have their names placed on the agency reduction in force registers for the classes in which permanent project status was attained. Bumping options will be limited to the project boundaries.

(10) The time spent in project employment will also be credited toward periodic increment dates, annual leave, sick leave and other benefits provided to employees in these rules.

AMENDATORY SECTION (Amending Order 283, filed 11/24/87, effective 1/1/88)

WAC 356-30-180 TRANSFER REQUIRING RELOCATION OF POSITION WITH INCUMBENT—DOMICILIARY MOVEMENT. (1) ~~((A))~~ A transfer((s)) of a permanent employee((s)) or an employee who has served at least six months of a probationary period from one position to another position in a different geographic area that will require ~~((am))~~ the incumbent to move his/her domicile to be within reasonable commuting distance of the new position will be made with the voluntary concurrence of the incumbent. Such actions shall be reported to the director.

(2) Relocation of positions occupied by incumbents from one geographic area to another geographic area because of a reduction of work, lack of funds, or good faith reorganization for efficiency purposes shall be made in accordance with the reduction in force rules and employee rights therein.

AMENDATORY SECTION (Amending Order 283, filed 11/24/87, effective 1/1/88)

WAC 356-30-190 TRANSFER—WITHIN CLASS—AGENCY—PERMITTED—REPORT. A transfer of a permanent employee or an employee who has served at least six months of a probationary period to another position in the same class within the same agency may be made at any time by the appointing authority provided such

transfers are offered first to employees on the reduction in force registers and employees in the layoff unit who have been notified they are scheduled for reduction in force. However, transfers within the employee's own layoff unit may be made without consulting the reduction in force registers. Transfers made in accordance with this rule shall be reported to the director.

AMENDATORY SECTION (Amending Order 175, filed 9/22/82)

WAC 356-30-280 PROBATIONARY PERIOD—TRANSFER, INTRA-AGENCY APPOINTMENT TO HIGHER CLASS. (1) An employee shall not be transferred during the probationary period except as provided in subsections (3) (~~(below)~~) and (4) of this section. An employee may be promoted after serving six months in a probationary period and shall begin a trial service period upon promotion.

(2) When an employee is appointed to a higher class while serving in a probationary period, the probationary period and the new trial service period for the higher class shall overlap provided that the higher and lower classes are in the same or a closely related field. The employee shall complete the terms of the original probationary period and be given permanent status in the lower class. Such employees will also be granted the rights normally accruing to trial service for the remainder of the trial service period in the higher class. In such cases where the lower class has a longer probationary period than trial service period for the higher class, the probationary period for the lower class shall continue to run under its original terms as long as the employee continues to perform satisfactorily in the higher class.

(3) An employee in a probationary period may be transferred in lieu of reduction in force or for training purposes related to the probationary period and will continue to serve out the probationary period.

(4) An employee who has served at least six months of a probationary period may be transferred within class.

AMENDATORY SECTION (Amending Order 204, filed 5/23/84, effective 9/1/84)

**WAC 356-30-320 TRIAL SERVICE—REVERSION—STAT-
US.** (1) An employee who was appointed from a voluntary demotion register to a class not previously held or from a promotional register within an agency and fails to satisfactorily complete the trial service period shall automatically revert to a position in the former classification.

(2) An employee who was appointed from a voluntary demotion register to a class not previously held or from a promotional register into another agency and who fails to satisfactorily complete the trial service period shall be given ~~((+5))~~ fifteen calendar days' written notice and placed on the dual-agency reversion register and the service-wide reversion register for his or her former class. ~~((Employees who are reverted do not have the right of appeal.))~~ If an employee elects not to accept the first offer of employment, his/her name is then placed on the reemployment register.

(3) Employees who are reverted do not have the right of appeal.

(4) Former permanent employees who have promoted, demoted, or transferred to a position under the jurisdiction of the higher education personnel board in accordance with provisions of their rules and fail to complete their trial service period may be placed on the dual-agency reversion register and service-wide reversion register for his/her former class.

~~((+4))~~ (5) Employees who are reemployed from the service-wide reversion registers shall enter a trial service period. Names of employees reverted during this period will be placed on the register from which they came.

~~((+5))~~ (6) Employees who voluntarily revert to their former class may request of the director of personnel reactivation of their promotional score for the class from which reverted. Employees involuntarily reverted to their former class shall have all examination grades for the class from which they are reverted nullified.

**WSR 89-22-113
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)**

[Filed November 1, 1989, 1:39 p.m.]

Original Notice.

Title of Rule: Amending WAC 356-14-240 Overtime compensation method.

Purpose: This rule provides guidelines of methods for overtime and how employees shall be compensated.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal is to correct the last filing on this rule when it was amended in 1987.

Reasons Supporting Proposal: When the amendment was done to this rule it was filed and a portion of the rule was inadvertently left off the filing. This proposal will correct that error.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is the methods for state employees on how they shall be compensated for overtime. When this rule was amended in 1987 some of the rule was inadvertently left off of the filing to the Code Reviser. This proposal will correct that error.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, by December 12, 1989.

Date of Intended Adoption: December 14, 1989.

October 25, 1989

Dee W. Henderson, Director
Secretary, Personnel Board

AMENDATORY SECTION (Amending Order 275, filed 5/18/87, effective 7/1/87)

WAC 356-14-240 OVERTIME COMPENSATION METHOD. Overtime for state employees shall be compensated in accord with WAC 356-15-030.

(1) Scheduled, nonscheduled, and law enforcement employees shall be compensated in cash or compensatory time off, both at the rate of time-and-one-half. Cash payment shall be at the overtime rate, while compensatory time shall be credited as 1.5 hours of compensatory time for each hour of overtime worked. (See WAC 356-14-265 for computing cash value compensatory time.)

Compensatory time off may be used in lieu of cash only when an agency and the employee agree, except as provided for law enforcement positions in WAC 356-15-030 (4)(a). When compensatory time off is utilized, it shall be liquidated in accord with WAC 356-14-260.

~~((2) Time during which an employee is excused from work for holidays, sick leave, vacations or compensatory time shall be considered time worked for payroll purposes. However, time records shall indicate that the employee did not work during these excused absences.~~

~~(3) If assignment pay is earned during overtime hours which are credited as compensatory time, no additional credit or payment shall be made for the assignment pay. When compensatory time is utilized by an employee whose presently scheduled, regular assignment entitles the employee to full-time assignment pay, then the payment for the compensatory time off shall include the assignment pay.~~

~~(4) Advisory note: Cash compensation for overtime is subject to deductions for state retirement and taxes.)) (2) Time during which an employee is excused from work for holidays, sick leave, vacations, or compensatory time shall be considered time worked for payroll purposes. However, time records shall indicate that the employee did not work during these excused absences.~~

~~(3) If assignment pay is earned during overtime hours which are credited as compensatory time, no additional credit or payment shall be made for the assignment pay. When compensatory time is utilized by an employee whose presently scheduled, regular assignment entitles the employee to full-time assignment pay, then the payment for the compensatory time off shall include the assignment pay.~~

~~(4) Advisory note: Cash compensation for overtime is subject to deductions for state retirement and taxes.~~

WSR 89-22-114

PROPOSED RULES

DEPARTMENT OF PERSONNEL (Personnel Board)

[Filed November 1, 1989, 1:40 p.m.]

Original Notice.

Title of Rule: Amending WAC 356-07-030 Description and location of departmental organization.

Purpose: This rule gives a general description of the department and their locations.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposed change is housekeeping in nature only.

Reasons Supporting Proposal: The department in the last year has had many location changes. This proposal only changes the addresses of particular divisions within the department.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, WA, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule outlines, in general, the separate divisions of the Department of Personnel and its locations. Since some of the divisions of the department have relocated within the last year we have proposed revisions to this rule to specify the new addresses of the divisions. Housekeeping changes only.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, by December 12, 1989.

Date of Intended Adoption: December 14, 1989.

October 25, 1989

Dee W. Henderson, Director
Secretary, Personnel Board

AMENDATORY SECTION (Amending Order 169, filed 4/12/82)

WAC 356-07-030 DESCRIPTION AND LOCATION OF DEPARTMENTAL ORGANIZATION. (1) The central office((~~+~~)) of the Department of Personnel is located at ((~~600 South Franklin Street~~)) 521 Capitol Way S., Olympia, Washington.

(2) The staff is organized in six general areas:

(a) Operations division which provides for recruitment, examination, examination development, classification, hearings, certification, agency services and staffing review and affirmative action.

(b) Standards and surveys division which provides for salary surveys, compensation plan administration, research services, and special projects.

(c) Employee development and training division (located at ((~~400 East Union~~)) 600 South Franklin Street, Olympia, Washington) which provides consultation on human resource development activities to agencies, training which is interagency in scope, and guidelines for agency planning and evaluation of human resource development.

(d) ((~~Insurance benefits division (located at 497 Tyee Drive, Tumwater, Washington) which provides for employee insurance programs and employee advisory services:~~)) The employee advisory service offices are at the following locations: 402 Security Building, Olympia, Washington; ((~~444 NE Ravenna Boulevard, Suite 409~~)) 613 - 19th Avenue E., Suite 101, Seattle, Washington; and at Suite 604, Northtown Office Building, Spokane, Washington.

(e) Administrative division which provides departmental fiscal management, facilities, word processing support, agency personnel services, and labor relations services.

(f) Information systems division (located at Building #1, Rowesix, Lacey, Washington) which administers the central personnel/ payroll and insurance eligibility computer systems.

Reviser's note: RCW 34.05.395 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 89-22-115

PROPOSED RULES

DEPARTMENT OF PERSONNEL (Personnel Board)

[Filed November 1, 1989, 1:41 p.m.]

Original Notice.

Title of Rule: Amending WAC 356-46-010 Political activity—Regulations.

Purpose: This rule specifies the regulations of political activity for a state employee.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposal is a housekeeping change only changing an "of" to "or" for clarification.

Reasons Supporting Proposal: For clarification purposes only.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-

1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule covers regulations of political activity of an employee. This proposed change is for general house-keeping only. For clarification purposes changing an "of" to "or."

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, by December 12, 1989.

Date of Intended Adoption: December 14, 1989.

October 25, 1989

Dee W. Henderson, Director
Secretary, Personnel Board

AMENDATORY SECTION (Amending Order 179, filed 12/22/82)

WAC 356-46-010 POLITICAL ACTIVITY—REGULATIONS. (1) Solicitation for or payment to any partisan, political organization or for any partisan, political purpose ~~((of))~~ or any compulsory assessment or involuntary contribution is prohibited: PROVIDED, HOWEVER, ~~((F))~~ that officers of employee organizations shall not be prohibited from soliciting dues or contributions from members of their organization. No person shall solicit on state property any contribution to be used for partisan, political purposes.

(2) Employees shall have the right to vote and to express their opinions on all political subjects and candidates and to hold any political party office or participate in the management of a partisan, political campaign. Nothing in this section shall prohibit an employee from participating fully in campaigns relating to constitutional amendments, referendums, initiatives, and issues of a similar character, and for non-partisan offices.

(3) A classified civil service employee shall not hold a part-time public office in a political subdivision of the state when the holding of such office is incompatible with, or substantially interferes with, the discharge of official duties in state employment as determined by the appointing authority.

(4) The rules and regulations of the United States Office of Personnel Management which pertain to political activities may apply to some employees. Persons engaged in federal loans or grants-in-aid programs should inquire about their own situations and contemplated activities.

WSR 89-22-116
PROPOSED RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)

[Filed November 1, 1989, 1:42 p.m.]

Original Notice.

Title of Rule: Amending WAC 356-10-050 Employee appointment status—Upward reallocation.

Purpose: Identifies temporary appointment option if an employee is not certified from the appropriate register following an upward reallocation.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Summary: This proposed change will correct the reference to eligibility for a provisional appointment to eligibility for a temporary appointment.

Reasons Supporting Proposal: This is a housekeeping change only. Effective November 1, 1988, provisional appointment, as a separate nonpermanent appointment category, was repealed.

Name of Agency Personnel Responsible for Drafting: Paul Peterson, 521 Capitol Way South, Olympia, 586-1769; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Bonni Parker, Department of Social and Health Services, OB-13, 753-5184, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule references temporary appointment options if an employee is not certified from the appropriate register following an upward reallocation. This proposal only deletes reference to Provisional Appointments due to the fact that this nonpermanent appointment was repealed effective November 1, 1988.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on December 14, 1989, at 10:00 a.m.

Submit Written Comments to: Paul Peterson, Department of Personnel, 521 Capitol Way South, Olympia, WA 98507, by December 12, 1989.

Date of Intended Adoption: December 14, 1989.

October 18, 1989

Dee W. Henderson
Secretary

AMENDATORY SECTION (Amending Order 306, filed 8/15/88)

WAC 356-10-050 EMPLOYEE APPOINTMENT STATUS—UPWARD REALLOCATION. Employees in positions which have been reallocated upward are affected as follows:

(1) Employee must compete and be certified from the appropriate eligible register unless otherwise determined by the director of personnel or designee when the position is reallocated upward based on recent or impending changes in duties and responsibilities. The effective date of an incumbent's appointment status as provided in this subsection will be the date when he/she is appointed from a certification. If the employee is appointed from a certification, his/her salary is then adjusted in accordance with the rule governing promotion.

(2) Employees in positions which have been reallocated upwards based on duties performed of a higher level classification in excess of one year shall retain status in the reallocated position and shall have their salary adjusted in accordance with the rule governing promotion, provided:

(a) The incumbent meets the minimum or desirable qualifications for the new class; or, the incumbent meets acceptable qualifications as determined by the director of personnel or designee.

(b) The employee passes the appropriate examination.

(3) If the employee is not certified from the appropriate eligible register, transferred, promoted, demoted or otherwise retained in status within ninety days, the provisions governing reduction in force shall apply. This shall not preclude the employee's eligibility for a ~~((provisional))~~ temporary appointment under these rules. Employees who do not achieve status in a reallocated position shall be paid for time

worked in the higher class based on the rule governing promotion (up to a maximum of three years).

(4) The employee retains existing appointment status when the position is reallocated based on a revision of a class series, a class series study, or an agency-wide or major subdivision-wide classification review planned, conducted, or authorized by the department of personnel in advance of personnel board action (if any), when the reallocation involves no change in duties or responsibilities. The employee's salary then is adjusted to the same step in the new range as held in the present range.

(a) An employee in an underfill status will maintain that status.

(b) Subsection (1) or (2) of this section apply when a change in duties, responsibilities, or organization coincides with a revision of a class series.

(5) The director of personnel or designee may approve the retention of status without examination for an incumbent in a reallocated position when it is evident that the reallocation is, in effect, the correction of a long-term inequity. The employee's salary is adjusted in accordance with the rule governing promotion. The application of this subsection shall not be denied in those cases where the employee has performed duties at a higher class for three continuous years or more.

(6) In reallocations determined by the department of personnel's director or designee the effective date of an incumbent's appointment status as provided for in subsection (2) or (5) of this section will be the earliest date that a copy of the classification questionnaire, either submitted directly by the incumbent or by the agency, is received by the department of personnel. Receipt of such classification questionnaires shall be acknowledged by the department of personnel if the submitting party includes a self-addressed stamped envelope with the copy of the classification questionnaire furnished the department of personnel.

For positions reallocated by agencies under their delegated allocation authority, the effective date of an incumbent's appointment status as provided for in subsection (2) or (5) of this section will be the earliest date that a copy of the classification questionnaire is received by the agency's personnel office or by the department of personnel.

(7) The department of personnel, the director of personnel, and the state personnel board shall not award additional compensation to an employee for any period prior to the date on which the classification questionnaire was received by the department of personnel.

WSR 89-22-117

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed November 1, 1989, 1:46 p.m.]

Original Notice.

Title of Rule: Commercial telephone solicitation.

Purpose: The purpose is to establish standards for the registration of commercial telephone solicitors.

Statutory Authority for Adoption: Chapter 20, Laws of 1989 and RCW 34.05.220.

Statute Being Implemented: Chapter 20, Laws of 1989.

Summary: The proposed rules prescribe requirements for registration, renewal of registration, changes to registration and recordkeeping for telephone solicitors affected by the enacting legislation.

Reasons Supporting Proposal: See below.

Name of Agency Personnel Responsible for Drafting: Maxine Nelson, Department of Licensing, 405 Black Lake Boulevard, Olympia, 586-1421; Implementation: Keith Weaver, Department of Licensing, 405 Black Lake Boulevard, Olympia, 753-9627; and Enforcement: Paula Selis, Assistant Attorney General, 710 2nd Avenue, Suite 1300, Seattle, WA, 464-7662.

Name of Proponent: Department of Licensing, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to standardize the filing forms, fees and regulations for registration of commercial telephone solicitors. The rule also explains procedures for renewal, changes to information and business record retention requirements. The anticipated effects are that telephone solicitors not governed by other statutes will be registered.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The department has determined that this rule is not subject to the Regulatory Fairness Act since it will impact less than 10% of the telemarketing industry. This determination was based on the fact that the law excludes many telemarketers from the registration requirement. Those who are exempt from the law are persons making isolated transactions; persons with less than 60% of the prior years sales made by telephone solicitation; persons calling for religious, charitable, political or other noncommercial purposes; persons calling purchasers who have previously purchased from the business; persons calling who have no intent to complete a sale during the solicitation, do not make the major sales presentation during the solicitation and only make the major sales presentation; persons selling securities which are exempt from registration under RCW 21.20.310; persons licensed under RCW 18.85.090 when the solicited transaction is governed by that law; persons licensed under RCW 18.27.060 when the solicited transaction is governed by that law; persons licensed under RCW 48.17-.150 when the solicited transaction is governed by that law; persons selling a franchise who is registered under RCW 19.100.140; persons primarily soliciting the sale of a newspaper, magazine, contractual plans including book or record clubs which is regulated by the FTC; any supervised financial institution; persons soliciting the sale of prearrangement funeral service contract registered under RCW 18.39.240 and 18.39.260; persons licensed to enter into prearrangement contracts under RCW 68-.05.155; persons soliciting the sale or services provided by a cable television system operating under authority of a franchise or permit; persons whose business is regulated by UTC or FCC; persons soliciting the sale of agricultural products as defined in RCW 20.01.010; an issuer that has a class of securities that is subject to section 12 of the SEC Act of 1934 (15 U.S.C. Sec. 781); a commodity broker-dealer as defined in RCW 21.30.010 and registered with the commodity futures trading commission; a business-to-business sale where the purchaser business intends to resell the property or goods purchased or the purchaser business intends to use the property or goods purchased in a recycling, reuse, remanufacturing or manufacturing process; a person licensed under RCW 19.16.110 when the solicited transaction is governed by that law; a person soliciting the sale of food intended for immediate delivery to and immediate consumption by the purchaser; and a person

soliciting the sale of food fish or shellfish when that person is licensed pursuant to the provisions of Title 75 RCW.

Hearing Location: 1st Floor Conference Room, Department of Licensing, Business License Services, 405 Black Lake Place, Olympia, WA 98504, on December 5, 1989, at 3:00 p.m.

Submit Written Comments to: Ken Mark, Assistant Director, Department of Licensing, Business License Services, 405 Black Lake Place, Olympia, WA 98504, by December 4, 1989.

Date of Intended Adoption: December 5, 1989.

October 31, 1989
Ken Mark
Assistant Director

Chapter 308-320 WAC
COMMERCIAL TELEPHONE SOLICITATION

WAC

308-320-010	Authority and purpose.
308-320-020	Applicable statute.
308-320-030	Definitions.
308-320-040	Registration.
308-320-050	Registration exemptions.
308-320-060	Registration fees.
308-320-070	Annual renewal dates, forms, and fees.
308-320-080	Changes and fees.
308-320-090	Business records.
308-320-100	Director of the department of licensing as repository for notice of purchase cancellation.

NEW SECTION

WAC 308-320-010 **AUTHORITY AND PURPOSE.** These rules are adopted under the authority of chapter 20, Laws of 1989 and RCW 34.05.220 to establish standards for the registration of commercial telephone solicitors as defined by chapter 20, Laws of 1989.

NEW SECTION

WAC 308-320-020 **APPLICABLE STATUTE.** The regulations in this chapter shall be considered a supplement to and not a replacement for chapter 20, Laws of 1989 and do not apply to the provisions of RCW 80.36.390 and 80.36.400.

NEW SECTION

WAC 308-320-030 **DEFINITIONS.** As used in this regulation:

- (1) "Business" means any person, sole proprietorship, partnership, corporation, or other concern which engages in commercial telephone solicitation.
- (2) "Business location" means the premises where business is conducted.
- (3) "Business location address" means the address of the geographic location where the business is conducted.
- (4) "Business mailing address" means the address where mail deliveries are made for the business.
- (5) "Campaign" means a method of marketing a product or service employing specific incentives, sales techniques, or presentations to prospective purchasers.
- (6) "Department" means the department of licensing.
- (7) "Manager" means the person in charge of business operations at a business location.
- (8) "Nonrefundable fees" means fees which are not returned to an applicant after a registration is issued.
- (9) "Nontransferable registration" means a registration that cannot be transferred to another person or business.
- (10) "Ownership structure" means the manner in which a business is owned, such as sole proprietorship, partnership, or corporation.
- (11) "Proratable fees" means fees that are calculated for a period of time less than twelve months.
- (12) "Registration number" means the unified business identifier (UBI) number issued to a business by the state of Washington.

(13) "Solicitor" means a commercial telephone solicitor as defined in chapter 20, Laws of 1989.

(14) "Unified business identifier (UBI)" means a nine-digit number used to identify a business registered or licensed with one or more state agencies.

NEW SECTION

WAC 308-320-040 **REGISTRATION.** Any commercial telephone solicitor who wishes to engage in commercial telephone solicitation as defined by chapter 20, Laws of 1989 must register with the department by:

- (1) Completing the following forms prescribed by the department:
 - (a) Master business application;
 - (b) Supplemental information form;
 - (c) Personal history form for each sole proprietor, partner, manager or the president, vice-president, secretary and treasurer of each corporation; and
- (2) Paying the registration fee established in WAC 308-320-060. A commercial telephone solicitor must receive notice of registration from the department prior to conducting business in the state of Washington. A commercial telephone solicitor registration is nontransferable.

NEW SECTION

WAC 308-320-050 **REGISTRATION EXEMPTIONS.** Commercial telephone solicitors who are exempt from registration under this chapter are found in chapter 20, Laws of 1989.

NEW SECTION

WAC 308-320-060 **REGISTRATION FEES.** The fee for any commercial telephone solicitor required to register in this state shall be seventy-two dollars for each business location annually. The annual fee shall be proratable and nonrefundable.

NEW SECTION

WAC 308-320-070 **ANNUAL RENEWAL DATES, FORMS, AND FEES.** Registration renewals must be made annually on the form and date required by the department. The fee for annual renewal shall be seventy-two dollars.

NEW SECTION

WAC 308-320-080 **CHANGES AND FEES.** Registrants shall inform the department of any changes in filed information when the change occurs.

- (1) Changes in ownership or ownership structure or a change of more than fifty percent of the partners in a partnership requires submission of a new master business application, new supplemental information statement, new personal history statement(s), and a fee of seventy-two dollars for each business location.
- (2) Changes in business location requires a new master business application and a fee of seventy-two dollars.
- (3) Changes in managers, general partners of a limited partnership, partners in a general partnership or the president, vice-president, secretary or treasurer of a corporation requires completion of a personal history form for the new individual(s).
- (4) Changes in the business mailing address or the location where business records are kept shall be made in writing.

NEW SECTION

WAC 308-320-090 **BUSINESS RECORDS.** A commercial telephone solicitor shall maintain records of each commercial solicitation campaign and shall inform the department of the location where the business records are kept. The following business records shall be kept for a period of two years after the campaign has been completed unless otherwise stated below.

- (1) A list of the names, principal residence addresses, and dates of employment of salespersons who solicit on behalf of the commercial telephone solicitor and the name(s) the salesperson(s) uses while soliciting.
- (2) A list and a description of the items the solicitor is offering for sale and the suppliers name, address, and telephone number.

(3) A copy of all sales scripts the solicitor requires salespersons to use when soliciting prospective purchasers, or if no sales script is required to be used, a statement to that effect.

(4) A copy of all sales training information and literature, including but not limited to, scripts, outlines, instructions, and information regarding how to conduct telephone sales, sample introductions, sample closings, product information, and contest or premium awards information provided by the solicitor to salespersons in writing or orally, and a copy of all written materials the solicitor sends to any prospective or actual purchaser.

(5) If the solicitor represents or implies, or directs salespersons to represent or imply to purchasers that the purchaser will receive certain specific items or certificates, whether the items or certificates are described as gifts, premiums, bonuses, prizes, or otherwise, the solicitor shall maintain a written record which includes:

(a) A list of the items offered.

(b) The value or worth of each item described to the prospective purchasers and the basis for the valuation.

(c) The price paid by the solicitor to the supplier for each of these items and the name, address and telephone number of each supplier.

(d) Paper documentation of all rules, regulations, terms, and conditions a prospective purchaser must meet in order to receive an item.

(6) If the purchaser is to receive fewer than all of the items described by the solicitor, the record shall include the following:

(a) The manner in which the solicitor decides which item or items a particular prospective purchaser is to receive.

(b) The odds a single prospective purchaser has of receiving each described item.

(c) The name and address of each recipient who has during the preceding twelve months, or as long as the solicitor has been in business if less than twelve months, received the item having:

(i) The greatest value; and

(ii) The item having the least odds of being received.

(7) A historical listing of all products sold by the solicitor clearly showing when the sale of each product was initiated and subsequently terminated.

(8) A list of the business telephone numbers at each location where telephone solicitation is taking place.

(9) The name of the manager or other person in charge at each location where telephone solicitation is taking place.

NEW SECTION

WAC 308-320-100 DIRECTOR OF THE DEPARTMENT OF LICENSING AS REPOSITORY FOR NOTICE OF PURCHASE CANCELLATION. In the event that the purchaser is unable to send the notice of cancellation to the seller, the purchaser may send a written notice of cancellation to the Director, Department of Licensing, Business License Services, 405 Black Lake Place, Olympia, WA 98504. When notices of cancellation are mailed to the department, the effective date shall be the postmark date stamped on the mailing envelope or metered stamp. When notices of cancellation are hand delivered, the effective date shall be upon receipt by the department.

The department shall not be the repository for undeliverable cancelled merchandise.

WSR 89-22-118
PROPOSED RULES
DEPARTMENT OF
SERVICES FOR THE BLIND
[Filed November 1, 1989, 2:25 p.m.]

Original Notice.

Title of Rule: WAC 67-25-560 and 67-25-570.

Purpose: Amendment to chapters.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Statute Being Implemented: RCW 74.18.120.

Summary: Same as above.

Reasons Supporting Proposal: Housekeeping changes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Shirley A. Smith, Olympia, 586-6981.

Name of Proponent: Department of Services for the Blind, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 67-25-560 Administrative review, clarifies who will hear administrative reviews and who and how clients request administrative reviews; and WAC 67-25-570, Fair hearing, clarifies language. Extends time after an administrative review to file for a fair hearing and details the process after a fair hearing has been heard. There are no adverse affects expected from these amendments.

Proposal Changes the Following Existing Rules: Same as above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Services for the Blind, 521 East Legion Way, Olympia, WA, on December 6, 1989, at 10:00 a.m.

Submit Written Comments to: Ken Patten, by December 5, 1989.

Date of Intended Adoption: December 6, 1989.

November 1, 1989

Shirley A. Smith

Director

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

WAC 67-25-560 ADMINISTRATIVE REVIEW. (1) Any client who feels aggrieved by, or is otherwise dissatisfied with, any decision or action by the department or its agents with regard to his/her vocational rehabilitation case may file a request with the department for, and shall thereupon receive, an administrative review (~~and redetermination of that decision or action~~) by the director or his/her designee, or a fair hearing by an administrative law judge.

(2) A client who requests ~~((for))~~ an administrative review (~~may be made either verbally or~~) shall indicate in writing (~~and may be filed in any office of the department. A verbal request shall promptly be reduced to writing~~) that he/she has been informed of administrative review and fair hearing rights and procedures, and that, if he/she elects an administrative review, the forty-five day time period for scheduling a fair hearing is waived until conclusion of the administrative review process.

(3) A request for administrative review may be made by the client, a parent or guardian, or by an advocate working in the client's interest and with the client's permission. The request may be made to any agency representative either verbally or in writing. A verbal request shall promptly be reduced to writing by the agency representative receiving the request.

(4) All requests for administrative review shall:

(a) Specify the date of the decision or action being appealed;

(b) Specify as precisely as possible the issue to be resolved by the administrative review;

(c) Set forth the address of the client or of his/her representative; and

(d) Be signed by the client or by his/her representative.

~~((4))~~ (5) A request for an administrative review must be made within sixty days after receiving notice from the department of the decision or action by the department which is the basis for the request for review.

~~((5))~~ (6) An administrative review and redetermination shall be provided by the director's designee, and shall be provided within thirty days after the submission of the request for review.

~~((6))~~ (7) Within ~~((fifteen))~~ twenty-one days after the conclusion of the administrative review the designee shall certify his/her findings to the client in writing specifying in reasonable detail the reasons for

his/her findings and informing the client of his/her right to request and receive a fair hearing if dissatisfied with those findings.

AMENDATORY SECTION (Amending Order 88-1, filed 4/11/88)

WAC 67-25-570 FAIR HEARING. (1) Any client who feels aggrieved by or is otherwise dissatisfied with ((the finding)) any decision or action by the department or its agents with regard to his/her vocational rehabilitation plan or is dissatisfied with the results of an administrative review may request from the department, and shall thereupon be granted, a fair hearing. A client who desires a fair hearing shall request such hearing within ((thirty)) sixty days after ((receiving notice from)) the date of the decision or action by the department ((of the finding of the administrative review)) which is the basis for the request for fair hearing.

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

(3) The office of administrative ((law judge)) hearings will ((make a proposed decision to the director of the department of services for the blind who will make a final determination)) schedule a fair hearing within forty-five days of the receipt of the request for fair hearing.

(4) ((The client will be notified in writing by the director within fifteen days of receipt of the administrative law judge's proposed decision:)) The administrative law judge will make an initial decision and forward this initial decision to the director of the department of services for the blind, who will make a final determination.

(5) The director will notify the client within fifteen days of receipt of the administrative law judge's initial decision that the initial decision is accepted as the final determination, or; the director will notify the client within fifteen days of receipt of the administrative law judge's initial decision that the director will review the initial decision of the administrative law judge.

(6) If the director fails to notify the client of his/her intent to review the administrative law judge's decision within fifteen days, the administrative law judge's decision becomes the final determination.

(7) If the director decides to review the decision of the administrative law judge, the client, or, if appropriate, the client's parent, legal guardian, or other representative shall be provided the opportunity for submission of additional evidence and information relative to the final determination.

(8) The director will make a final determination within thirty days after the date of the decision of written notice of intent to review the administrative law judge's initial decision.

(9) The director will base the decision to review the decision of the administrative law judge on one or more of the following criteria:

(a) The initial decision appears arbitrary, capricious, or otherwise unreasonable;

(b) The initial decision does not appear to be supported by substantial evidence;

(c) The impartial hearing officer has not given adequate and appropriate consideration to federal statute and regulations, the department state plan, the department procedures manual, state agency options in service delivery authorized by federal statute, restrictions on service provision specified by federal statute, or approved state or federal policies.

(10) A client who is dissatisfied with the final result of the fair hearing process may file a petition for review in superior court.

chapter 296-306 WAC, Safety standards for agriculture.

Purpose: WAC 296-24-020, 296-24-12009, 296-24-15001, 296-24-16507, 296-24-16515, 296-24-16517, 296-24-20503, 296-24-550, 296-24-75009, 296-24-76503, 296-24-78007, 296-24-81003, 296-24-81005, 296-24-82503, 296-62-07314, 296-155-485, 296-155-505 and 296-155-680, this amendment is a state-initiated change to meet the division's goal of reducing the number of outstanding WISHA regional directives to a functional minimum in relation to the new accepted definition of a WRD which contains a disposition limitation statement. The proposal is to expand explanations and definitions and the intent of the standards narrative to ensure more consistent interpretation and applications as provided by the WISHA regional directive(s) for users; and to correct a WAC reference number to reflect the current WAC containing the reference material; WAC 296-24-07501, 296-24-07801, 296-24-086, 296-155-200 and 296-306-060, this amendment is a state-initiated change to provide clarification and interpretations to ensure consistent application of the requirements of the employer to provide PPE. It should dispel the confusion as to what the term "provide" means. The proposal is to expand the explanation and application of standards as they relate to employer provision of personal protective equipment to employees. The term "provide" does not mean just to make available. The term means the employer shall provide to employees at no cost to employees, necessary and required PPE to complete a job without hazardous exposure; WAC 296-24-58513, the amendment is a state-initiated housekeeping change; WAC 296-52-417, 296-52-419, 296-52-461, 296-52-477, 296-52-481, 296-52-509, 296-52-473 and 296-52-510, this amendment is a state-initiated change to provide a safety program and to remain at-least-as-effective-as the federal program and rules. This division is obligated to enforce legislated mandates. The proposal is to amend the standard to include materials from Federal Rule 29 CFR 1910.109, Explosives and blasting agents which were not adopted originally. This will resolve OSHA concerns that our standards are not as-effective-as the federal final rule. Additional amendments are made to make our distance tables identical to those of the Bureau of Alcohol, Tobacco, and Firearms in conformance with the directions of SSB 6530; WAC 296-62-07507 and 296-62-07515, this amendment is a federal-initiated change to amend the section to be at-least-as-effective-as the comparable federal rule, 29 CFR 1910.1000, Air contaminants, as corrected by changes to the final rule published in Federal Register Volume 54, Number 127, dated July 5, 1989. The register originally published errors, incorrect citations and data, and certain ambiguities which could prove to be misleading and were in need of clarification and correction. Only 13 of the 70 errors published in the register required changes. This impact is minimal as most changes were to narrative and typographical corrections; WAC 296-62-07521, this amendment is a federal-initiated change to set the compliance dates for eight of the nine remand industries to meet the permissible exposure limits (PELs) of 50 micrograms per cubic meter (50

WSR 89-22-119

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Order 89-20—Filed November 1, 1989, 2:46 p.m.]

Original Notice.

Title of Rule: Chapter 296-24 WAC, General safety and health standards; chapter 296-52 WAC, Safety standards for explosives; chapter 296-62 WAC, General occupational health standards; chapter 296-99 WAC, Safety standards for grain handling facilities; chapter 296-155 WAC, Safety standards for construction; and

mg/m³) of air specified in the lead standard. WISHA is adopting these changes to maintain the status at-least-as-effective-as the OSHA enforcement of safety and health regulations in the workplace and be "identical" to the comparable federal final rule, 29 CFR 1910.1025, as published in Federal Register Volume 54, Number 131, dated July 11, 1989; WAC 296-62-07540 and 296-62-07544, this amendment is a federal-initiated change to amend the listed sections to be at-least-as-effective-as the comparable federal rule, 29 CFR 1910.1048, Formaldehyde, as corrected by changes to the final rule published in Federal Register Volume 54, Number 133, dated July 13, 1989, and Federal Register Volume 54, Number 146, dated August 1, 1989. Most of the changes made to the federal rule are typographical corrections, inclusion of some information inadvertently omitted and correction of some inconsistencies. There is no change that will cause financial impact not already covered in the adoption of the final rule; WAC 296-99-015, this amendment is a federal-initiated change to exempt exclusively alfalfa processing and storage operations from the requirements of chapter 296-99 WAC; WAC 296-99-050, this amendment is a federal-initiated change to be "identical" to federal rules as outlined in OSHA Instruction CPL 2-1.4B, dated August 29, 1988. The change removes the 1/8 inch action level for housekeeping in priority housekeeping areas; WAC 296-155-48533, this amendment is a federal-initiated change to be "identical" to the change published in Federal Register Volume 54, Number 73, dated April 18, 1989. The change is to relocate the existing rule from "operational criteria" to "components"; WAC 296-155-675, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change adds the definition of "lite-slab" to the section; WAC 296-155-690, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change adds the proper WAC reference and removes federal verbiage not applicable to WISHA. The change also deletes the duplication of rules contained in WAC 296-155-691; WAC 296-155-692, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. This section is being repealed to remove a duplication of rules contained in WAC 296-155-694; WAC 296-155-694, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change replaces federal codification in the section with WAC codification; WAC 296-155-697, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change is to correct a WAC reference; WAC 296-155-725, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 54, Number 105, dated June 2, 1989. The change is to add two new definitions; WAC 296-155-730, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume

54, Number 105, dated June 2, 1989. The change establishes new safety training requirements, new rules for training and availability of rescue teams; establishes new rules concerning classification of work areas in relation to the potential for exposure to hazardous gases; and, establishes new standards for air quality monitoring and ventilation. New rules are established for underground storage and handling of diesel fuel, drilling operations, haulage equipment, and conveyors. A more stringent set of rules relating to the construction and operation of personnel hoists, is also established; chapter 296-155 WAC, Part Q, this amendment is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 54, Number 105, dated June 2, 1989. The change is to adopt a new title page to Part Q "underground construction" to be "identical" to the federal title change; and WAC 296-24-102 and 296-24-10203, this amendment is a state-initiated change in response to the passage of Washington SHB 1711 which mandates the amendment. The state-initiated change imposes training and education requirements on employers operating late night retail establishments. Costs associated with the requirements are minimal.

Statutory Authority for Adoption: Chapters 34.05 and 49.17 RCW and chapter 1-21 WAC.

Statute Being Implemented: RCW 49.17.040, 49.17.050 and 49.17.060.

Summary: Chapter 296-24 WAC, General safety and health standards, is amended with state-initiated changes to incorporate WISHA regional directive (WRD) guidelines into the appropriate standard narrative. Amended sections with affected WRD are WAC 296-24-020 (WRD 79-70), 296-24-12009 (WRD 79-27), 296-24-15001 (WRDs 77-20 and 79-67), 296-24-16507 (WRD 78-34), 296-24-16515 (WRD 78-34), 296-24-16517 (WRD 78-34), 296-24-20503 (WRD 77-41), 296-24-550 (WRD 79-37), 296-24-75009 (WRDs 78-2 and 78-52), 296-24-76503 (WRD 78-52), 296-24-78007 (WRD 78-51), 296-24-81003 (WRD 77-19), 296-24-81005 (WRDs 79-10 and 79-62) and 296-24-82503 (WRD 79-40). State-initiated changes to clarify the personal protective equipment "provision" stipulations to reflect division policy that necessary and required equipment shall be provided by the employer at no cost to employees. Amended sections are WAC 296-24-07501, 296-24-07801 and 296-24-086. A state-initiated change to correct a WAC reference number to reflect the current WAC containing the reference material. Amended section is WAC 296-24-58513. State-initiated changes to comply with Washington SHB 1711 which adds a new chapter in Title 49 RCW relating to protection for employees working in late night retail establishments. New sections are WAC 296-24-102 and 296-24-10203; chapter 296-52 WAC, Safety standards for possession, handling and use of explosives, is amended with state-initiated changes to add materials from the federal rule, 29 CFR 1910.109, that were not included in original adoption of the federal final rule and are necessary to maintain the state's status at-least-as-effective-as the federal program, and with supplemental changes to more effectively express the legislated mandates of SSB 6530 which were originally

addressed with changes adopted by Administrative Order 88-25, filed on November 14, 1988. Amended sections are WAC 296-52-417, 296-52-419, 296-52-461, 296-52-477, 296-52-481 and 296-62-509. New section is WAC 296-52-510. Repealed section is WAC 296-52-473; chapter 296-62 WAC, General occupational health standards, is amended with as state-initiated change to incorporate WISHA regional directive (WRD) guidelines into the appropriate standard. Amended section with affected WRD is WAC 296-62-07314 (WRD 81-7). Federal-initiated changes to the federal rule, 29 CFR 1910.1000, Air contaminants, published in Federal Register Volume 54, Number 12, dated January 19, 1989, by corrections as published in Federal Register Volume 54, Number 127, dated July 5, 1989. The state standard will remain at-least-as-effective-as the amended federal rule. The federal rules as originally published contained typographical errors, incorrect citations of limits and data, and certain ambiguities which could prove to be misleading and were in need of clarification. Many of the errors made in the federal rule were not incorporated into the state adaptation and only 13 of the 70 federal corrections will require corrections in the state standard. Amended sections are WAC 296-62-07507 and 296-62-07515. Federal-initiated changes to the federal rule, 29 CFR 1910.1048, Formaldehyde, published in Federal Register Volume 52, Number 233, dated December 4, 1987, by corrections as published in Federal Register Volume 54, Number 133, dated July 13, 1989, and Federal Register Volume 54, Number 146, dated August 1, 1989. The state standard will remain at-least-as-effective-as the amended federal rule. This action was necessary to correct typographical errors, include some information inadvertently omitted and to correct some inconsistencies in the federal regulatory text which were incorporated into the state standard adaptation. Amended sections are WAC 296-62-07540 and 296-62-07544. Federal-initiated changes to be "identical" to comparable federal final rule, 29 CFR 1910.1025, as published in Federal Register Volume 54, Number 131, dated July 11, 1989. Based on the evidence and analysis presented in Federal Register Volume 54, Number 131, dated July 11, 1989, OSHA has determined that the 50 mg/m³ lead standard is economically feasible for eight of the nine remand industries considered. The compliance dates and start up dates for individual industries are set out in this final rule. Amended section is WAC 296-62-07521, Lead; chapter 296-99 WAC, Safety standards for grain handling facilities, federal-initiated changes issued in OSHA Instruction, CPL 2-1.4B, dated August 29, 1988, and a memorandum from the OSHA National Office of the Directorate of Compliance Programs, which removes the 1/8" action level for priority housekeeping areas, and exempts alfalfa processing and storage facilities from coverage under chapter 296-99 WAC; chapter 296-155 WAC, Safety standards for construction, is amended with state-initiated changes to incorporate WISHA regional directive (WRD) guidelines into appropriate standard narrative. Amended sections with affected WRD are WAC 296-155-485 (WRD 79-40), 296-155-505 (WRD 83-1) and 296-155-680 (WRD 80-9). A

state-initiated change to clarify the personal protective equipment "provision" stipulation to reflect division policy that necessary and required personnel protective equipment shall be provided by the employer at no cost to the employee. Amended section is WAC 296-155-200. Federal-initiated changes to chapter 296-155 WAC, Part Q, Tunnels and shafts, caissons, cofferdams, and compressed air to be "ALAEA" the final rule for "underground construction" as published in Federal Register Volume 55, Number 105, dated June 2, 1989. Amended Sections are chapter 296-155 WAC, Part Q, WAC 296-155-725 and 296-155-730. Federal-initiated changes to be "ALAEA" rules published in Federal Register Volume 53, Number 116, dated June 16, 1989. The changes include addition of a definition, removal of rule text duplication, proper WAC codification of rules, and correcting a WAC reference. Amended sections are WAC 296-155-675, 296-155-690, 296-155-694 and 296-155-697. Repealed section is WAC 296-155-692. A federal-initiated change to be "identical" to the change published in Federal Register Volume 54, Number 73, dated April 18, 1989, relocates and renumbers an existing rule. Amended section is WAC 296-155-48533; and chapter 296-306 WAC, Safety standards for agriculture, is amended with a state-initiated change to clarify the personal protective equipment "provision" stipulation to reflect division policy that necessary and required personal protective equipment shall be provided by the employer at no cost to the employee. Amended section is WAC 296-306-060.

Reasons Supporting Proposal: To ensure a safe and healthful workplace for all employees in Washington state.

Name of Agency Personnel Responsible for Drafting: Ray Wax, 805 Plum Street S.E., Olympia, 753-6500; **Implementation and Enforcement:** Alan S. Paja, 805 Plum Street S.E., Olympia, 753-6500.

Name of Proponent: Department of Labor and Industries, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Purpose above.

Rule is necessary because of federal law, Federal Register Volume 54, Number 127, dated July 5, 1989; Federal Register Volume 54, Number 131, dated July 11, 1989; Federal Register Volume 54, Number 133, dated July 13, 1989; Federal Register Volume 54, Number 146, dated August 1, 1989; OSHA Instruction CPL 2-1.4B, dated August 29, 1988; Federal Register Volume 54, Number 73, dated April 18, 1989; Federal Register Volume 53, Number 116, dated June 16, 1988; and Federal Register Volume 54, Number 105 dated June 2, 1989.

Explanation of Rule, its Purpose, and Anticipated Effects: See above.

Proposal Changes the Following Existing Rules: See above.

Small Business Economic Impact Statement: The Washington Regulatory Fairness Act, chapter 19.85 RCW, requires that proposed rules which have an economic impact on more than 20 percent of all industries

or more than 10 percent of the businesses in any one industry shall be reviewed to determine if the cost of coming into compliance with the proposed agency rules will create a disproportionately higher economic burden on small businesses in comparison with the cost of compliance for large businesses. The act defines a small business as an employer with 50 or fewer employees.

With respect to the proposed amendment for chapter 296-24 WAC, new sections WAC 296-24-102 and 296-24-10203, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed rules do not place disproportionate burden on small businesses. At the present time, all employers, by WAC rule administered under the Washington Industrial Safety and Health Act, (WISHA), are required to provide a safe and healthful working environment and to have an accident prevention program.

Amendments are to implement statutory requirements enacted through SHB 1711 during the 1989 legislative session.

The training costs of these amendments are estimated to be minimal. Materials for use in developing a crime prevention training program are available from police departments, the National Association of Convenience Stores and a number of large corporations. Generally, the material is available free of charge. At the present time, all employers, by WAC rule administered under the Washington Industrial Safety and Health Act, are required to provide employee training, to establish and supervise such training, which includes a safety orientation program.

With respect to the proposed amendments for chapter 296-24 WAC, WAC 296-24-07501, 296-24-07801 and 296-24-086, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendments to rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

Federal OSHA has assessed the potential economic impact of the proposed OSHA personal protective equipment (PPE) standard which has requirements to provide PPE similar to WISHA's PPE standard. OSHA has determined that none of the major industry groups would experience a significant economic burden as a result of the proposed PPE standard if all the costs are passed through to the consumer. OSHA estimates that the average price increase would be 0.001 percent based on the ratio of compliance costs to the value of industry shipments. OSHA therefore expects that the proposed PPE standard will not have a significant economic impact. OSHA also determined that the proposed standard

would not have a significant impact on a substantial number of small firms.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The current standards stated that the employer shall provide personal protective equipment. There was frequently the question as to what "provide" means. The addition of this clarification will expand the understanding that required any necessary personal protective equipment needed for employees to perform their job in a safe and healthful manner will be provided by the employer at no cost to the employees.

With respect to the proposed amendments for chapter 296-24 WAC, WAC 296-24-020, 296-24-12009, 296-24-15001, 296-24-16507, 296-24-16515, 296-24-16517, 296-24-20503, 296-24-550, 296-24-75009, 296-24-76503, 296-24-78007, 296-24-81003, 296-24-81005 and 296-24-82503, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendments to rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The addition of guidelines to the rules expand explanations and definitions within the standards to ensure more consistent interpretation and applications of the standards. All clarifications being incorporated currently exist in a WISHA regional directive (WRD) format which will be cancelled upon adoption of these changes.

With respect to the proposed amendments for chapter 296-52 WAC, WAC 296-52-417, 296-52-419, 296-52-461, 296-52-473, 296-52-477, 296-52-481, 296-52-509 and 296-52-510, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendment to the rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The proposed amendment does not establish any new compliance requirements that will impose new or additional costs to any employer coming into compliance.

These amendments are state-initiated to provide a safety program and to remain at-least-as-effective-as the federal program and rules. This division is obligated to enforce legislated mandates. The proposal is to amend the standard to include materials from Federal Rule 29 CFR 1910.109, Explosives and blasting agents which were not adopted originally. This will resolve OSHA concerns that our standards are not as-effective-as the federal final rule. Additional amendments are made to

make our distance tables identical to those of the Bureau of Alcohol, Tobacco, and Firearms in conformance with the directions of SSB 6530.

With respect to the proposed amendment to WAC 296-62-07314, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amendment to the rule will not establish any new compliance requirements. The addition of guidelines to the rule will expand explanations and definitions within the standard to ensure more consistent interpretation and application of the standard. All clarifications being incorporated currently exist in a WISHA regional directive (WRD) which will be cancelled upon adoption of this change.

With respect to the proposed amendment to WAC 296-62-07521, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule is being amended to make the state "identical" to the federal final rule (29 CFR 1910.1025) as published in Federal Register Volume 54, Number 131, dated July 11, 1989. The Federal Occupational Safety and Health Administration (OSHA) has conducted a full regulatory impact analysis, in Federal Register Volume 54, Number 131, dated July 11, 1989.

The agency proposing the rule amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than those published in the identified OSHA analysis, and is not aware of any factors which would result in an adverse disproportionate economic impact on small business.

With respect to the proposed amendments for chapter 296-62 WAC, WAC 296-62-07507, 296-62-07515, 296-62-07540 and 296-62-07544, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendments to rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules are being amended to make the comparable state standards at-least-as-effective-as the federal final rules, 29 CFR 1910.1000, Air contaminants, and 29 CFR 1910.1048, Formaldehyde. These rules were published in Federal Register Volume 54, Number 12, dated

January 19, 1989, and Federal Register Volume 52, Number 233, dated December 4, 1987. The regulatory impact of the rules as affected by changes published in Federal Register Volume 54, Number 127, dated July 5, 1989, and Federal Register Volume 54, Number 133, dated July 13, 1989, will be the same or less than those listed in the impact analysis statements published in the federal final rule registers and will represent a substantially smaller impact to the state of Washington.

With respect to the proposed amendment of WAC 296-99-015 and 296-99-050, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements.

The amendment to WAC 296-99-015 is a federal-initiated change to exempt exclusively alfalfa processing and storage operations from the requirements of chapter 296-99 WAC.

The amendment to WAC 296-99-050 is a federal-initiated change to be "identical" to federal rules as outlined in OSHA Instruction CPL 2-4.1B, dated August 29, 1988. The change removes the 1/8 inch action level for housekeeping in priority housekeeping areas.

With respect to the proposed amendments for chapter 296-155 WAC, WAC 296-155-200 and 296-155-485, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendments to rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

Federal OSHA has assessed the potential economic impact of the proposed OSHA personal protective equipment (PPE) standard which has requirements to provide PPE similar to WISHA's PPE standard. OSHA has determined that none of the major industry groups would experience a significant economic burden as a result of the proposed PPE standard if all the costs are passed through to the consumer. OSHA estimates that the average price increase would be 0.001 percent based on the ratio of compliance costs to the value of industry shipments. OSHA therefore expects that the proposed PPE standard will not have a significant economic impact. OSHA also determined that the proposed standard would not have a significant impact on a substantial number of small firms.

The rules, as amended, will not influence or change the cost to any employer coming into compliance as the

amendment to the rule will not establish any new compliance requirements. The addition of Washington regional directive (WRD) guidelines to the rules will expand explanations and definitions within the standard to ensure more consistent interpretation and applications of the standards. All clarifications being incorporated from directives currently exist in WRD format which will be cancelled upon adoption of these changes.

The current standard states that the employer shall "provide" personal protective equipment. There was frequently the question as to what "provide" means. The addition of this clarification will clearly indicate existing division policy that required and necessary personal protective equipment needed for employees to perform their job in a safe and healthful manner without risk of exposure will be provided by the employer at no cost to the employee.

With respect to the proposed amendment of WAC 296-155-48533, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendments to the rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amended rules do not establish any new compliance requirements. The changes expand explanations and definitions within the standard to ensure more consistent interpretation and applications of the standard.

This amendment is a federal-initiated change to be "identical" to the change published in Federal Register Volume 54, Number 73, dated April 18, 1989. The change is to relocate the existing rule from "operational criteria" to "components."

With respect to the proposed amendments for chapter 296-155 WAC, WAC 296-155-675, 296-155-680, 296-155-690, 296-155-694, 296-155-697 and 296-155-692, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed adoption to these rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The Federal Occupational Safety and Health Administration (OSHA) has conducted a full Regulatory Impact Analysis, in Federal Register Volume 53, Number 116, dated June 16, 1989.

The agency proposing the rule amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than [than] those published in the identified OSHA analysis, and is not aware of any factors which would result in an adverse disproportionate economic impact on small businesses.

The amendment to WAC 296-155-675 is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change adds the definition of "lift-slab" to the section.

The amendment to WAC 296-155-680 is a state-initiated change to meet the division's goal of reducing the number of outstanding WISHA regional directives to a functional minimum in relation to the new accepted definition of a WRD which contains a disposition limitation statement. The proposal is to expand explanations and definitions and the intent of the standards narrative to ensure more consistent interpretation and applications as provided by the WISHA regional directive(s) for users; and to correct a WAC reference number to reflect the current WAC containing the reference material.

The amendment to WAC 296-155-690 is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change adds the proper WAC reference and removes federal verbiage not applicable to WISHA. The change also deletes the duplication of rules contained in WAC 296-155-691.

The amendment to WAC 296-155-692 is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. This section is being repealed to remove a duplication of rules contained in WAC 296-155-694.

The amendment to WAC 296-155-694 is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change replaces federal codification in the section with WAC codification.

The amendment to WAC 296-155-697 is a federal-initiated change to be at-least-as-effective-as Federal Register Volume 53, Number 116, dated June 16, 1988. The change is to correct a WAC reference.

With respect to the proposed amendments for chapter 296-155 WAC, Part Q Title page, WAC 296-155-725 and 296-155-730, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed adoption to these rules potentially influence any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

The Federal Occupational Safety and Health Administration (OSHA) has conducted a full Regulatory Impact Analysis, in Federal Register Volume 53, Number 116, dated June 16, 1989 [1988].

The agency proposing the rule amendments is not aware of any unique operating conditions in the state of Washington which would result in cost factors substantially different than those published in the identified OSHA analysis, and is not aware of any factors which would result in an adverse disproportionate economic impact on small businesses.

With respect to the proposed amendments to WAC 296-306-060, the findings of the agency are as follows:

The department has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not for the following reasons:

The proposed amendment to the rule potentially influences any and all employers having workplaces under the jurisdiction of the Department of Labor and Industries in the state of Washington.

Federal OSHA has assessed the potential economic impact of the proposed OSHA personal protective equipment (PPE) standard which has requirements to provide PPE similar to WISHA's PPE standard. OSHA has determined that none of the major industry groups would experience a significant economic burden as a result of the proposed PPE standard if all the costs are passed through to the consumer. OSHA estimates that the average price increase would be 0.001 percent based on the ratio of compliance costs to the value of industry shipments. OSHA therefore expects that the proposed PPE standard will not have a significant economic impact. OSHA also determined that the proposed standard would not have a significant impact on a substantial number of small firms.

The rule, as amended, will not influence or change the cost to any employer coming into compliance as the amendment to the rule will not establish any new compliance requirements. The current standard states that the employer shall provide personal protective equipment. There was frequently the question as to what "provide" means. The addition of this clarification will clearly state the division's policy that required and necessary personal protective equipment needed for employees to perform the job in a safe and healthful manner without exposure to hazards, will be provided by the employer at no cost to the employee.

Hearing Location: GA Building Auditorium, 210 Eleventh Street, Olympia, Washington, on December 7, 1989, at 9:30 a.m.

Submit Written Comments to: Alan S. Paja, Acting Assistant Director, Division of Industrial Safety and Health, by December 7, 1989.

Date of Intended Adoption: January 11, 1990.

November 1, 1989

Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 78-22, filed 11/13/78)

WAC 296-24-020 MANAGEMENT'S RESPONSIBILITY. (1) It shall be the responsibility of management to establish and supervise:

- (a) A safe and healthful working environment.
- (b) An accident prevention program as required by these standards.
- (c) Training programs to improve the skill and competency of all employees in the field of occupational safety and health. Such training shall include the on-the-job instructions on the safe use of powered materials handling equipment, machine tool operations, use of toxic materials and operation of utility systems prior to assignments to jobs involving such exposures.

(2) After the emergency actions following accidents that cause serious injuries that have immediate symptoms, a preliminary investigation of the cause of the accident shall be conducted. The investigation shall be conducted by a person designated by the employer, the immediate supervisor of the injured employee, witnesses, employee representative ~~((if available))~~, and any other person with the special expertise required to evaluate the facts relating to the cause of the accident. The findings of the investigation shall be documented by the employer for reference at any following formal investigation.

(3) Reporting of fatality or multiple hospitalization accidents.

(a) Within 24 hours after the occurrence of an employment accident which results in an immediate or probable fatality(s) or which results in ~~((the))~~ hospitalization of two or more employees, the employer of any employee so injured or killed shall report the accident ~~((either orally or in writing))~~ either orally or in writing to the nearest office of the department. The reporting may be by telephone or telegraph. The reporting shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

(b) Equipment involved in an accident resulting in an immediate or probable fatality, shall not be moved, until a representative of the division of industrial safety and health investigates the accident and releases such equipment, except where removal is essential to prevent further accident. Where necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(c) Upon arrival of division of industrial safety and health investigator, employer shall assign to assist the investigator, the immediate supervisor and all employees who were witnesses to the accident, or whoever the investigator deems necessary to complete his investigation.

(4) A system for maintaining records of occupational injuries and illnesses as prescribed by chapter 296-27 WAC.

Note: Recordable cases include:

1. Every occupational death.
2. Every industrial illness.
3. Every occupational injury that involves one of the following:
 - a. Unconsciousness.
 - b. Inability to perform all phases of regular job.
 - c. Inability to work full time on regular job.
 - d. Temporary assignment to another job.
 - e. Medical treatment beyond first-aid.

All employers with eleven or more employees shall record occupational injury and illness information on forms OSHA 101 - Supplementary Record Occupational Injuries and Illnesses and OSHA 200 - Log and Summary. Forms other than OSHA 101 may be substituted for the Supplementary Record of Occupational Injuries and Illnesses if they contain the same items.

AMENDATORY SECTION (Amending Order 82-10, filed 3/30/82)

WAC 296-24-12009 WASHING FACILITIES. (1) General. Facilities for maintaining personal cleanliness shall be provided in every place of employment pursuant to the provisions of this section. These shall be convenient for the employees for whom they are provided and shall be maintained in a sanitary condition.

(2) Lavatories.

(a) Lavatories shall be made available in all places of employment. The requirements of this subsection do not apply to mobile crews or to normally unattended work locations if employees working at these locations have transportation readily available to nearby washing facilities which meet the other requirements of this section.

(b) Each lavatory shall be provided with hot and cold running water, or tepid running water.

(c) Hand soap or similar cleansing agents shall be provided.

(d) Individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

(3) Showers.

(a) Showers are mandatory on exit from the jobsite when residual chemicals allowed to remain on the skin between work shifts could cause a serious occupational illness.

(b) The employer is responsible for identifying such potential hazards and for insisting that the employee shower at the end of the shift.

(c) Whenever showers are required by a particular standard, the showers shall be provided, in accordance with ~~((subdivisions (b) through (c) of this subsection:~~

~~((b)))~~ items (i) through (iv) as follows:

(i) One shower shall be provided for each 10 employees of each sex, or numerical fraction thereof, who are required to shower during the same shift.

~~((c)))~~ (ii) Body soap or other appropriate cleansing agents convenient to the showers shall be provided as specified in this section.

~~((d)))~~ (iii) Showers shall be provided with hot and cold water feeding a common discharge line.

((☞)) (iv) Employees who use showers shall be provided with individual clean towels.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-16507 **HAND-FED RIPSAWS.** (1) Each circular hand-fed rip saw shall be guarded by a hood which shall completely enclose that portion of the saw above the table and that portion of the saw above the material being cut. The hood and mounting shall be arranged so that the hood will automatically adjust itself to the thickness of and remain in contact with the material being cut but it shall not offer any considerable resistance to insertion of material to saw or to passage of the material being sawed. The hood shall be made of adequate strength to resist blows and strains incidental to reasonable operation, adjusting, and handling, and shall be so designed as to protect the operator from flying splinters and broken saw teeth. It shall be made of material that is soft enough so that it will be unlikely to cause tooth breakage. The material should not shatter when broken, should be nonexplosive, and should be no more flammable than wood. The hood shall be so mounted as to insure that its operation will be positive, reliable, and in true alignment with the saw; and the mounting shall be adequate in strength to resist any reasonable side thrust or other force tending to throw it out of line.

(2) Circular hand-fed rip saw blades may be guarded with a fixed enclosure, fixed barrier guard, or a manually adjusted guard when specific conditions prevent use of the standard automatic adjusting guard. In those instances where alternate fixed-type guards are used, they must provide protection equivalent to the protection afforded by automatically adjusting guards. The alternate guards must be used in accordance with manufacturer's instructions and under sufficient supervision to ensure consistent compliance with the intent of the standard.

(3) Each hand-fed circular rip saw shall be furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator. The spreader shall be made of hard tempered steel, or its equivalent, and shall be thinner than the saw kerf. It shall be of sufficient width to provide adequate stiffness or rigidity to resist any reasonable side thrust or blow tending to bend or throw it out of position. The spreader shall be attached so that it will remain in true alignment with the saw even when either the saw or table is tilted, and should be placed so that there is not more than 1/2-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine. The provision of a spreader in connection with grooving, dadoing, or rabbeting is not required. On the completion of such operations, the spreader shall be immediately replaced.

((☞)) (4) Each hand-fed circular rip saw shall be provided with nonkickback fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be designed to provide adequate holding power for all the thicknesses of materials being cut.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-16515 **SWING CUTOFF SAWS.** The requirements of this section are also applicable to sliding cutoff saws mounted above the table.

(1) Each swing cutoff saw shall be provided with a hood that will completely enclose the upper half of the saw, the arbor end, and the point of operation at all positions of the saw. The hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters and broken saw teeth. Its hood shall be so designed that it will automatically cover the lower portion of the blade, so that when the saw is returned to the back of the table the hood will rise on top of the fence, and when the saw is moved forward the hood will drop on top of and remain in contact with the table or material being cut.

(2) Swing cutoff saws may be guarded with a fixed enclosure, fixed barrier guard, or a manually adjusted guard when specific conditions prevent use of the standard automatic adjusting guard. In those instances where alternate fixed-type guards are used, they must provide protection equivalent to the protection afforded by automatically adjusting guards. The alternate guards must be used in accordance with manufacturer's instructions and under sufficient supervision to ensure consistent compliance with the intent of the standard.

(3) Each swing cutoff saw shall be provided with an effective device to return the saw automatically to the back of the table when released at any point of its travel. Such a device shall not depend for its proper functioning upon any rope, cord, or spring. If there is a counterweight,

the bolts supporting the bar and counterweight shall be provided with cotter pins; and the counterweight shall be prevented from dropping by either a bolt passing through both the bar and counterweight, or a bolt put through the extreme end of the bar, or, where the counterweight does not encircle the bar, a safety chain attached to it.

((☞)) (4) Limit chains or other equally effective devices shall be provided to prevent the saw from swinging beyond the front or back edges of the table, or beyond a forward position where the gullets of the lowest saw teeth will rise above the table top.

((☞)) (5) Inverted swing cutoff saws shall be provided with a hood that will cover the part of the saw that protrudes above the top of the table or above the material being cut. It shall automatically adjust itself to the thickness of and remain in contact with the material being cut.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-550 **MEANS OF EGRESS.** Requirements for means of egress for all new and existing buildings shall be in accordance with specifications of National Fire Code, Volume 5, NFPA 101, Chapter 5, 1985 Ed., which is approved by the American National Standards Institute.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-24-58513 **PROTECTIVE CLOTHING.** The following requirements apply to those employees who perform interior structural fire fighting. The requirements do not apply to employees who use fire extinguishers or standpipe systems to control or extinguish fires only in the incipient stage.

(1) General.

(a) The employer shall provide at no cost to the employee and assure the use of protective clothing which complies with the requirements of this section. The employer shall assure that protective clothing ordered or purchased after January 1, 1982, meets the requirements contained in this section. As the new equipment is provided, the employer shall assure that all fire brigade members wear the equipment when performing interior structural fire fighting. After July 1, 1985, the employer shall assure that all fire brigade members wear protective clothing meeting the requirements of this section when performing interior structural fire fighting.

(b) The employer shall assure that protective clothing protects the head, body, and extremities, and consists of at least the following components: Foot and leg protection; hand protection; body protection; eye, face and head protection.

(2) Foot and leg protection.

(a) Foot and leg protection shall meet the requirements of (b) and (c) of this subsection, and may be achieved by either of the following methods:

(i) Fully extended boots which provide protection for the legs; or

(ii) Protective shoes or boots worn in combination with protective trousers that meet the requirements of subsection (3) of this section.

(b) Protective footwear shall meet the requirements of WAC 296-24-088 for Class 75 footwear. In addition, protective footwear shall be water-resistant for at least five inches (12.7 cm) above the bottom of the heel and shall be equipped with slip-resistant outer soles.

(c) Protective footwear shall be tested in accordance with paragraph (1) Appendix E, and shall provide protection against penetration of the midsole by a size 8D common nail when at least 300 pounds (1330 N) of static force is applied to the nail.

(3) Body protection.

(a) Body protection shall be coordinated with foot and leg protection to ensure full body protection for the wearer. This shall be achieved by one of the following methods:

(i) Wearing of a fire-resistant coat meeting the requirements of (b) of this subsection, in combination with fully extended boots meeting the requirements of subsection (2)(b) and (c) of this section; or

(ii) Wearing of fire-resistant coat in combination with protective trousers both of which meet the requirements of (b) of this subsection.

(b) The performance, construction, and testing of fire-resistant coats and protective trousers shall be at least equivalent to the requirements of the National Fire Protection Association (NFPA) standard NFPA No. 1971-1975, "Protective Clothing for Structural Fire Fighting," (see WAC 296-24-63499, Appendix D) with the following permissible variations from those requirements:

(i) Tearing strength of the outer shell shall be a minimum of eight pounds (35.6 N) in any direction when tested in accordance with paragraph (2) of WAC 296-24-63599, Appendix E; and

(ii) The outer shell may discolor but shall not separate or melt when placed in a forced air laboratory oven at a temperature of 500°F (260°C) for a period of five minutes. After cooling to ambient temperature and using the test method specified in paragraph (3) of WAC 296-24-63599 Appendix E, char length shall not exceed 4.0 inches (10.2 cm) and after-flame shall not exceed 2.0 seconds.

(4) Hand protection.

(a) Hand protection shall consist of protective gloves or glove system which will provide protection against cut, puncture, and heat penetration. Gloves or glove system shall be tested in accordance with the test methods contained in the National Institute for Occupational Safety and Health (NIOSH) 1976 publication, "The Development of Criteria for Fire Fighter's Gloves; Vol. II, Part II: Test Methods," (see WAC 296-24-63499, Appendix D to Subpart L) and shall meet the following criteria for cut, puncture, and heat penetration:

(i) Materials used for gloves shall resist surface cut by a blade with an edge having a 60 degree included angle and a .001 inch (.0025 cm.) radius, under an applied force of 16 lbf (72N) and at a slicing velocity of greater or equal to 60 in/min. (2.5 cm/sec);

(ii) Materials used for the palm and palm side of the fingers shall resist puncture by a penetrometer (simulating a 4d lath nail), under an applied force of 13.2 lbf (60N) and at a velocity greater or equal to 20 in/min. (.85 cm/sec); and

(iii) The temperature inside the palm and gripping surface of the fingers of gloves shall not exceed 135°F (57°C) when gloves or glove system are exposed to 932°F (500°C) for five seconds at 4 psi (28 kPa) pressure.

(b) Exterior materials of gloves shall be flame resistant and shall be tested in accordance with paragraph (3) of Appendix E. Maximum allowable after-flame shall be 2.0 seconds, and the maximum char length shall be 4.0 inches (10.2 cm).

(c) When design of the fire-resistant coat does not otherwise provide protection for the wrists, protective gloves shall have wristlets of at least 4.0 inches (10.2 cm) in length to protect the wrist area when the arms are extended upward and outward from the body.

(5) Head, eye and face protection.

(a) Head protection shall consist of a protective head device with ear flaps and chin strap which meet the performance, construction, and testing requirements of the National Fire Safety and Research Office of the National Fire Prevention and Control Administration, United States Department of Commerce (now known as the United States Fire Administration), which are contained in, "Model Performance Criteria for Structural Firefighters' Helmets," (August 1977) (see WAC 296-24-63499, Appendix D).

(b) Protective eye and face devices which comply with WAC 296-24-078 shall be used by fire brigade members when performing operations where the hazards of flying or falling materials which may cause eye and face injuries are present. Protective eye and face devices provided as accessories to protective head devices (face shields) are permitted when such devices meet the requirements of WAC 296-24-078.

(c) Full facepieces, helmets, or hoods of breathing apparatus which meet the requirements of WAC 296-62-071 and 296-24-58515, shall be acceptable as meeting the eye and face protection requirements of (b) of this subsection.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-75009 STAIRWAY RAILINGS AND GUARDS.

(1) Every flight of stairs having four or more risers shall be equipped with standard stair railings or standard handrails as specified in (a) through (e) of this rule, the width of the stair to be measured clear of all obstructions except handrails:

(a) On stairways less than 44 inches wide having both sides enclosed, at least one handrail, preferably on the right side descending.

(b) On stairways less than 44 inches wide having one side open, at least one stair railing on open side.

(c) On stairways less than 44 inches wide having both sides open, one stair railing on each side.

(d) On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side.

(e) On stairways 88 or more inches wide, one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing located approximately midway of the width.

(2) Winding stairs shall be equipped with a handrail offset to prevent walking on all portions of the treads having width less than 6 inches.

(3) Nonindustrial and "monumental" steps are excluded as they are not "industrial" stairs; however, when public and private building steps are located at loading or receiving docks, in maintenance areas, etc., or are used exclusively by employees, the requirements of this standard shall apply.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-81005 SPECIFIC FEATURES. (1) Rungs and cleats.

(a) All rungs shall have a minimum diameter of three-fourths inch for metal ladders, except as covered in subsection (7)(a) of this section, and a minimum diameter of 1 1/8 inches for wood ladders.

(b) The distance between rungs, cleats, and steps shall not exceed 12 inches and shall be uniform throughout the length of the ladder.

(c) The minimum clear length of rungs or cleats shall be 16 inches.

(d) Rungs, cleats, and steps shall be free of splinters, sharp edges, burrs, or projections which may be a hazard.

(e) The rungs of an individual-rung ladder shall be so designed that the foot cannot slide off the end(:) (A suggested design is shown in Figure D-1, at the end of this section(:)) or be treated with anti-slip type paint or treatment.

(f) Such rungs or steps installed in the walls of risers or conical top sections of manholes shall be uniformly spaced from 12 inches to 16 1/2 inches apart and be a minimum of 10 inches in length.

(i) The manhole rungs or steps shall have a minimum of 4 inches of clearance between the rung or step and the wall.

(ii) The manhole rung or step shall be capable of sustaining a single concentrated load of 300 pounds.

(2) Side rails. Side rails which might be used as a climbing aid shall be of such cross sections as to afford adequate gripping surface without sharp edges, splinters, or burrs.

(3) Fastenings. Fastenings shall be an integral part of fixed ladder design.

(4) Splices. All splices made by whatever means shall meet design requirements as noted in WAC 296-24-81003(1). All splices and connections shall have smooth transition with original members and with no sharp or extensive projections.

(a) When fixed ladders are spliced the splice plates shall be the same depth as side rails.

(b) The length of the splice plates shall be four times the depth of the side rail. They shall be of metal not less than one-fourth of an inch in thickness and chamfered on all exposed edges.

(c) Splice plates shall be secured by bolts or rivets with the heads countersunk or of the button type.

(d) The heads shall be on the outside of the rail.

(e) The bolts or rivets shall be not less than one-half inch nor more than five-eighths inch in diameter.

(f) The bolt ends shall be chamfered with only the chamfered end extending beyond the nut.

(g) Both ends of the rivet shall be button shape.

(h) Washers shall be placed under the nuts and rivet ends on wood side rails.

(i) There shall be a minimum of three bolts or rivets on each side of the joint for metal side rails and a minimum of four bolts or rivets for wood side rails.

(j) Bolts and rivets in both metal and wood side rails shall be staggered in position.

(5) Electrolytic action. Adequate means shall be employed to protect dissimilar metals from electrolytic action when such metals are joined.

(6) Welding. All welding shall be in accordance with the "Code for Welding in Building Construction" (AWS D1.0-1966).

(7) Protection from deterioration.

(a) Metal ladders and appurtenances shall be painted or otherwise treated to resist corrosion and rusting when location demands. Ladders formed by individual metal rungs imbedded in concrete, which serve as access to pits and to other areas under floors, are frequently located in an atmosphere that causes corrosion and rusting. To increase rung life in such atmosphere, individual metal rungs shall have a minimum diameter of 1 inch or shall be painted or otherwise treated to resist corrosion and rusting.

(b) Wood ladders, when used under conditions where decay may occur, shall be treated with a nonirritating preservative, and the details shall be such as to prevent or minimize the accumulation of water on wood parts.

(c) When different types of materials are used in the construction of a ladder, the materials used shall be so treated as to have no deleterious effect one upon the other.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-07501 GENERAL REQUIREMENTS. (1) Application.

(a) Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided to employees at no cost, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) Employee owned equipment. Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

((+)) (2) Design. All personal protective equipment shall be of safe design and construction for the work to be performed.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-07801 GENERAL. (1) Protective eye and face equipment shall be required where there is a reasonable probability of injury that can be prevented by such equipment. In such cases, employers shall ((make conveniently available)) provide to employees at no cost, a type of protector suitable for the work to be performed, and employees shall use such protectors. No unprotected person shall knowingly be subjected to a hazardous environmental condition. Suitable eye protectors shall be provided at no cost to employees where machines or operations present the hazard of flying objects, glare, liquids, injurious radiation, or a combination of these hazards.

(2) Protectors shall:

(a) Provide adequate protection against the particular hazards for which they are designed.

(b) Be reasonably comfortable when worn under the designated conditions.

(c) Fit snugly and shall not unduly interfere with the movements of the wearer.

(d) Be durable.

(e) Be capable of being disinfected.

(f) Be easily cleanable.

(3) Protectors should be kept clean and in good repair.

(4) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to wear eye protection, shall wear goggles or spectacles of one of the following types:

(a) Spectacles whose protective lenses provide optical correction.

(b) Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.

(c) Goggles that incorporate corrective lenses mounted behind the protective lenses.

(5) Every protector shall be distinctly marked to facilitate identification of the manufacturer.

(6) When limitations or precautions are indicated by the manufacturer, they shall be transmitted to the user and care taken to see that such limitations and precautions are strictly observed.

(7) Design, construction, testing, and use of devices for eye and face protection shall be in accordance with American National Standard for Occupational and Educational Eye and Face Protection, Z87.1-1968.

AMENDATORY SECTION (Amending Order 76-6, filed 3/1/76)

WAC 296-24-086 PERSONAL FLOTATION DEVICES. (1) Employees working on, over or along water, where the danger of drowning exists, shall be provided with, at no cost to the employees, and shall wear approved personal flotation devices.

(a) Employees are not considered exposed to the danger of drowning when:

(i) The water depth is known to be less than chest deep on the exposed individual;

(ii) When working behind standard height and strength guardrails;

(iii) When working inside operating cabs or stations which eliminate the possibility of accidentally falling into the water;

(iv) When wearing approved safety belts with lifeline attached so as to preclude the possibility of falling into the water.

(b) Prior to and after each use, personal flotation devices shall be inspected for defects which would reduce their designed effectiveness. Defective personal flotation devices shall not be used.

(c) To meet the approved criteria required by subdivision (1), a personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable type personal flotation devices are specifically prohibited.

(2) Life ring.

(a) Along docks, walkways or other fixed installations on or adjacent to open water more than five feet deep, approved life rings with line attached shall be provided. The life rings shall be spaced at intervals not to exceed 200 feet and shall be kept in easily visible and readily accessible locations.

(b) When employees are assigned work at other casual locations where exposure to drowning exists, at least one approved life ring with line attached shall be provided by the employer in the immediate vicinity of the work assigned.

(c) Work assigned over water where the vertical drop from an accidental fall would exceed 50 feet, shall be subject to specific procedures as approved by the department.

(d) Lines attached to life rings shall be at least 90 feet in length, at least 1/4 inch in diameter and have a minimum breaking strength of 500 pounds.

(e) Life rings must be United States Coast Guard approved 30 inch size.

(f) Life rings and attached lines must be maintained to retain at least 75 percent of their designed buoyance and strength.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-24-15001 MACHINE GUARDING. (1) Types of guarding. One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are—barrier guards, two-hand tripping devices, electronic safety devices, etc.

(2) General requirements for machine guards. Guards shall be affixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself.

(3) Point of operation guarding.

(a) Point of operation is the area on a machine where work is actually performed upon the material being processed.

(b) The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be in conformity with any appropriate standards therefor, or, in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle.

(c) Circular meat cutting saws shall be guarded in one of the following ways:

(i) A suspended counter-balanced circular meat cutting saw that requires two-handed operation shall be deemed adequately guarded if provided with a guard that covers at least twenty-five degrees of the circumference of the blade and it conforms to the requirements of (c)(iv) of this subsection.

(ii) A suspended counter-balanced circular meat cutting saw that requires only one-handed operation shall be deemed adequately guarded if provided with a guard that covers at least ninety degrees of the circumference of the blade and it conforms to the requirements of (c)(iv) of this subsection.

(iii) A nonsuspended circular meat saw, either one-handed or two-handed operation, shall be deemed adequately guarded if provided with a guard that covers at least ninety degrees of the circumference of the blade and it conforms to the requirements of (c)(iv) of this subsection.

(iv) All circular meat cutting saws shall conform to the following:

(A) A "deadman" control shall be required.

(B) The guard protecting the operator from contact with the blade shall be located between the operator and the blade.

(C) The maximum number of degrees of circumferential guarding of the blade shall be provided based on specific applications in meat cutting operations.

(D) A brake that automatically activates upon release of the operating control(s) is required.

(d) Special handtools for placing and removing material shall be such as to permit easy handling of material without the operator placing a hand in the danger zone. Such tools shall not be in lieu of other guarding required by this section, but can only be used to supplement protection provided.

(e) The following are some of the machines which usually require point of operation guarding:

- (i) Guillotine cutters.
- (ii) Shears.
- (iii) Alligator shears.
- (iv) Power presses. (Including platen presses.)
- (v) Milling machines.
- (vi) Power saws.
- (vii) Jointers.
- (viii) Portable power tools.
- (ix) Forming rolls and calenders.

(4) Barrels, containers, and drums. Revolving drums, barrels, and containers shall be guarded by an enclosure which is interlocked with the drive mechanism, so that the barrel, drum, or container cannot revolve unless the guard enclosure is in place.

(5) Exposure of blades. When the periphery of the blades of a fan is less than seven feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch. Safeguards shall be so constructed that rods, pipes, or like material being handled by workmen will not enter same, and come in contact with moving machinery. Fan blade guards of any material are acceptable where the material provides protection to workers and meets the requirements of figure O-12 of WAC 296-24-18005(5).

(6) Cams and other machine parts which move in such a manner as to create shearing or crushing hazards shall, if exposed to contact, be guarded with a standard safeguard.

(7) Guarding food waste disposal equipment. "Garb-el" or equipment with similar configuration and operational characteristics, will have the worm screw conveyor completely covered by a properly designed and mounted trimboard cover in place during operation of the mechanism.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-24-16517 RADIAL SAWS. (1) The upper hood shall completely enclose the upper portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters, broken saw teeth, etc., and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock being cut to give maximum protection possible for the operation being performed.

(2) Each radial saw used for ripping shall be provided with non-kickback fingers or dogs located on both sides of the saw so as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be designed to provide adequate holding power for all the thickness of material being cut.

(3) An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut.

(4) Installation shall be in such a manner that the front end of the unit will be slightly higher than the rear, so as to cause the cutting head to return to the starting position in the following manner when released by the operator:

- (a) The cutting head or carriage shall return to the rest or starting position in a gentle motion;
- (b) The cutting head or carriage shall not bounce or recoil when reaching the rest or starting position; and
- (c) The cutting head or carriage will remain in the rest or starting position.

(5) Ripping and ploughing shall be against the direction in which the saw turns. The direction of the saw rotation shall be conspicuously marked on the hood. In addition, a permanent label not less than 1 1/2 inches by 3/4 inch with standard proportional lettering shall be affixed to the rear of the guard hood at approximately the level of the arbor, where the blade teeth exit the upper hood during the operation of the saw, reading as follows: "Danger: Do not rip or plough from this end." Such a label shall be colored standard danger red.

(6) Radial saws may be guarded with a fixed enclosure, fixed barrier guard, or a manually adjusted guard when specific conditions prevent use of the standard automatic adjusting guard. In those instances where alternate fixed-type guards are used, they must provide protection equivalent to the protection afforded by automatically adjusting guards. The alternate guards must be used in accordance with manufacturer's instruction and under sufficient supervision to ensure consistent compliance with the intent of the standard.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-24-20503 GENERAL REQUIREMENTS. (1) This section covers all types and shapes of power-transmission belts, except the following when operating at two hundred and fifty feet per minute or less:

- (a) Flat belts one inch or less in width.
- (b) Flat belts two inches or less in width which are free from metal lacings or fasteners.
- (c) Round belts one-half inch or less in diameter.
- (d) Single strand V-belts, the width of which is thirteen thirty-seconds inch or less.

(2) Vertical and inclined belts (WAC 296-24-20511 (3) and (4)) if not more than two and one-half inches wide and running at a speed of less than one thousand feet per minute, and if free from metal lacings or fastenings may be guarded with a nip-point belt and pulley guard.

(3) For the textile industry, because of the presence of excessive deposits of lint, which constitute a serious fire hazard, the sides and face sections only of nip-point belt and pulley guards are required, provided the guard shall extend at least six inches beyond the rim of the pulley on the in-running and off-running sides of the belt and at least two inches away from the rim and face of the pulley in all other directions.

(4) These standards cover the principal features with which power transmission safeguards shall comply. When there is no possibility of employee contact with power transmission belts during operation, the belts are "guarded by location" and no further guarding is required.

(5) The following criteria will apply when evaluating handwheels, nip points, and belts above the table top on light (domestic) and medium duty sewing machines for compliance. The conditions will apply in general industry and the light apparel manufacturing industries on machines using flat and round belts without metal lacings and fasteners. Machines used to sew materials such as leather, heavy canvas, denim, vinyl, or other types of heavy material are not included.

(a) The operator's hands are not in, near or on the wheel, nip point, or belt area when the machine is operating.

(b) The distance between the area where the operator is holding and feeding material with both hands, and the belt or wheel location, is sufficient to not expose the operator to the hazards.

(c) The table top is of sufficient size or arrangement to not expose any other employee in the work area or passing by the work area to the hazards.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-76503 APPLICATION OF REQUIREMENTS. This section contains specifications for the safe design and construction of fixed general industrial stairs. This classification includes interior and exterior stairs around machinery, tanks, and other equipment, and stairs leading to or from floors, platforms, or pits. This section does not apply to stairs used for fire exit purposes, to construction operations, to private buildings or residences, or to articulated stairs, such as may be installed on floating roof tanks or on dock facilities, the angle of which changes with the rise and fall of the base support.

When stairs of public and private buildings are located at loading or receiving docks, in maintenance areas, etc., or are used exclusively by employees, the term "fixed industrial steps" will apply and be evaluated accordingly.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-78007 CONSTRUCTION REQUIREMENTS. (1) Basis of requirements.

(a) Dimensions specified hereinafter for wood ladders are the minimum dressed cross-sectional dimensions for the types of ladders herein designated, based on the species of woods specified in WAC 296-24-78005(4), at a moisture content of 15 percent. The dimensions for side rails are based on a mortise or gain as specified for the various types of ladders for step or rung attachments. Where the strength of the side

rails or back legs is reduced by a greater mortise or gain than shown, or where it is desired to use a cross section for any wood part either dimension of which is less than that specified, the required dimensions may be found as indicated in (1)(b) of this section.

(b) For the side rails of single extension and sectional ladders, the proposed section shall develop an actual stress per square inch not greater than 2,150 pounds for Group 1 woods, 2,000 pounds for Group 2 woods, 1,600 pounds for Group 3 woods, or 1,375 pounds for Group 4 woods when computed by the following formula applying to rectangular sections, with a maximum tolerance of 5 percent over these stresses:

$$S = \frac{3 LD (P+W/16)}{2B (D^3-d^3)} = \frac{1.5 LD (25+W/16)}{B (D^3-0.67)}$$

P = 25 pounds, which is the normal component on each rail of a load of 200 pounds at the center of the ladder, equally distributed between the rails, when the foot of the ladder is moved out of the perpendicular by one-quarter of its length.

S = Stress in extreme fiber in pounds per square inch.

W = Weight of ladder in pounds.

L = Maximum working length of ladder in inches.

B = Net thickness of each side rail in inches.

D = Depth of side rail in inches.

d = Diameter of hole board for rung (d^3 shall be taken as not less than 0.67).

(c) Adjustment of sizes for wood parts of stepladders and other ladder types covered by this section may be made as follows:

(i) The dimensions specified in later sections for parts having rectangular cross sections generally represent only one of a number of possible combinations of thickness and width which could satisfy the requirements for strength and stiffness. Depending upon the material sizes available, manufacturing practices, and like factors, parts produced by a particular manufacturer may or may not agree exactly with the sizes given later. The following provisions provide means for determining equality of load-carrying capacity of parts of different sizes or of determining sizes needed to provide equality.

(ii) Any changes in dimensions shall result in a change in the width-thickness ratio for side rails of back legs not greater than 25 percent from the ratio for a corresponding ladder as now covered in this section.

(iii) Where both dimensions are different from those specified, the load-carrying capacity in bending of a part will be equal to or greater than that of a part of specified dimensions if the ratio P_2/P_1 is not less than 1, where

$$\frac{P_2}{P_1} = \frac{B_2 D_2^2}{B_1 D_1^2}$$

and

B = Dimension of the part at right angles to the direction of load (width of a step, thickness of a side rail or back leg).

D = Dimension of the part parallel to the direction of load (thickness of a step, width of a side rail or back leg).

$B_1 D_1$ = Dimensions as specified.

$B_2 D_2$ = Dimensions of part being considered.

(iv) The dimensions to be used in the computations are net dimensions. For example, in the case of a stepladder side rail, the dimension B is to be taken as the gross thickness of the rail minus the depth of the gain for the steps. Where there is a rung hole at the center of depth of a rail, a somewhat more accurate comparison may be made by the use of the formula

$$\frac{P_2}{P_1} = \frac{B_2 D_1 (D_2^3 - d^3)}{B_1 D_2 (D_1^3 - d^3)}$$

where the symbols have the same meanings as before and d is the diameter of the hole for the rung tenon. In most instances the difference in results calculated by this and by the earlier formula will be slight.

(2) Portable stepladders. Stepladders longer than 20 feet shall not be supplied. Stepladders as hereinafter specified shall be of three types:

Type I—Industrial stepladder, 3 to 20 feet for heavy duty, such as utilities, contractors, and industrial use.

Type II—Commercial stepladder, 3 to 12 feet for medium duty, such as painters, offices, and light industrial use.

Type III—Household stepladder, 3 to 6 feet for light duty, such as light household use.

(a) General requirements.

(i) Slope is the inclination of side rails or back legs with respect to the vertical and is expressed as a deviation from the vertical per unit length of the member. Stepladders shall be so constructed, that when in the open position, the slope of the front section shall not be less than 3 1/2 inches and the slope of the back section not less than 2 inches, for each 12-inch length of side rail.

(ii) A uniform step spacing shall be employed which shall be not more than 12 inches. Steps shall be parallel and level when the ladder is in position for use.

(iii) The minimum width between side rails at the top, inside to inside, shall be not less than 11 1/2 inches. From top to bottom, the side rails shall spread at least 1 inch for each foot of length of stepladder.

(iv) When minimum thickness of side rails is used, steps shall be closely fitted into the grooves in the side rails one-eighth inch in depth with a tolerance of one thirty-second inch, and shall be firmly secured as hereinafter described; or they shall be closely fitted into metal brackets of an equivalent strength, which in turn shall be firmly secured to the side rails. The depth of groove herein provided may be increased in proportion to the thickness of side rails as provided in WAC 296-24-78007 (2)(b), (c) and (d).

(v) All stepladders shall have a top with wood or metal brackets or fittings tightly secured to the top, side rails, and back legs, to allow free swinging of the back section without excessive play or wear at the joints.

(vi) A metal spreader or locking device of sufficient size and strength to securely hold the front and back sections in open positions shall be a component of each stepladder. The spreader shall have all sharp points covered or removed to protect the user. For Type III ladder, the pail shelf and spreader may be combined in one unit (the so-called shelf-lock ladder).

(vii) When measured along the front edge of the side rails, all stepladders shall measure within 3 inches of the specified length.

(viii) Where bucket shelves are provided, they shall be constructed to support a load of 25 pounds and shall be so fastened that they can be folded up when the ladder is closed.

(ix) All metal parts and fittings shall be securely attached by means of rivets, bolts, screws, or equivalent fasteners.

(b) Type I industrial stepladder.

(i) The minimum dimensions of the parts of the Type I stepladder shall be as shown in Table D-2 when made of Group 2 or Group 3 woods.

(A) The minimum thickness of side rails provides for the cutting of a groove of one-eighth inch in depth with the tolerance indicated in WAC 296-24-78007 (2)(a)(iv), and shall be increased when grooves of greater depth are used.

(ii) Steps shall be secured with at least two 6-d nails at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 3/16 inch in diameter with standard commercial tolerances, which shall pass through metal washers of sufficient thickness and diameter on each end to prevent pressing—into the side rails, and a truss block which shall be fitted between the rod and the center of each step, or by a metal angle brace on each end firmly secured to the steps and side rails, or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rails. In addition, all steps 3 5/8 inches wide and 27 inches or more in overall length and all steps 4 1/4 inches wide and 32 inches or more in overall length shall be provided with a metal angle brace at each end securely attached to the step and side rail.

(iii) The back section shall be braced by one of the following methods:

(A) The back legs shall be braced with 1 1/8-inch diameter rungs of Group 1 woods (see Table D-5), or material of equivalent strength, having 7/8-inch diameter tenons or oval wood rungs, or rectangular wood rungs of equivalent strength, spaced not more than 12 inches apart. The back legs shall be bored with holes either extending through the legs or to within three-sixteenths inch of the outside face of the legs, the size of the hole to be such as to insure a tight fit for the rung. The shoulder of the rung shall be forced firmly against the leg, and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning of the rungs. The back legs shall be braced by a metal angle brace on each side, securely fastened to the rung and the back legs, one rung to be braced for each 4 feet of length or fraction thereof, on

ladders 4 feet or more in length, with braces required only on the bottom rung for ladders that are 4 feet or shorter. Where rungs are more than 28 inches in length between the back legs they shall be provided with center bearing consisting of a wood bar not less than 3/4 by 2 inches in a cross-section securely nailed to each rung passing through it and long enough to include each rung longer than 28 inches.

(B) The back leg shall be braced with horizontal wood bars of Group 1, 2, or 3 woods in Table D-5 and not less than 3/4 by 2 1/2 inches in cross-section, spaced not more than 12 inches apart. The ends of the bars shall fit into metal sockets of not less than 20-gauge (manufacturers standard) steel, or other material of equivalent strength, or into mortises of not less than one-eighth inch (tolerance of ± one-thirty-second inch) in depth in the back legs. A steel rod not less than 3/16 inch in diameter with standard commercial tolerance shall pass through the back legs, the bar, and at each end through metal washers of sufficient diameter and thickness to prevent passing into the back legs. The back legs shall also be braced by a metal angle brace on each side, securely fastened to the bar and to the legs, one bar to be so braced for at least each 4 feet of length or fraction thereof, with braces required only on bottom bar for ladders that are 4 feet or shorter. Metal sockets when used shall be attached to the back legs by rivets or by means of a rod running through the socket or equivalent thereof.

(iv) The back legs shall be reinforced by a rivet through the depth of the leg above the hinge point, by metal plates or collars at the hinge point, or by other means suitable for preventing splitting of the back leg from the hinge pin to the top.

(c) Type II commercial stepladder.

(i) The minimum dimensions of the parts of the Type II stepladder shall be as given in Table D-3 when made of Group 2 or Group 3 woods.

(A) The minimum thickness of side rails provides for the cutting of a groove of one-eighth inch in depth with the tolerance indicated in (2)(a)(iv), and shall be increased when grooves of greater depth are used.

(ii) Steps shall be secured with at least two 6-d nails at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 3/16 inch in diameter with standard commercial tolerances which shall pass through metal washers of sufficient thickness and diameter on each end to prevent pressing into the side rails, and a truss block shall be fitted between the truss rod and center of each step; or by a metal angle brace on each end firmly secured to the steps and side rails; or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rails. In addition all steps 27 inches or more in overall length shall be provided with a metal angle brace at each end securely attached to the step and side rails.

(iii) The back legs shall be braced by one of the three following methods:

(A) With 7/8-inch diameter wood dowels of Group 1 woods (see Table D-5) or material of equivalent strength having not less than 5/8-inch tenons firmly secured in the back legs and spaced not more than 12 inches apart. The back legs shall be bored with holes either extending through the legs or to within three-sixteenths inch of the outside face of the legs, the size of the hole to be such as to insure a tight fit for the dowel. The shoulder of the dowel shall be forced firmly against the leg and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning of the dowel.

(aa) A bar connecting two or more of the dowels shall be provided on all ladders of 6 feet or more. The cross-sectional dimensions of the bar shall be the same as the cross-sectional dimensions of the back legs, and the dowels shall pass through holes at the centerline of the bar. The bar shall be attached at the center of the length of the lower two dowels on a 6-foot ladder and shall extend upward one dowel for each 2 feet of added length.

(B) With wood dowels as set forth in (2)(c)(iii)(A) of this section, plus an inverted V bracing of 3/4-inch by 1 1/2-inch material through which the dowels extend, the length of the V to extend two-thirds of the way up the back.

(C) With horizontal bracing of Group 1, 2, 3, or 4 woods (see Table D-5) not less than 3/4 by 2 inches in cross-section, the ends of which shall fit into metal sockets of not less than 20-gauge (manufacturing standard), steel, or other material of equivalent strength or into mortises not less than one-eighth inch in depth in back legs. The bars shall be reinforced by steel rods not less than 3/16 inch in diameter with standard commercial tolerances which shall pass through the back

legs, the bar, and, at each end, through metal washers of sufficient diameter and thickness to prevent pressing into the back legs. The spacing of such braces shall not exceed 3 feet, and there shall be one brace on 3- and 4-foot ladders, two braces on 5- and 6-foot ladders, three braces on 7- and 8-foot ladders, and four braces on 10- and 12-foot ladders. The bottom bar shall not be more than 18 inches from the bottom of the ladder, and, where only one bar is used, it shall be braced by a metal angle brace on each end securely attached to the bar and the back leg.

(d) Type III household stepladder.

(i) The minimum dimensions of the parts of the Type III stepladder shall be as follows when made of Group 2 or Group 3 woods.

	Length, 3 to 6 feet	
	Thickness (inch)	Depth (inches)
Side rails	3/4	2 1/2
Back legs	3/4	1 5/16
Steps	3/4	3
Top	3/4	5

The minimum thicknesses of side rails provide for the cutting of a groove one-eighth inch in depth with the tolerance indicated in WAC 296-24-78007 (2)(a)(iv), and shall be increased when grooves of greater depth are used.

(ii) Steps shall be secured with at least one 6-d nail at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 3/16 inch in diameter with standard commercial tolerance which shall pass through metal washers of sufficient thickness and diameter to prevent pressing into the side rails, or by a metal brace at each end firmly secured to steps and side rails or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rail.

(iii) Back legs shall be braced by one of the two following methods or by construction of equivalent strength and safety:

(A) By diagonal slates of groups 1, 2, 3, or 4 wood (see Table D-5) not less than 5/16 by 1 1/4 inches securely fastened to the back legs by nails, screws, or the equivalent thereof.

(B) With horizontal bracing of Groups 1, 2, 3, or 4 wood (see Table D-5) not less than 5/8 by 1 5/8 inches in cross section, the ends of which shall fit into metal sockets of not less than 20-gauge (manufacturing standard) steel or other material of equivalent strength or into mortises not less than one-eighth inch in depth in back legs. The bars shall be reinforced by steel rods not less than 3/16 inch in diameter with standard commercial tolerances which shall pass through the back leg, the bar, and at each end through metal washers of sufficient diameter and thickness to prevent pressing into each leg. The spacing of such bars shall not exceed 3 feet, and there shall be one brace on 3- and 4-foot ladders, two braces on 5- and 6-foot ladders. The bottom bar shall be not more than 18 inches from the bottom of the ladder.

(3) Portable rung ladders. Portable rung ladders as herein specified shall be of four types, as follows: Single ladder; two-section extension ladder; section ladder; trestle and extension trestle ladder.

(a) General requirements.

(i) The base or lower portion of a ladder may have either parallel sides or flared sides in accordance with commercial practice.

(ii) Rungs shall be parallel, level, and uniformly spaced. The spacing shall be not more than 12 inches, except as hereinafter specified.

TABLE D-2

DIMENSIONS FOR TYPE I STEP LADDER

	Length, 12 feet and less		Length, 14 and 16 feet		Length, 18 and 20 feet	
	Thickness (inch)	Depth (inches)	Thickness (inch)	Depth (inches)	Thickness (inch)	Depth (inches)
Side rails	3/4	3 1/4	3/4	3 1/2	1 1/16	3 1/2
Back legs	3/4	2 1/4	3/4	2 5/8	1 1/16	2 1/4
Steps	3/4	3 5/8	3/4	4 1/4	3/4	4 1/4
Tops	3/4	5 1/2	3/4	5 1/2	3/4	5 1/2

TABLE D-3
DIMENSIONS FOR TYPE II STEP LADDER

	Length, 3 to 8 feet		Length, 10 feet		Length, 12 feet	
	Thickness (inch)	Depth (inches)	Thickness (inch)	Depth (inches)	Thickness (inch)	Depth (inches)
Side rails	3/4	2 5/8	3/4	2 5/8	3/4	3
Back legs	3/4	1 5/8	3/4	1 3/4	3/4	2
Steps	3/4	3 1/2	3/4	3 1/2	3/4	3 5/8
Tops	3/4	5	3/4	5	3/4	5

(iii) All holes for wood rungs shall either extend through the side rails or be bored so as to give at least a thirteen-sixteenths-inch length of bearing to the rung tenon. In throughbored construction, the rungs shall extend at least flush with the outside rail surface. All holes shall be located on the center line of the wide face of the side rails and shall be of such size as to insure a tight fit for the rung. The shoulder of the rung shall be forced firmly against the side rails and the tenon secured in place with a nail or the equivalent thereof, for the sole purpose of preventing the turning of the rung and maintaining the rung position in the side rail. Ladders used with ladder jacks shall be a 3/16 inch metal tie rod immediately under each rung.

(iv) Round rungs shall be of Group 1 woods (see Table D-5), shall be not less than 1 1/8 inches in diameter for lengths over 36 inches between side rails and 1 1/4 inches in diameter for lengths over 36 up to and including 72 inches, and shall have not less than seven-eighths-inch-diameter tenons, or rungs of equivalent strength and bearing shall be provided. When rungs are 28 inches or more in length between side rails, they shall, in addition, be provided with center bearing.

(v) Oval rungs or rungs of any other cross section may be used provided they are secured by a nail at each end or the equivalent thereof, and have at least the same strength and bearing as round rungs of the same length.

(vi) All metal parts and fittings shall be securely attached by means of rivets, bolts, screws, or equivalent fasteners.

(vii) The construction and assembly of the movable parts shall be such that they shall operate freely and securely without binding or unnecessary play.

(viii) When measured along the side rails, no rung ladder or section thereof shall be more than 4 inches shorter than the specified length.

(ix) Nonslip bases shall be securely bolted, riveted, or attached by equivalent construction to the side rails.

(x) Hooks shall be securely bolted or riveted to the side rails or equivalent construction and shall be of such dimensions as to withstand the loads imposed upon them.

(b) Single ladder.

(i) Single ladders longer than 30 feet shall not be supplied.

(ii) The minimum dimensions of the side rails of the single ladder shall be as follows when made of Group 2 or Group 3 woods:

Length of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 16	1 1/8	2 1/2
Over 16 up to and including 22	1 1/4	2 3/4
Over 22 up to and including 30	1 1/4	3

(iii) Smaller side rails will be acceptable in all ladders of this type when reinforced by a steel wire, rod, or strap running the length of the side rails and adequately secured thereto. Where such reinforcement is used, the reinforced rails shall be equivalent in strength to the side rails specified in this WAC 296-24-78007 (3)(b)(ii).

(iv) The width between the side rails at the base, inside to inside, shall be at least 11 1/2 inches for all ladders up to and including 10 feet. Such minimum widths shall be increased at least one-fourth inch for each additional 2 feet of length.

(c) Two-section ladder.

(i) Two-section extension ladders longer than 60 feet shall not be supplied. All ladders of this type shall consist of two sections, one to fit

within the side rails of the other, and arranged in such a manner that the upper section can be raised and lowered.

(ii) The minimum dimensions of the side rails of the two-section extension ladder shall be not less than specified in Table D-4.

(iii) The minimum dimensions of side rails set forth in Table D-4 are based on the maximum working length, which is the size of ladder less the minimum overlap, which shall be as follows:

Size of ladder (feet):	Overlap (feet)
Up to and including 36	3
Over 36 up to and including 48	4
Over 48 up to and including 60	5

(iv) Smaller side rails will be acceptable in all ladders of this type when reinforced by a steel wire, rod, or strap running the length of the side rails and adequately secured thereto. Where such reinforcement is used, the reinforced rails shall be equivalent in strength to the side rails specified in Table D-4.

(v) The minimum distance between side rails of the bottom section, inside to inside, shall be 14 1/2 inches on ladders up to and including 28 feet; 16 inches on all ladders over 28 feet up to and including 40 feet; 18 inches on all ladders over 40 feet.

(vi) Rungs. Rungs shall be of white oak, ash, hickory, or wood of equivalent strength not less than 1 1/8 inches in diameter with at least a 7/8 inch diameter tenon. Where the distance between side rails is more than 28 inches rungs shall be supported in the center. Holes for wood rungs shall either extend through the side rails or be bored to give at least a 13/16 inch length of bearing to the rung tenon. In throughbored construction the rungs shall extend at least flush with the outside rail surface. Holes shall be located on the center line of the wide face of the side rails and shall be of such size as to be a tight fit for the rung. The shoulder of the rung shall be forced firmly against the side rails and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning. A 3/16 inch diameter tie rod shall be placed under each rung.

(vii) All locks and guide irons shall be of metal and shall be of such construction and strength as to develop the full strength of the side rails. All locks shall be positive in their action. The guide irons shall be securely attached and so placed as to prevent the upper section from tipping or falling out while raising, lowering, or in use.

(viii) Ladders of this type may be equipped with a rope and pulley, which shall be securely attached to the ladder in such manner as not to weaken either the rungs or the side rails. The pulley shall be not less than 1 1/4 inches in diameter.

(A) The rope used with the pulley shall be not less than five-sixteenths inch in diameter having a minimum breaking strength of 560 pounds, and shall be sufficient length for the purpose intended.

(d) Sectional ladder.

(i) Assembled combinations of sectional ladders longer than lengths specified in (3)(d)(ii) shall not be used.

(ii) The minimum dimensions of side rails shall be as follows for Group 2 or Group 3 woods:

Assembled length of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 21	1 1/8	2 3/4
Over 21 up to and including 31	1 1/8	3 1/8

TABLE D-4
DIMENSIONS OF SIDE RAILS FOR TWO-SECTION LADDER

Size of ladder, overall length (feet)	Rail	
	Thickness (inches)	Depth (inches)
For group 2 woods		
16	1 1/16	X 2
20	1 1/16	X 2 1/4
24	1 1/16	X 2 1/2

TABLE D-4

DIMENSIONS OF SIDE RAILS FOR TWO-SECTION LADDER

Size of ladder, overall length (feet)	Rail		
	Thickness (inches)		Depth (inches)
28	1 1/16	X	2 3/4
32	1 1/8	X	2 3/4
36	1 5/16	X	2 3/4
40	1 5/16	X	2 3/4
44	1 5/16	X	3

For group 3 woods

16	1 1/8	X	2
20	1 1/8	X	2 1/4
24	1 1/8	X	2 1/2
28	1 1/8	X	2 3/4
32	1 5/16	X	2 3/4
36	1 5/16	X	3
40	1 3/8	X	3
44	1 3/8	X	3 1/4
48-52	1 3/8	X	3 3/4
56-60	1 5/8	X	3 3/4

(iii) Ladders of this type shall have either straight sides slightly converging toward the top of each section, or shall have flaring sides at the bottom of the first (or bottom) section, with the top section having converging side rails to a width that shall be not less than 4 inches. Except for the top section, the minimum width between side rails shall be 11 inches.

(A) Adjacent sections shall be jointed by means of a groove in the bottom end of each rail of the upper of the two sections setting firmly over extensions outside the side rails, of the topmost rung of the next lower section and, at the same time, a groove in the top end of each rail of the lower of the two sections setting firmly over the bottom rung, inside the side rails, of the section next above.

(B) The distance between the two rungs (top-most rung of one section, bottom rung of the section next above) mentioned in WAC 296-24-78007 (3)(d)(iii)(A) shall not be less than 1 foot.

(C) The fit between rail grooves and rungs mentioned in WAC 296-24-78007 (3)(d)(iii)(A) shall be such as to provide a good fit without binding or unnecessary play.

(D) The grooved ends of the sections shall be reinforced with a metal plate of not less than 18-gauge (manufacturing standard) material properly secured thereto, and a rivet adjacent to the groove, extending through the depth of the rail, or the equivalent thereof.

(e) Trestle and extension trestle ladder.

(i) Trestle ladders, or extension sections or base sections of extension trestle ladders longer than 20 feet shall not be supplied.

(ii) The minimum dimensions of the side rails of the trestle ladder, or the base sections of the extension trestle ladder, shall be as follows for Group 2 or Group 3 woods.

Size of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 16	1 5/16	2 3/4
Over 16 up to and including 20	1 5/16	3

The minimum dimensions of the side rails of the extension section of the extension trestle ladder, which shall have parallel sides, shall be as follows for Group 2 or Group 3 woods.

Size of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 12	1 5/16	2 1/4
Over 12 up to and including 16	1 5/16	2 1/2
Over 16 up to and including 20	1 5/16	2 3/4

(iii) Trestle ladders and base sections of extension trestle ladders shall be so spread that when in an open position the spread of the trestle at the bottom, inside to inside, shall be at least 5 1/2 inches per foot of the length of the ladder.

(iv) The width between the side rails at the base of the trestle ladder and the base sections of the extension trestle ladder shall be at least 21 inches for all ladders and sections up to and including 6 feet. Longer lengths shall be increased at least 1 inch for each additional foot of length. The width between the side rails of the extension sections of the trestle ladder shall be not less than 12 inches.

(v) The tops of the side rails of the trestle ladder and of the base section of the extension trestle ladder shall be beveled or equivalent construction, and shall be provided further with a metal hinge to prevent spreading.

(vi) A metal spreader or locking device to hold the front and back sections in an open position, and to hold the extension section securely in the elevated position, shall be a component of all extension trestle ladders and all trestle ladders over 12 feet in length.

(vii) Rungs shall be parallel and level. On the trestle ladder, or on the base sections of the extension trestle ladder, rungs shall be spaced not less than 8 inches or more than 18 inches apart; on the extension section of the extension trestle ladder, rungs shall be spaced not less than 6 inches or more than 12 inches apart.

(viii) Rungs. Rungs shall be of white oak, ash, hickory, or wood of equivalent strength not less than 1 1/8 inches in diameter with at least a 7/8 inch diameter tenon. Where the distance between side rails is more than 28 inches rungs shall be supported in the center. Holes for wood rungs shall either extend through the side rails or be bored to give at least a 13/16 inch length of bearing to the rung tenon. In throughbored construction the rungs shall extend at least flush with the outside rail surface. Holes shall be located on the center line of the wide face of the side rails and shall be of such size as to be a tight fit for the rung. The shoulder of the rung shall be forced firmly against the side rails and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning. A 3/16 inch diameter tie rod shall be placed under each rung.

(4) Special-purpose ladders. All special-purpose ladders shall comply with the appropriate requirements of WAC 296-24-78007 (1), (2) and (3), except as hereinafter modified in this subsection.

(a) Platform stepladder. A platform stepladder is a modification of a portable stepladder with a working platform provided near the top.

(i) Platform stepladders shall be made in accordance with the requirements of Type I stepladders or in accordance with the requirements for Type II stepladders.

(ii) The slope of the back section shall be such that a vertical from the back edge of the platform will strike the floor at a distance measured toward the front section of not less than 3 inches from the base of the back section.

(iii) The minimum width between side rails at the platform shall be not less than 15 inches.

(iv) The back legs and side rails shall extend at least 24 inches above the platform and shall be connected with a top member to form a three-sided rail, or equivalent construction shall be provided.

(v) Platforms shall be so constructed as to be capable of supporting a load of 200 pounds placed at any point on the platform.

(vi) A separate spreader may be omitted from platform ladders in which the height to the platform is 6 feet or less. If the spreader is omitted, the platform shall be so designed as to function as a spreader or locking device to hold the front and back sections securely in an open position, with the connection between side rails and back legs being through the metal parts of the platform. The wood parts of a combined wood and metal platform functioning as a spreader shall not be depended upon to contribute to the spreading or locking action.

(b) Painter's stepladder.

(i) Painter's stepladders longer than 12 feet shall not be supplied.

(ii) Painter's stepladders shall be made in accordance with the requirements of Type II stepladders except for the following:

(A) The top may be omitted.

(B) A rope spreader may be substituted for the metal spreader required in WAC 296-24-78007 (2)(a)(vi). The rope shall not be less than No. 6 sash cord or its equivalent.

(c) Mason's ladder. A mason's ladder is a special type of single ladder intended for use in heavy construction work.

(i) Mason's ladders longer than 40 feet shall not be supplied.

(ii) The minimum dimensions of the side rails when made of Group 2 or Group 3 woods and rungs (Group 1 woods) of the mason's ladder shall be as follows:

Length of ladder (feet)	Side rails		Diameter	
	Thickness (inches)	Depth (inches)	Rung (inches)	Tenon (inches)
Up to and including 22	1 5/8	3 5/8	1 3/8	1
Over 22 up to and including 40	1 5/8	4 1/2	1 3/8	1

(iii) The width between the side rails at the bottom rung, inside to inside, shall be not less than 12 inches for all ladders up to and including 10 feet. Such minimum widths shall be increased by at least one-fourth inch for each additional 2 feet of length.

(iv) Rungs shall be parallel and level and shall be spaced not less than 8 inches or more than 12 inches apart.

(5) Trolley and side-rolling ladders.

(a) Length. Trolley ladders and side-rolling ladders longer than 20 feet should not be supplied.

(b) Dimensions. The dimensions of the side rails shall not be less than the following for Group 2 or Group 3 woods.

Length of side rails (feet)	Thickness (inch)	Depth (inches)
Up to and including 10	3/4	3
Over 10 up to and including 20	3/4	3 3/4

The minimum thicknesses of side rails provide for the cutting of a groove not over one-eighth inch in depth and shall be increased when grooves of greater depth are used. Flat steps shall have the following minimum dimensions for Group 2 or Group 3 woods.

Length of side rails (feet)	Thickness (inch)	Depth (inches)
Up to and including 16	3/4	3
Over 16 up to and including 20	3/4	3 1/4
Over 20 up to and including 24	3/4	3 1/2
Over 24 up to and including 28	3/4	4

(c) Width. The width between the side rails, inside to inside, shall be at least 12 inches.

(d) Step attachment. Flat steps shall be inset in the side rails one-eighth inch and secured with at least two 6-d nails at each end or the equivalent thereof. They shall be reinforced with angle braces or a 3/16-inch steel rod.

(e) Locking device. Locking devices should be provided on all trolley ladders.

(f) Tracks.

(i) Tracks shall be wood, or metal (excluding cast iron), or a combination of these materials.

(ii) Tracks for the top end of ladders shall be fastened securely and shall be so constructed that the wheels will not jump the track. Tracks shall be so designed as to provide for all probable loads to which they will be subjected.

(iii) The supports shall be securely fastened by the lag screws, machine, hook, or toggle bolts, or their equivalent.

(iv) Track for side-rolling ladders shall be supported by metal or wood brackets securely screwed or bolted to shelving or other permanent structure at not over 3 feet.

(g) Wheel carriages.

(i) Wheel carriages shall be so designed as to provide for all loads to which they will be subjected. Two-point suspension should be used.

(ii) The wheel carriage for the top end of the ladder shall be securely fastened to the top of the ladder with metal brackets bolted either to the side rails or to the top step. When bolted to the top step, this step shall be secured to the side rails with metal braces in addition to those otherwise provided. The wheel carriage shall be so designed that a loose or broken wheel will not allow the ladder to drop or become detached from the track.

(iii) The wheel carriage for the bottom end of the ladder shall be securely fastened to the bottom of the ladder.

(iv) The wheels at the upper end of the ladder shall have minimum wheel base of 8 inches.

(v) When wheels are used at the bottom of the ladder, there shall be at least one wheel supporting each side rail.

(vi) Running gear for bottoms of both trolley and side-rolling ladders shall be so designed and constructed as to provide for any load to which they will be subjected.

(6) Jacob's ladders. Portable type ladders fabricated with side rails of rope, wire, chain, etc., and having rigid rungs. Care and use shall be as follows:

(a) Jacob's ladders shall not be used in lengths longer than 30 feet.

(b) Side rails shall be fabricated from rope, metal bars, wire, chain, or material of substantial construction.

(c) Rungs shall be evenly spaced from 12 to 16 inches apart and not less than 16 inches in length.

(d) Rungs shall be fabricated from wood, metal, or other substantial construction and be securely fastened to the side rails.

(e) The assembled ladder and its means of suspension shall be capable of supporting a minimum of 500 pounds with a safety factor of 5 to 1, unless the side rails are of manila rope which requires a safety factor of 10 to 1.

(f) Care and use of Jacob's ladders shall be in accordance with the applicable portions of WAC 296-24-78009.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73)

WAC 296-24-81003 DESIGN REQUIREMENTS. (1) Design considerations. All ladders, appurtenances, and fastenings shall be designed to meet the following load requirements:

(a) The minimum design live load shall be a single concentrated load of 200 pounds.

(b) The number and position of additional concentrated live-load units of 200 pounds each as determined from anticipated usage of the ladder shall be considered in the design.

(c) The live loads imposed by persons occupying the ladder shall be considered to be concentrated at such points as will cause the maximum stress in the structural member being considered.

(d) The weight of the ladder and attached appurtenances together with the live load shall be considered in the design of rails and fastenings.

(2) Design stresses.

(a) Design stresses for wood components of ladders shall not exceed those specified in WAC 296-24-78001 through 296-24-79507. All wood parts of fixed ladders shall meet the requirements of WAC 296-24-78005.

(b) For fixed ladders consisting of wood side rails and wood rungs or cleats, used at a pitch in the range 75 degrees to 90 degrees, and intended for use by no more than one person per section, single ladders as described in WAC 296-24-78007 (3)(b) are acceptable.

(3) Fixed embedded steps. Individual fixed steps used for access or egress, embedded in the walls of risers or the conical top sections of manholes shall be safe, well constructed, and installed in accordance with good engineering practices. Appurtenances penetrating the manhole walls are prohibited.

AMENDATORY SECTION (Amending Order 74-27, filed 5/7/74)

WAC 296-24-82503 GENERAL REQUIREMENTS FOR ALL SCAFFOLDS. (1) Scaffolds shall be furnished and erected in accordance with this standard for persons engaged in work that cannot be done safely from the ground or from solid construction, except that ladders used for such work shall conform to WAC 296-24-780 through 296-24-78009 and 296-24-795 through 296-24-79507.

(2) The footing or anchorage for scaffolds shall be sound, rigid, and capable of carrying the maximum intended load without settling or

displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks shall not be used to support scaffolds or planks.

(3) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 8 feet above the ground or floor except:

(a) Scaffolding wholly within the interior of a building and covering the entire floor area of any room therein and not having any side exposed to a hoistway, elevator shaft, stairwell, or other floor openings, and

(b) Needle-beam scaffolds and floats in use by structural iron workers.

(4) Guardrails should all be 2 x 4 inches or the equivalent, installed no less than 36 inches or not more than 42 inches high, with a midrail, when required, of 1(=) x 4(=)inch nominal lumber or equivalent. Supports should be at intervals not to exceed ten feet. Toeboards shall be a minimum of 4 inches nominal lumber in height.

~~((4))~~ (5) Factory-built (laminated) scaffold planks meeting the requirements of wood scaffold planks may be substituted for wood scaffold planks.

(6) Scaffolds and their components shall be capable of supporting without failure at least four times the maximum intended load.

~~((5))~~ (7) Scaffolds and other devices mentioned or described in these standards shall be maintained in safe condition. Scaffolds shall not be altered or moved horizontally while they are in use or occupied.

~~((6))~~ (8) Any scaffold damaged or weakened from any cause shall be immediately repaired and shall not be used until repairs have been completed.

~~((7))~~ (9) Scaffolds shall not be loaded in excess of the working load for which they are intended.

~~((8))~~ (10) All load-carrying timber members of scaffold framing shall be a minimum of 1,500 f. (stress grade) construction grade lumber. All dimensions are nominal sizes as provided in the American Lumber Standards, except that where rough sizes are noted, only rough or undressed lumber of the size specified will satisfy minimum requirements. (NOTE: Where nominal sizes of lumber are used in place of rough sizes the nominal size lumber shall be such as to provide equivalent strength to that specified in Tables D-7 through D-12 and D-16.)

~~((9))~~ (11) All planking shall be Scaffold Grade as recognized by grading rules for the species of wood used. The maximum permissible spans for 2- x 9-inch or wider planks are shown in the following table:

	Material				
	Full thickness undressed lumber		Nominal thickness lumber		
Working load (p.s.f.)	25	50	75	25	50
Permissible span (ft.)	10	8	6	8	6

The maximum permissible span for 1 1/4 x 9-inch or wider plank of full thickness is 4 feet with medium loading of 50 p.s.f.

~~((10))~~ (12) Nails or bolts used in the construction of scaffolds shall be of adequate size and in sufficient numbers at each connection to develop the designed strength of the scaffold. Nails shall not be subjected to a straight pull and shall be driven full length.

~~((11))~~ (13) All planking or platforms shall be overlapped (minimum 12 inches) or secured from movement.

~~((12))~~ (14) An access ladder or equivalent safe access shall be provided.

~~((13))~~ (15) Scaffold planks shall extend over their end supports not less than 6 inches nor more than 18 inches.

~~((14))~~ (16) The poles, legs, or uprights of scaffolds shall be plumb, and securely and rigidly braced to prevent swaying and displacement.

TABLE D-7
MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS LIGHT DUTY

	Maximum height of scaffold	
	20 feet	60 feet
Uniformly distributed load	Not to exceed 25 pounds per square foot.	
Poles or uprights	2 by 4 in.	4 by 4 in.
Pole spacing (longitudinal)	6 ft. 0 in.	10 ft. 0 in.
Maximum width of scaffold	5 ft. 0 in.	5 ft. 0 in.
Bearers or putlogs to 3 ft. 0 in. width	2 by 4 in.	2 by 4 in.
Bearers or putlogs to 5 ft. 0 in. width	2 by 6 in. or 3 by 4 in.	2 by 6 in. or 3 by 4 in. (rough)
Ledgers	1 by 4 in.	1 1/4 by 9 in.
Planking	1 1/4 by 9 in. (rough)	2 by 9 in.
Vertical spacing of horizontal members	7 ft. 0 in.	7 ft. 0 in.
Bracing, horizontal and diagonal	1 by 4 in.	1 by 4 in.
Tie-ins	1 by 4 in.	1 by 4 in.
Toeboards	4 in. high (minimum)	4 in. high (minimum)
Guardrail	2 by 4 in.	2 by 4 in.

All members except planking are used on edge.

TABLE D-8
MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS MEDIUM DUTY

Uniformly distributed load	Not to exceed 50 pounds per square foot.	
Maximum height of scaffold	60 ft.	
Poles or uprights	4 by 4 in.	
Pole spacing (longitudinal)	8 ft. 0 in.	
Maximum width of scaffold	5 ft. 0 in.	
Bearers or putlogs	2 by 9 in. or 3 by 4 in.	
Spacing of bearers or putlogs	8 ft. 0 in.	
Ledgers	2 by 9 in.	
Vertical spacing of horizontal members	9 ft. 0 in.	
Bracing, horizontal	1 by 6 in. or 1 1/4 by 4 in.	
Bracing, diagonal	1 by 4 in.	
Tie-ins	1 by 4 in.	
Planking	2 by 9 in.	
Toeboards	4 in. high (minimum)	
Guardrail	2 by 4 in.	

All members except planking are used on edge.

TABLE D-9
MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS HEAVY DUTY

Uniformly distributed load	Not to exceed 75 pounds per square foot.
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TABLE D-9

MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS HEAVY DUTY

Maximum height of scaffold _____	60 ft.
Poles or uprights _____	4 by 4 in.
Pole spacing (longitudinal) _____	6 ft. 0 in.
Maximum width of scaffold _____	5 ft. 0 in.
Bearers or putlogs _____	2 by 9 in. or 3 by 5 in. (rough).
Spacing of bearers or putlogs _____	6 ft. 0 in.
Ledgers _____	2 by 9 in.
Vertical spacing of horizontal members _____	6 ft. 6 in.
Bracing, horizontal and diagonal _____	2 by 4 in.
Tie-ins _____	1 by 4 in.
Planking _____	2 by 9 in.
Toeboards _____	4 in. high (minimum).
Guardrail _____	2 by 4 in.

All members except planking are used on edge.

TABLE D-10

MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS LIGHT DUTY

	Maximum height of scaffold	
	20 feet	60 feet
Uniformly distributed load _____	Not to exceed 25 pounds per square foot.	
Poles or uprights _____	2 by 4 in.	4 by 4 in.
Pole spacing (longitudinal) _____	6 ft. 0 in.	10 ft. 0 in.
Pole spacing (transverse) _____	6 ft. 0 in.	10 ft. 0 in.
Ledgers _____	1 1/4 by 4 in.	1 1/4 by 9 in.
Bearers to 3 ft. 0 in. span _____	2 by 4 in.	2 by 4 in.
Bearers to 10 ft. 0 in. span _____	2 by 6 in. or 3 by 4 in.	2 by 9 (rough) or 3 by 8 in.
Planking _____	1 1/4 by 9 in.	2 by 9 in.
Vertical spacing of horizontal members _____	7 ft. 0 in.	7 ft. 0 in.
Bracing, horizontal and diagonal _____	1 by 4 in.	1 by 4 in.
Tie-ins _____	1 by 4 in.	1 by 4 in.
Toeboards _____	4 in. high	4 in. high (minimum).
Guardrail _____	2 by 4 in.	2 by 4 in.

All members except planking are used on edge.

TABLE D-11

MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS MEDIUM DUTY

Uniformly distributed load—	Not to exceed 50 pounds per square foot.
Maximum height of scaffold _____	60 ft.
Poles or uprights _____	4 by 4 in.
Pole spacing (longitudinal) _____	8 ft. 0 in.

TABLE D-11

MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS MEDIUM DUTY

Pole spacing (transverse) —	8 ft. 0 in.
Ledgers _____	2 by 9 in.
Vertical spacing of horizontal members _____	6 ft. 0 in.
Spacing of bearers _____	8 ft. 0 in.
Bearers _____	2 by 9 in. rough or 2 by 10 in.
Bracing, horizontal _____	1 by 6 in. or 1 1/4 by 4 in.
Bracing, diagonal _____	1 by 4 in.
Tie-ins _____	1 by 4 in.
Planking _____	2 by 9 in.
Toeboards _____	4 in. high (minimum).
Guardrail _____	2 by 4 in.

All members except planking are used on edge.

TABLE D-12

MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS HEAVY DUTY

Uniformly distributed load—	Not to exceed 75 pounds per square foot.
Maximum height of scaffold _____	60 ft.
Poles or uprights _____	4 by 4 in.
Pole spacing (longitudinal) _____	6 ft. 0 in.
Pole spacing (transverse) —	8 ft. 0 in.
Ledgers _____	2 by 9 in.
Vertical spacing of horizontal members _____	4 ft. 6 in.
Bearers _____	2 by 9 in. (rough).
Bracing, horizontal and diagonal _____	2 by 4 in.
Tie-ins _____	1 by 4 in.
Planking _____	2 by 9 in.
Toeboards _____	4 in. high (minimum).
Guardrail _____	2 by 4 in.

All members except planking are used on edge.

((15)) (17) Materials being hoisted onto a scaffold shall have a tag line.

((16)) (18) Overhead protection shall be provided for workmen working on a scaffold when they are exposed to overhead hazards.

((17)) (19) Scaffolds shall be provided with a screen between the toe board and the guardrail, extending along the entire opening, consisting of No. 18 gauge U.S. Standard Wire one-half-inch mesh or the equivalent, where persons are required to work or pass under the scaffolds.

((18)) (20) Employees shall not work on scaffolds during storms or high winds.

((19)) (21) Employees shall not work on scaffolds which are covered with ice or snow.

((20)) (22) Tools, materials, and debris shall not be allowed to accumulate in quantities to cause a hazard.

((21)) (23) Only treated or protected fiber rope shall be used for or near any work involving the use of corrosive substances or chemicals.

((22)) (24) Wire or fiber rope used for scaffold suspension shall be capable of supporting at least six times the intended load.

((23)) (25) When acid solutions are used for cleaning buildings over 50 feet in height, wire rope supported scaffolds shall be used.

((24)) (26) The use of shore scaffolds or leanto scaffolds is prohibited.

((25)) (27) Lumber sizes, when used in WAC 296-24-82505 through 296-24-82545, refer to nominal sizes except where otherwise stated.

~~((26))~~ (28) Scaffolds shall be secured to permanent structures, through use of anchor bolts, reveal bolts, or other equivalent means. Window cleaners' anchor bolts shall not be used.

~~((27))~~ (29) Special precautions shall be taken to protect scaffold members, including any wire or fiber ropes, when using a heat-producing process.

~~((28))~~ (30) When rope falls are used to support swinging scaffolding, the rope falls shall be of sufficient length to reach the ground. Lengthening rope falls by typing on additional lengths shall be prohibited.

~~((29))~~ (31) When screw shackles are used to support staging, etc., the pin must be wired or pinned so that the shackle will not become unscrewed by strain or stress.

~~((30))~~ (32) All hooks on blocks used for raising scaffolding shall be provided with a safety latch or be "moused at the throat" to prevent the hook from becoming dislodged.

~~((31))~~ (33) Lifelines size shall be 3/4 inch manila rope or equivalent with a minimum breaking strength of 5400 pounds. Safety belt lanyards shall be a minimum of 1/2 inch nylon or equivalent with a maximum length to provide for a fall of no greater than 6 feet. This rope shall have a minimum breaking strength of 5400 pounds.

AMENDATORY SECTION (Amending Order 86-24, filed 5/6/86)

WAC 296-52-417 DEFINITIONS. Definitions as used in this chapter, unless a different meaning is plainly required by the context:

(1) "Attend" means the physical presence of an authorized person within the field of vision of explosives. The said attendant shall be awake, alert and not engaged in activities which may divert his attention so that in case of an emergency he can get to the explosives quickly and without interference, except for brief periods of necessary absence, during which absence simple theft of explosives is not ordinarily possible.

(2) "Authorized," "approved" or "approval" means authorized, approved, or approval by the department of labor and industries or other approving agency or individual as specified by the provisions of this chapter.

(3) "Barricaded" means the effective screening of a building containing explosives from a magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier.

(4) "Blast area" means the area of a blast within the influence of flying rock missiles, gases, and concussion.

(5) "Blast pattern" means the plan of the drill holes laid out on a bench; an expression of the burden distance and the spacing distance and their relationship to each other.

(6) "Blast site" means the area where explosive material is handled during loading, including the perimeter of blast holes and 50 feet in all directions from loaded holes or holes to be loaded. In underground mines 15 feet of solid rib or pillar can be substituted for the 50 foot distance.

(7) "Blaster" means that qualified person in charge of and responsible for the loading and firing of a blast.

(8) "Blasting agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a No. 8 test blasting cap.

(9) "Day box" means a box which is not approved as a magazine for unattended storage of explosives. Such box may be used for storage of explosives during working hours on a job site, provided that it shall always be guarded against theft, particularly in inhabited areas, and shall be attended or locked and secured against outright lifting, as the risk demands. Caps shall be safely separated from other explosives. Such day boxes shall be marked with the word "explosives(=:)" and be constructed in accordance with WAC 296-52-457(7).

(10) "Dealer" means any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

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

(12) "Detonating cord" means a round, flexible cord containing a center core of high explosive and used to initiate other explosives.

(13) "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. The term includes, but is not limited to, electric blasting caps of instantaneous and

delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires.

(14) "Director" means the director of the department of labor and industries, or his designated representative.

(15) "Division" means the division of industrial safety and health of the department.

(16) "Efficient artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the department of labor and industries.

(17) "Explosive" or "explosives" whenever used in this chapter means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as Class A, Class B, and Class C explosives by the federal Department of Transportation: PROVIDED, That for the purposes of this chapter small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives: PROVIDED, That such black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. Classification of explosives shall include but not be limited to the following:

Note: Classification of explosives is described by the U.S. Department of Transportation as follows (see 49 CFR, Parts 100-199) (1984):

- (a) Class A explosives: (Possessing detonating hazard) dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder exceeding five pounds, blasting caps in quantities of 1001 or more, and detonating primers.
- (b) Class B explosives: (Possessing flammable hazard) propellant explosives, including smokeless propellants exceeding fifty pounds.
- (c) Class C explosives: (Including certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities) blasting caps in quantities of 1000 or less.

(18) "Explosive-actuated power devices" means any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

(19) "Explosives manufacturing building" means any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

(20) "Explosives manufacturing plant" means all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

(21) "Factory building" means the same as "manufacturing building."

(22) "Forbidden or not acceptable explosives" means explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal Department of Transportation.

(23) "Fuel" means a substance which may react with oxygen to produce combustion.

(24) "Fuse cap (fuse detonator)" means a detonator which is initiated by a safety fuse; also referred to as an ordinary blasting cap.

(25) "Fuse (safety)" means a flexible cord containing an internal burning medium by which fire or flame is conveyed at a continuous and uniform rate from the point of ignition to the point of use, usually a fuse detonator.

(26) "Handler" means any person/individual who handles explosives for purposes of transporting, moving, or assisting a licensed user (blaster) in loading, firing, blasting, or disposing of explosives and blasting agents. This does not include employees of a licensed manufacturer engaged in manufacturing process, drivers of common carriers or contract haulers.

(27) "Handloader" means any person who engages in the noncommercial assembling of small arms ammunition for his own use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

(28) "Handloader components" means small arms ammunition, small arms ammunition primers, smoke-less powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

(29) "Highway" means any public street, public alley, or public road.

(30) "Inhabited building" means only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

The magazine for indoor storage is not required to be a cubic yard in size as long as it is constructed as stated in WAC 296-52-090(3).

The interpretation of an uninhabited building as defined by the "Bureau of Alcohol, Tobacco, and Firearms" Department of the Treasury, which is the federal regulatory agency of explosives, allows 50 pounds of high explosives or 5,000 caps in a warehouse, wholesale, or retail establishments. It also states: "No indoor facilities for storage of high explosive shall be located in a residence or dwelling."

We only allow 1,000 caps, which is computed to 1-1/2 pounds of explosives and is much less than the Bureau of Alcohol, Tobacco, and Firearms allows. Therefore, the department will allow indoor storage to include shops and maintenance buildings.

(31) "Magazine" means any building, structure or container, other than an explosive manufacturing building, approved for the storage of explosive materials.

(32) "Manufacturer" means any person engaged in the business of manufacturing explosive materials for purposes of sale, distribution, or use.

(33) "Motor vehicle" means any self-propelled automobile, truck, tractor, semitrailer or full trailer, or other conveyance used for the transportation of freight.

(34) "Mudcap" means covering the required number of cartridges that have been laid on top of a boulder with a three or four inch layer of mud (free from rocks or other material which might constitute a missile hazard). Mudcapping is also commonly known as "bulldozing" and "dobyng."

(35) "Natural barricade" means any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

(36) "Oxidizer" means a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

(37) "Permanent magazines" means magazines that are permanently fastened to a foundation and that are left unattended. The capacity of said permanent magazines shall not exceed the limits stated in RCW 70.74.040. Permanent magazines shall be approved and licensed.

(38) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

(39) "Person responsible," for an explosives magazine, means the legal person who actually operates the magazine and who is responsible for the proper storage, protection and removal of the explosives. The responsible person may be the owner or the lessee or the authorized operator of the magazine.

(40) "Portable magazines" also called "field" magazines means magazines that are designed to be unattended and that are not permanently fastened to a foundation. Said magazines shall be so constructed or secured that they can not be readily lifted and carried away by unauthorized persons. The capacity of said portable magazines shall be limited to the amount of explosives required for efficient operation. Portable magazines shall be approved and licensed.

(41) "Possess" means the physical possession of explosives in one's hand, vehicle, magazine or building.

(42) "Primer" means a unit, package, cartridge, or explosive used to initiate other explosives or blasting agents.

(43) "Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

(44) "Public conveyance" means any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

(45) "Public utility transmission system" means power transmission lines over 751 volts, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

(46) "Purchaser" means any person who buys, accepts, or receives any explosives or blasting agents.

(47) "Pyrotechnics" means any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

(48) "Railroad" means any steam, electric, or other railroad which carries passengers for hire.

(49) "Railroad freight car" means cars that are built for and loaded with explosives and operated in accordance with DOT rules.

(50) "Semiconductive hose" means a hose with an electrical resistance high enough to limit flow of stray electric currents to safe levels, yet not so high as to prevent drainage of static electric charges to ground; hose of not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

(51) "Shall" means that the rule establishes a minimum standard which is mandatory.

(52) "Small arms ammunition" means any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

(53) "Small arms ammunition primers" means small percussion-sensitive explosive charges encased in a cap or capsule and used to ignite propellant powder and shall include percussion caps as used in muzzle loaders.

(54) "Smokeless propellants" means solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.

(55) "Special industrial explosive devices" means explosive-actuated power devices and propellant-actuated power devices.

(56) "Special industrial explosives materials" means shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include dynamite, trinitrotoluene (TNT), pentaerythritol tetranitrate (PETN), hexahydro-1, 3, 5-trinitro-s-triazine (RDX), and other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

(57) "Sprung holes" means to spring or chamber the bottom of the drilled hole to allow room for additional explosives as a bottom load.

(58) "Trailer" means semitrailers or full trailers as defined by DOT, that are built for and loaded with explosives and operated in accordance with DOT rules.

(59) "Unclassified explosives" means any two components which, when mixed become capable of detonation by a No. 6 test blasting cap.

(60) "User" means any natural person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

(61) "Water gels or slurry explosives" comprise a wide variety of materials used for blasting. They all contain substantial proportions of water and high proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are:

(a) Those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder,

(b) Those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the bore hole.

(62) "DOT specification" are regulations of the Department of Transportation published in 49 CFR Chapter I.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-52-419 BASIC LEGAL OBLIGATIONS. (1) It is unlawful for any person to manufacture, purchase, sell, use, or store any explosive without having a validly issued license from the department of labor and industries which license has not been revoked or suspended. Violation of this section is a gross misdemeanor.

(2) Upon notice from the department of labor and industries or any law enforcement agency having jurisdiction, a person manufacturing, purchasing, selling, using, or storing any explosives without a license

shall immediately surrender any and all such explosives to the department or to the respective law enforcement agency.

(3) At any time that the director of labor and industries requests the surrender of explosives from any person pursuant to subsection (2) of this section, the director may in addition request the attorney general to make application to the superior court of the county in which the unlawful practice exists for a temporary restraining order or such other relief as appears to be appropriate under the circumstances.

(4) Miscellaneous provisions - general hazard. No person shall store, handle, or transport explosives or blasting agents when such storage, handling, and transportation of explosives or blasting agents constitutes an undue hazard to life.

AMENDATORY SECTION (Amending Order 86-24, filed 5/6/86)

WAC 296-52-461 STORAGE OF EXPLOSIVES. (1) General. All Class A, Class B, Class C explosives, and special industrial explosives, and any newly developed and unclassified explosives, shall be kept in magazines which meet the requirements as defined in chapter 70.74 RCW and chapter 296-52 WAC, unless they are in the process of manufacture, being physically handled in the operating process, being used or being transported to a place of storage or use. No explosives and no detonators (blasting caps) in quantities of 1,001 or more shall be stored in any building or structure except a Class 1, permanent, magazine that has been approved and licensed.

Note 1: Separate storage of components capable of detonation when mixed. Any two components which, when mixed, become capable of detonation by a number 6 cap must be stored in separate locked containers or in a licensed, approved magazine.

Note 2: Electromagnetic radiation. Blasting operations or storage of electrical detonators shall be prohibited in vicinity of operating radio frequency (RF) transmitter stations except where the clearances, as referenced in WAC 296-52-493(g), can be observed.

Note 3: Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

(2) Quantity restrictions. Explosive materials in excess of 300,000 pounds or blasting caps in excess of 20,000,000 shall not be stored in one storage magazine.

(3) Inventory and responsibility.

(a) Magazines shall be in the charge of a competent person at all times who shall be at least twenty-one years of age, and who shall be held responsible for the enforcement of all safety precautions.

(b) All explosives shall be accounted for at all times. Explosives not being used shall be kept in a locked magazine, unavailable to persons not authorized to handle them. The employer shall maintain an inventory and use record of all explosives.

(c) Appropriate authorities shall be notified of any loss, theft, or unauthorized entry into a magazine.

(4) Surrounding area.

(a) ~~((Smoking, matches, open flames, spark-producing devices, and))~~ Firearms (except firearms carried by guards) shall not be permitted inside of or within 50 feet of magazines.

(b) The land surrounding a magazine shall be kept clear of all combustible materials, brush, dried grass, leaves and other materials for a distance of at least 25 feet.

(c) Combustible materials shall not be stored within 50 feet of magazines.

(d) Smoking, matches, open flames, and spark-producing devices are not permitted:

(i) In any magazine;

(ii) Within 50 feet of any outdoor magazine; or

(iii) Within any room containing an indoor magazine.

(5) Signs. The premises on which a magazine is located shall be conspicuously marked with signs containing the words "EXPLOSIVES - KEEP OFF" in letters at least three inches high. Such signs shall warn any person approaching the magazine of the presence of explosives, but shall be so located that a bullet passing directly through the face of the sign will not strike the magazine.

(6) Temporary storage at a site for blasting operations shall be located away from neighboring inhabited buildings, railways, highways, and other magazines. A distance of at least one hundred and fifty feet shall be maintained between magazines and the work in progress when the quantity of explosives kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds or less.

(7) Explosives recovered from blasting misfires shall be placed in a separate magazine until competent personnel has determined from the

manufacturer the method of disposal. Caps recovered from blasting misfires shall not be reused. Such explosives and caps shall then be disposed of in the manner recommended by the manufacturer.

(8) Storage within magazines.

(a) Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.

(b) Packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet of a magazine or in close proximity to other explosives.

(c) Tools used for opening packages of explosives shall be constructed of nonsparking materials, except that nonsparking metallic slitters may be used for opening fiberboard boxes. A wood wedge and a fiber, rubber, or wood mallet shall be used for opening or closing wood packages of explosives. Opened packages of explosives shall be securely closed before being returned to a magazine.

~~((e))~~ (d) Magazines shall not be used for the storage of any metal tools nor any commodity except explosives, but this restriction shall not apply to the storage of blasting agents and blasting supplies.

~~((f))~~ (e) Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of magazines shall be properly disposed of. Magazine floors stained with nitroglycerin shall be cleaned according to instructions by the manufacturer.

~~((g))~~ (f) When any explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if nitroglycerin leaks from any explosives, then the person in possession of such explosive shall immediately proceed to destroy such explosive in accordance with the instructions of the manufacturer. Only experienced persons shall be allowed to do the work of destroying explosives.

~~((h))~~ (g) When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire the explosives shall be removed from the magazine. Explosives removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and protected until repairs have been completed, when they shall be returned to the magazine.

(9) Underground storage.

(a) Explosives and related materials shall be stored in approved facilities required under the provisions of chapter 296-52 WAC.

(b) No explosives or blasting agents shall be permanently stored in any underground operation until the operation has been developed to the point where at least two modes of exit have been developed.

(c) Permanent underground storage magazines shall be at least 300 feet from any shaft, adit, or active underground working area.

(d) Permanent underground magazines containing detonators shall not be located closer than 50 feet to any magazine containing other explosives or blasting agents.

(e) Upon the approach of an electrical storm, unless a greater hazard would be created thereby, explosives at the adit or the top of any shaft leading to where persons are working shall be moved away from such location a distance equal to that required for inhabited buildings, as listed in the American table of distances for storage of explosive materials.

(10) All explosive manufacturing buildings and magazines in which explosives or blasting agents, except small arms ammunition and smokeless powder are had, kept, or stored, must be located at distances from inhabited buildings, railroads, highways, and public utility transmission systems in conformity with the following quantity and distance tables, and these tables shall be the basis on which applications for license for storage shall be made and license for storage issued, as provided in RCW 70.74.110 and 70.74.120. ~~((All distances prescribed in the following quantity and distance tables are unbarricaded, and, if there is an efficient artificial barricade or natural barricade between the explosives manufacturing building or magazine and another explosives manufacturing building or magazine, building, railroad, highway, or public utility transmission system, the distance prescribed in the following quantity and distance tables may be reduced by one-half.))~~ Blasting and electric blasting caps in strength through number 8

should be rated as one and one-half pounds of explosives per one thousand caps. Blasting and electric blasting caps of strength higher than number 8 should be computed on the combined weight of explosives.

**TABLE H-20
TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES**

Column 1 Quantity that may be had, kept or stored		Column 2 Distance From Nearest Inhabited Building		Column 3 Distance from Nearest Railroad		Column 4 Distance from Nearest Highway & Pub. Util. Trans. System	
EXPLOSIVES							
Pounds over	Pounds not over	Barricaded Feet	UnBarricaded Feet	Barricaded Feet	UnBarricaded Feet	Barricaded Feet	UnBarricaded Feet
2	5	70	140	51	102	30	60
5	10	90	180	64	128	35	70
10	20	110	220	81	162	45	90
20	30	125	250	93	186	50	100
30	40	140	280	103	206	55	110
40	50	150	300	110	220	60	120
50	75	170	340	128	254	70	140
75	100	190	380	139	278	75	150
100	125	200	400	150	300	80	160
125	150	215	430	159	318	85	170
150	200	235	470	175	350	95	190
200	250	255	510	189	378	105	210
250	300	270	540	201	402	110	220
300	400	295	590	221	442	120	240
400	500	320	640	238	476	130	260
500	600	340	680	253	506	135	270
600	700	355	710	266	532	145	290
700	800	375	750	278	556	150	300
800	900	390	780	289	578	155	310
900	1,000	400	800	300	600	160	320
1,000	1,200	425	850	318	636	165	330
1,200	1,400	450	900	336	672	170	340
1,400	1,600	470	940	351	702	175	350
1,600	1,800	490	980	366	732	180	360
1,800	2,000	505	1,010	378	756	185	370
2,000	2,500	545	1,090	408	816	190	380
2,500	3,000	580	1,160	432	864	195	390
3,000	4,000	635	1,270	474	948	210	420
4,000	5,000	685	1,370	513	1,026	225	450
5,000	6,000	730	1,460	546	1,092	235	470
6,000	7,000	770	1,540	573	1,146	245	490
7,000	8,000	800	1,600	600	1,200	250	500
8,000	9,000	835	1,670	624	1,248	255	510
9,000	10,000	865	1,730	645	1,290	260	520
10,000	12,000	875	1,750	687	1,374	270	540
12,000	14,000	885	1,770	723	1,446	275	550
14,000	16,000	900	1,800	756	1,512	280	560
16,000	18,000	940	1,880	786	1,572	285	570

18,000	20,000	975	1,950	813	1,626	290	580
20,000	25,000	1,055	2,000	876	1,752	315	630
25,000	30,000	1,130	2,000	933	1,866	340	680
30,000	35,000	1,205	2,000	981	1,962	360	720
35,000	40,000	1,275	2,000	1,026	2,000	380	760
40,000	45,000	1,340	2,000	1,068	2,000	400	800
45,000	50,000	1,400	2,000	1,104	2,000	420	840
50,000	55,000	1,460	2,000	1,140	2,000	440	880
55,000	60,000	1,515	2,000	1,173	2,000	455	910
60,000	65,000	1,565	2,000	1,206	2,000	470	940
65,000	70,000	1,610	2,000	1,236	2,000	485	970
70,000	75,000	1,655	2,000	1,263	2,000	500	1,000
75,000	80,000	1,695	2,000	1,293	2,000	510	1,020
80,000	85,000	1,730	2,000	1,317	2,000	520	1,040
85,000	90,000	1,760	2,000	1,344	2,000	530	1,060
90,000	95,000	1,790	2,000	1,368	2,000	540	1,080
95,000	100,000	1,815	2,000	1,392	2,000	545	1,090
100,000	110,000	1,835	2,000	1,437	2,000	550	1,100
110,000	120,000	1,855	2,000	1,479	2,000	555	1,110
120,000	130,000	1,875	2,000	1,521	2,000	560	1,120
130,000	140,000	1,890	2,000	1,557	2,000	565	1,130
140,000	150,000	1,900	2,000	1,593	2,000	570	1,140
150,000	160,000	1,935	2,000	1,629	2,000	580	1,160
160,000	170,000	1,965	2,000	1,662	2,000	590	1,180
170,000	180,000	1,990	2,000	1,695	2,000	600	1,200
180,000	190,000	2,010	2,010	1,725	2,000	605	1,210
190,000	200,000	2,030	2,030	1,755	2,000	610	1,220
200,000	210,000	2,050	2,055	1,782	2,000	620	1,240
210,000	230,000	2,100	2,100	1,836	2,000	635	1,270
230,000	250,000	2,155	2,155	1,890	2,000	650	1,300
250,000	275,000	2,215	2,215	1,950	2,000	670	1,340
275,000	300,000	2,275	2,275	2,000	2,000	690	1,380

(11) When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and in addition, they should be separated from each other by not less than the distances shown for "separation of magazines", except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified "separation of magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways and highways.

AMENDATORY SECTION (Amending Order 86-24, filed 5/6/86)

WAC 296-52-477 QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES. Magazines containing blasting caps and electric blasting caps shall be separated from other magazines containing like contents, or from magazines containing explosives by distances ((based on the following:

(1) ~~Blasting caps in strengths through number 8 should be rated at one and one-half pounds of explosive per one thousand caps;~~

(2) ~~For strengths higher than number 8, use the total combined weight of explosives;~~

(3) ~~For quantity and distance purposes, detonating cord of 50 or 60 grains shall be calculated as equivalent to 9 pounds of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.~~

(4) ~~Magazines in which explosives are kept and stored shall be detached from other structures and separated from other magazines in conformity with the quantity and distance table set forth below:)) in the following table.~~

TABLE H-21
QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN
MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

Note 1. "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

Note 2. "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of 3 feet.

Note 3. "Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade, or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

Note 4. This table applies only to the manufacture and permanent storage of commercial explosives. It is not applicable to transportation of explosives, or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

(4) WAC 296-52-461(1) does not apply to:

(a) Stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of less than 750,000, smokeless propellants in quantities of less than 150 pounds or black powder, as used in muzzle loading firearms, in quantities of less than 25 pounds;

(b) Explosive-actuated power devices when in quantities less than 50 pounds net weight of explosives;

(c) Fuse lighters and fuse igniters;

(d) Safety fuses other than cordeau detonant fuses.

AMENDATORY SECTION (Amending Order 86-24, filed 5/6/86)

WAC 296-52-481 ((BLASTING AGENTS)) RECOMMENDED SEPARATION DISTANCES OF AMMONIUM NITRATE AND BLASTING AGENTS FROM EXPLOSIVES OR BLASTING AGENTS.

TABLE H-22
TABLE OF RECOMMENDED SEPARATION DISTANCES OF
AMMONIUM NITRATE AND BLASTING AGENTS FROM
EXPLOSIVES OR BLASTING AGENTS⁶

TABLE H-22

Donor weight		Minimum separation distance of receptor when barricaded ² (ft.)		Minimum thickness of artificial barricades ⁵ (in.)
Pounds over	Pounds not over	Ammonium nitrate ³	Blasting agent ⁴	
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Notes to table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents:

Note 1. These distances apply to the separation of stores only. Table H-21 shall be used in determining separation distances from inhabited buildings, passenger railways, and public highways.

Note 2. When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor." Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances, and barricade thicknesses in excess of those prescribed in Table H-21 are not required.

Note 3. The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the National Plant Food Institute*; and ammonium nitrate failing to pass said test shall be stored at separation distances determined by competent persons. (*Definition and Test Procedures for Ammonium Nitrate Fertilizer, National Plant Food Institute, November 1964.)

Note 4. These distances apply to nitro-carbo-nitrates and blasting agents which pass the insensitivity test prescribed in the United States Department of Transportation (DOT) regulations.

Note 5. Earth, or sand dikes, or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves, are also acceptable.

Note 6. When the ammonium nitrate must be counted in determining the distances to be maintained from inhabited buildings, passenger railways and public highways, it may be counted at one-half its actual weight because its blast effect is lower.

Note 7. Guide to use of table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

- (a) Sketch location of all potential donor and acceptor materials together with the maximum mass of material to be allowed in that vicinity. (Potential donors are high explosives, blasting agents, and combination of masses of detonating materials. Potential acceptors are high explosives, blasting agents, and ammonium nitrate.)
- (b) Consider separately each donor mass in combination with each acceptor mass. If the masses are closer than table allowance (distances measured between nearest edges), the combination of masses becomes a new potential donor of weight equal to the total mass. When individual masses are considered as donors, distances to potential acceptors shall be measured between edges. When combined masses within propagating distance of each other are considered as a donor, the appropriate distance to the edge of potential acceptors shall be computed as a weighted distance from the combined masses:

(i) Calculation of weighted distance from combined masses:

Let $M_2, M_3 \dots M_n$ be donor masses to be combined.
 M_1 is a potential acceptor mass.
 D_{12} is distance from M_1 to M_2 (edge to edge).
 D_{13} is distance from M_1 to M_3 (edge to edge), etc.

To find weighted distance $[D_{1(2,3 \dots n)}]$ from combined masses to M_1 , add the products of the individual masses and distances and divide the total by the sum of the masses thus:

$$D_{1(2,3 \dots n)} = \frac{(M_2 \times D_{12} + M_3 \times D_{13} \dots + M_n \times D_{1n})}{M_2 + M_3 \dots + M_n}$$

$$D_{1(2,3 \dots n)} = \frac{M_2 \times D_{12} + M_3 \times D_{13} \dots + M_n \times D_{1n}}{M_2 + M_3 \dots + M_n}$$

Propagation is possible if either an individual donor mass is less than the tabulated distance from an acceptor or a combined mass is less than the weighted distance from an acceptor.

- (c) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in the Table) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only 50 percent of its weight shall be used because of its reduced blast effects. In applying Table H-21 to distances from highways, railroads, and inhabited buildings, distances are measured from the nearest edge of potentially explodable material as prescribed in Table H-21, Note 5.
- (d) When all or part of a potential acceptor comprises Explosives Class A as defined in DOT regulations, storage in bullet-resistant magazines is required. Safe distances to stores in bullet-resistant magazines may be obtained from the intermagazine distances prescribed in Table H-21.
- (e) Barricades must not have line-of-sight openings between potential donors and acceptors which permit blast or missiles to move directly between masses.

- (f) Good housekeeping practices shall be maintained around any bin containing ammonium nitrate or blasting agent. This includes keeping weeds and other combustible materials cleared within 25 feet of such bin. Accumulation of spilled product on the ground shall be prevented.

AMENDATORY SECTION (Amending Order 86-24, filed 5/6/86)

WAC 296-52-509 SMALL ARMS AMMUNITION, PRIMERS, PROPELLANTS AND BLACK POWDER. Storage, transportation, and display requirements.

(1) Scope. This section does not apply to in-process storage and intra-plant transportation during manufacture of small arms ammunition, small arms primers, and smokeless propellants.

(2) No quantity limitations are imposed on the storage of small arms ammunition in warehouses, retail stores, and other general occupancy facilities, except those imposed by limitations of storage facilities.

(3) Small arms ammunition shall be separated from flammable liquids, flammable solids as classified in 49 CFR, Part 172, and from oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of 25 feet.

~~((2))~~ (4) Small arms ammunition shall not be stored together with class A or class B explosives unless the storage facility is adequate for this latter storage.

(5) Small arms smokeless propellants.

(a) Small arms smokeless propellant (class B) shall be packed, stored and transported in DOT approved shipping containers (~~and~~). The following shall apply.

	Maximum Pounds Permitted	Special Restrictions
Private residence or car	25 pounds or less 25 to 50 pounds	None Store in strong box or cabinet constructed of 3/4-inch plywood (minimum) or equivalent, on all sides, top and bottom.
Dealer's warehouse	((+50)) 100 pounds	20 to ((+50)) 100 pounds shall be stored in portable wooden boxes having walls at least one inch nominal thickness.
Dealer's display	75 pounds	In one pound containers.

(b) Quantities in excess of 50 pounds shall be transported in accordance with federal department of transportation regulations.

Quantities in excess of ~~((+50))~~ 100 pounds shall be stored in approved, licensed magazines as required in WAC 296-52-441 and 296-52-453.

~~((3))~~ Small arms ammunition primers shall be packed, stored and transported in DOT approved shipping containers. They shall be separate from flammable liquids, flammable solids and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of 25 feet. The following shall also apply:)

(c) All smokeless propellants shall be stored in shipping containers specified in 49 CFR 173.93 for smokeless propellants.

(d) Commercial stocks of smokeless propellants over 20 pounds and not more than 100 pounds shall be stored in portable wooden boxes having walls of at least 1 inch nominal thickness.

(e) Commercial stocks in quantities not to exceed 750 pounds shall be stored in nonportable storage cabinets having wooden walls of at least 1 inch nominal thickness. Not more than 400 pounds shall be permitted in any one cabinet.

(f) Quantities in excess of 750 pounds shall be stored in magazines in accordance with WAC 296-52-461.

(6) Small arms ammunition primers.

(a) Small arms ammunition primers shall be packed, stored, and transported in DOT approved shipping containers. They shall be separate from flammable liquids, flammable solids, and oxidizing materials

by a fire-resistant wall of one-hour rating or by a distance of 25 feet. The following shall also apply.

	Maximum Number Permitted	Special Restrictions
Private residence	10,000 primers	None
Private car	25,000 primers	None
Dealer's display	10,000 primers	None
Dealer's warehouse	750,000 primers	No more than 100,000 shall be stored in a pile and piles shall be separated by at least 15 feet.

(b) Quantities in excess of 750,000 primers shall be stored in approved, licensed magazines as required by WAC 296-52-441 and 296-52-453.

(7) Black powder, as used in muzzle loading firearms, shall be packed, stored and transported in DOT approved shipping containers and the following shall apply.

	Maximum Pounds Permitted	Special Restrictions
Private residence	5 pounds	None
Private car	5 pounds	None
Dealer's warehouse	25 pounds	None
Dealer's display	4 pounds	In one pound containers.

(8) Quantities in excess of 25 pounds of black powder, as used in muzzle loading firearms, shall be stored in approved, licensed magazines as required by WAC 296-52-441 and 296-52-453.

NEW SECTION

WAC 296-52-510 EXPLOSIVES AT PIERS, RAILWAY STATIONS, AND CARS OR VESSELS NOT OTHERWISE SPECIFIED IN THIS STANDARD. (1) Railway cars. Except in an emergency and with permission of the local authority, no person shall have or keep explosives in a railway car unless said car and contents and methods of loading are in accordance with the United States Department of Transportation Regulations for the Transportation of Explosives, 49 CFR Chapter 1.

(2) Packing and marking. No person shall deliver any explosive to any carrier unless such explosive conforms in all respects, including marking and packing, to the United States Department of Transportation Regulations for the Transportation of Explosives.

(3) Marking cars. Every railway car containing explosives which has reached its designation, or is stopped in transit so as no longer to be in interstate commerce, shall have attached to both sides and ends of the car, cards with the words "explosives—handle carefully—keep fire away" in red letters at least 1 1/2 inches high on a white background.

(4) Storage. Any explosives at a railway facility, truck terminal, pier, wharf, harbor facility, or airport terminal whether for delivery to a consignee, or forwarded to some other destination shall be kept in a safe place, isolated as far as practicable and in such manner that they can be easily and quickly removed.

(5) Hours of transfer. Explosives shall not be delivered to or received from any railway station, truck terminal, pier, wharf, harbor facility, or airport terminal between the hours of sunset and sunrise.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-52-473 QUANTITY AND DISTANCE TABLES FOR STORAGE.

AMENDATORY SECTION (Amending Order 83-19, filed 7/13/83, effective 9/12/83)

WAC 296-62-07314 MEDICAL SURVEILLANCE. (1) At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(2) Examinations.

(a) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided (The examination) and shall include ((the)) a personal history of the employee(;) and/or his/her family and occupation background, including genetic and environmental factors.

(b) Authorized employees shall be provided periodic physical examination, not less often than annually, following the preassignment examination.

(c) In all physical examinations, the examining physician shall be requested to consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy and cigarette smoking.

(3) Records.

(a) Employers of employees examined pursuant to this subdivision shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

(b) Records required by this section shall be provided upon request to employees, designated representatives, and the director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. These records shall also be provided upon request to the director.

(c) Any employer who requests a physical examination of one of his employees or prospective employees as required by this section shall obtain from the physician a statement of the employee's suitability for employment in the specific exposure.

AMENDATORY SECTION (Amending Order 89-06, filed 7/6/89, effective 8/7/89.)

WAC 296-62-07507 MIXTURES. Special consideration shall be given to assessing the health hazards associated with exposure to mixtures of two or more substances which have similar health effects.

(1) In case of a mixture of air-contaminants compute the equivalent exposure as follows:

$$E_m = \frac{C_1}{L_1} + \frac{C_2}{L_2} + \dots + \frac{C_n}{L_n}$$

Where:

E_m is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that contaminant, from Table 1 or 2.

The value of E_m shall not exceed unity (1).

(2) To illustrate the formula consider the following exposures:

Substance	Actual concentration of 8 hour exposure (ppm)	8 hr. TWA PEL (ppm) ((8))
B.....	500	1000
C.....	45	200
D.....	40	200

Substituting in the formula, we have:

$$E_m = 500 \div 1,000 + 45 \div 200 + 40 \div 200$$

$$E_m = 0.500 + 0.225 + 0.200$$

$$E_m = 0.925$$

Since E_m is less than unity (1), the exposure combination is within acceptable limits.

AMENDATORY SECTION (Amending Order 89-06, filed 7/6/89,
effective 8/7/89)

WAC 296-62-07515 CONTROL OF CHEMICAL AGENTS.
Chemical agents shall be controlled in such a manner that the workers
exposure shall not exceed the applicable limits in WAC 296-62-075
through 296-62-07515.

II/SPECIAL
TABLE 1.1

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Abate, see Temphos	---	---	---	---	---	---	---	---
Acetaldehyde	75-07-0	100	100	150	270	---	---	---
Acetic acid	64-19-7	10	25	---	---	---	---	---
Acetic anhydride	100-24-7	---	---	---	---	5.0	20	---
Acetone	67-64-1	750	1800	1000	2400	---	---	---
Acetonitrile	75-05-8	40	70	60	105	---	---	---
2-Acetylaminofluorene (see MAC 296-62-073)	53-96-3	---	---	---	---	---	---	---
Acetylene	74-86-2	Simple	Asphyxiant	---	---	---	---	---
Acetylene dichloride (see 1,2-Dichloroethylene)	---	---	---	---	---	---	---	---
Acetylene tetrabromide	79-27-6	1.0	14	---	---	---	---	---
Acetylsalicylic acid (Aspirin)	50-78-2	---	5.0	---	---	---	---	---
Acrolein	107-02-0	0.1	0.25	0.3	0.8	---	---	---
Acrylamide	79-06-1	---	0.03	---	---	---	---	X
Acrylic acid	79-10-7	10	30	---	---	---	---	X
Acrylonitrile (see MAC 296-62-07341)	107-13-3	---	---	---	---	---	---	---
Aldrin	309-00-2	---	0.25	---	---	---	---	X
Allyl alcohol	107-18-6	2.0	5.0	4.0	10	---	---	X
Allyl Chloride	107-05-1	1.0	3.0	2.0	6.0	---	---	---
Allyl glycidyl ether (AGE)	106-92-3	5.0	22	10	44	---	---	---
Allyl propyl disulfide	2179-59-1	2.0	12	3.0	18	---	---	---
alpha-Alumina (see Aluminum oxide)	1344-20-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

III/SPECIAL
TABLE 1.2

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Aluminum, metal and oxide (as Al)	7429-90-5	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
pyro powders	---	---	5.0	---	---	---	---	---
welding fumes ^{f/}	---	---	2.0	---	---	---	---	---
soluble salts	---	---	2.0	---	---	---	---	---
alkyls (HOC)	---	---	---	---	---	---	---	---
Aluminum (see Aluminum oxide)	---	---	---	---	---	---	---	---
4-Aminodiphenyl (see MAC 296-62-073)	92-67-1	---	---	---	---	---	---	---
2-Aminoethanol (see Ethanolamine)	---	---	---	---	---	---	---	---
2-Aminopyridine	504-29-0	0.5	2.0	---	---	---	---	---
Amitrole	61-02-5	---	0.2	---	---	---	---	---
Ammonia	7664-41-7	25	18	35	27	---	---	---
Ammonium chloride, fume	12125-02-9	---	10	---	---	---	---	---
Ammonium sulfate (Amate)	7773-06-0	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
n-Amyl acetate	628-63-7	100	525	---	---	---	---	---
sec-Amyl acetate	626-30-0	125	650	---	---	---	---	X
Aniline and homologues	62-53-3	2.0	8.0	---	---	---	---	X
Anisidine (o, p-isomers)	29191-52-4	0.1	0.5	---	---	---	---	---
Antimony and Compounds (as Sb)	7440-36-0	---	0.5	---	---	---	---	---
AIU (alpha laphthyl thiourea)	86-88-4	---	0.3	---	---	---	---	---
Argon	7440-37-1	Simple	Asphyxiant	---	---	---	---	---
Arsenic, Organic compounds (as As)	7440-30-2	---	0.2	---	---	---	---	---
Arsenic, Inorganic compounds, (as As) (see MAC 296-62-07347 for applications and exclusions)	Varies with compound	---	0.2	---	---	---	---	---

HI/SPECIAL
TABLE 1.3

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Arsine	7704-42-1	0.05	0.2	---	---	---	---	---
Asbestos (see WAC 296-62-07517)	---	---	---	---	---	---	---	---
Asphalt (Petroleum fumes)	0052-42-4	---	5.0	---	---	---	---	---
Alrazine	1912-24-9	---	5.0	---	---	---	---	---
Azinphos methyl	06-50-0	---	0.2	---	---	---	---	X
Barium, soluble compounds (as Ba)	7440-39-3	---	0.5	---	---	---	---	---
Barium Sulfate	7727-43-7	---	---	---	---	---	---	---
Total dust	---	---	10.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Benomyl	17004-35-2	---	---	---	---	---	---	---
Total dust	---	0.8	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Benzene, (see WAC 296-62-07523) ^{d/}	71-43-2	1.0	---	6.0	---	---	---	---
Benzidine, (see WAC 296-62-073)	92-07-5	---	---	---	---	---	---	---
p-Benzoquinone, (see Quinone)	---	---	---	---	---	---	---	---
Benzo(a) pyrene; (see Coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Benzoyl peroxide	94-36-0	---	5.0	---	---	---	---	---
Benzyl chloride	100-44-7	1.0	5.0	---	---	---	---	---
Beryllium and beryllium compounds (as Be)	7440-41-7	0.002	---	0.005 (30 min.)	---	0.025	---	---
Biphenyl (see Diphenyl)	---	---	---	---	---	---	---	---
Bismuth telluride, Undoped	1304-02-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Bismuth telluride, Se-doped	---	---	5.0	---	---	---	---	---

HI/SPECIAL
TABLE 1.4

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Borates, tetra, sodium salts:	---	---	---	---	---	---	---	---
Anhydrous	1330-43-4	---	1.0	---	---	---	---	---
Decahydrate	1303-96-4	---	5.0	---	---	---	---	---
Pentahydrate	12179-04-3	---	1.0	---	---	---	---	---
Boron oxide	1303-86-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Boron tribromide	10294-33-4	---	---	---	---	1.0	10	---
Boron trifluoride	7637-07-2	---	---	---	---	1.0	3.0	---
Bromacil	314-40-9	1.0	10	---	---	---	---	---
Bromine	7726-95-6	0.1	0.7	0.3	2.0	---	---	---
Bromine pentafluoride	7789-30-2	0.1	0.7	---	---	---	---	---
Bromochloromethane, (see Chlorobromomethane)	---	---	---	---	---	---	---	---
Bromoform	15-25-2	0.5	5.0	---	---	---	---	---
Butadiene (1,3-butadiene)	106-99-0	10	22	---	---	---	---	X
Butane	106-97-8	800	1,900	---	---	---	---	---
Butanethiol (see Butyl mercaptan)	---	---	---	---	---	---	---	---
2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	300	805	---	---	---
2-Dutoxy ethanol (Dutyl Celiosolve)	111-76-2	25	120	---	---	---	---	X
n-Dutyl acetate	123-06-4	150	710	200	950	---	---	---
sec-Dutyl acetate	105-46-4	200	950	---	---	---	---	---
tert-Dutyl acetate	540-08-5	200	950	---	---	---	---	---
Dutyl acrylate	141-32-2	10	55	---	---	---	---	---
n-Dutyl alcohol	71-36-3	---	---	---	---	50	150	X
sec-Dutyl alcohol	70-92-2	100	305	---	---	---	---	---
tert-Dutyl alcohol	75-65-0	100	300	150	450	---	---	---

III/SPECIAL
TABLE 1.5

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Dutylamine	109-73-9	---	---	---	---	5.0	15	X
tert-Dutyl chromate (see C ₇ O ₃)	1109-85-1	---	---	---	---	---	0.1	X
n-Dutyl glycidyl ether (DGE)	2426-08-6	25	135	---	---	---	---	---
n-Dutyl lactate	130-22-7	5.0	25	---	---	---	---	---
Dutyl mercaptan	109-79-5	0.5	1.5	---	---	---	---	---
o-sec-Dutylphenol	09-72-5	5.0	30	---	---	---	---	X
p-tert-Dutyl-toluene	98-51-1	10	60	20	120	---	---	---
Cadmium oxide fume, (as Cd)	1306-19-0	---	---	---	---	---	0.05	---
Cadmium dust and salts (as Cd)	7440-43-9	---	0.05	---	---	---	---	---
Calcium arsenate (see WAC 296-62-07347)	---	---	---	---	---	---	---	---
Calcium carbonate	1317-65-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Calcium cyanamide	156-62-7	---	0.5	---	---	---	---	---
Calcium hydroxide	1305-62-0	---	5.0	---	---	---	---	---
Calcium oxide	1305-70-8	---	2.0	---	---	---	---	---
Calcium silicate	1344-95-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Calcium sulfate	7770-10-9	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Camphor(synthetic)	76-22-2	---	2.0	---	---	---	---	---
Caprolactam; Dust	105-60-2	---	1.0	---	3.0	---	---	---
Vapor	---	5.0	20	10	40	---	---	---
Captafol (Difolatan®)	2425-06-1	---	0.1	---	---	---	---	X
Captan	133-06-2	---	5.0	---	---	---	---	---

III/SPECIAL
TABLE 1.6

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Carbaryl (Sevin®)	63-25-2	---	5.0	---	---	---	---	---
Carbofuran (Furadon®)	1563-66-2	---	0.1	---	---	---	---	---
Carbon black	1333-06-4	---	3.5	---	---	---	---	---
Carbon dioxide	124-38-9	5,000	9,000	10,000	50,000	---	---	---
Carbon disulfide	75-15-0	1.0	12	12	36	---	---	X
Carbon monoxide	630-08-0	35	40	---	---	200	229	---
Carbon tetrabromide	558-13-4	0.1	1.4	0.3	4.0	---	---	---
Carbon tetrachloride	66-23-5	2.0	12.6	---	---	---	---	---
Carbonyl chloride (see Phosgene)	---	---	---	---	---	---	---	---
Carbonyl fluoride	353-50-4	2.0	5.0	5.0	15	---	---	---
Catechol (Pyrocatechol)	120-00-9	5.0	20	---	---	---	---	X
Cellulose (paper fiber)	9004-34-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Cesium hydroxide	21351-79-1	---	2.0	---	---	---	---	---
Chlordane	67-74-9	---	0.5	---	---	---	---	X
Chlorinated camphene	8001-35-2	---	0.5	---	1.0	---	---	X
Chlorinated diphenyl oxide	55720-99-5	---	0.5	---	---	---	---	---
Chlorine	7702-50-5	0.5	1.5	1.0	3.0	1.0	3.0	---
Chlorine dioxide	10049-04-4	0.1	0.3	0.3	0.9	---	---	---
Chlorine trifluoride	7790-91-2	---	---	---	---	0.1	0.4	---
Chloroacetaldehyde	107-20-0	---	---	---	---	1.0	3.0	---
Chloroacetophenone (Phenacyl chloride)	532-21-4	0.05	0.3	---	---	---	---	---
Chloroacetyl chloride	79-04-9	0.05	0.2	---	---	---	---	---
Chlorobenzene (Monochlorobenzene)	108-90-7	75	350	---	---	---	---	---

HI/SPECIAL
TABLE 1.7

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
o-Chlorobenzylidene malonitrile (OCBM)	2690-41-1	---	---	---	---	0.05	0.4	X
Chlorobromomethane	74-97-5	200	1,050	---	---	---	---	---
2-Chloro-1, 3-butadiene (see beta-Chloroprene)	---	---	---	---	---	---	---	---
Chlorodifluoromethane	75-45-6	1,000	3,500	---	---	---	---	---
Chlorodiphenyl (42% Chlorine) (PCB)	63469-21-9	---	1.0	---	---	---	---	X
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1	---	0.5	---	---	---	---	X
1-Chloro-2, 3-epoxypropane, (see Epichlorohydrin)	---	---	---	---	---	---	---	---
2-Chloroethanol (see Ethylene chlorohydrin)	---	---	---	---	---	---	---	---
Chloroethylene (see vinyl chloride)	---	---	---	---	---	---	---	---
Chloroform (Trichloromethane)	67-66-3	2.0	9.78	---	---	---	---	---
1-Chloro-1-nitropropane	600-25-9	2.0	10	---	---	---	---	---
bis-Chloromethyl ether (see MAC 296-62-073)	542-08-1	---	---	---	---	---	---	---
Chloromethyl methyl ether (See Methyl carbomethyl ether)	107-30-2	---	---	---	---	---	---	---
Chloropentafluoroethane	76-15-3	1,000	6,320	---	---	---	---	---
Chloropicrin	76-06-2	0.1	0.7	---	---	---	---	---
beta-Chloroprene	126-99-8	10	35	---	---	---	---	X
o-Chlorostyrene	2039-07-4	50	205	75	428	---	---	---
o-Chlorotoluene	95-49-8	50	250	---	---	---	---	---

HI/SPECIAL
TABLE 1.8

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2-Chloro-6-(trichloromethyl) pyridine (see Nitrapyrin)	1929-02-4	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Chlorpyrifos	2921-80-2	---	0.2	---	---	---	---	X
Chromic acid and chromates (as Cr ₂ O ₃)	Varies w/compounds	---	---	---	---	0.1	---	---
Chromium (II) compounds (as Cr)	7440-47-3	---	0.5	---	---	---	---	---
Chromium (III) compounds (as Cr)	7440-47-3	---	0.5	---	---	---	---	---
Chromium (VI) compounds (as Cr)	---	---	0.05	---	---	---	---	---
Chromium Metal	7440-47-3	---	0.5	---	---	---	---	---
Chromyl chloride	14977-61-0	0.025	0.15	---	---	---	---	---
Chrysene: (see Coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Clopidol	2971-90-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Coal Dust (less than 5% SiO ₂)	---	---	2.0	---	---	---	---	---
Respirable quartz fraction	---	---	0.1	---	---	---	---	---
Coal dust (greater than or equal to 5% SiO ₂)	---	---	0.1	---	---	---	---	---
Respirable quartz fraction	---	---	0.2	---	---	---	---	---
Coal tar pitch volatiles (benzene soluble fraction anthracene, BaP, phenanthrene, acridine, chrysene, pyrene)	65996-93-2	---	0.2	---	---	---	---	---
Cobalt, metal fume & dust, (as Co)	7440-48-4	---	0.05	---	---	---	---	---

III/SPECIAL
TABLE 9

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Cobalt carbonyl (as Co)	10210-60-1	---	0.1	---	---	---	---	---
Cobalt hydrocarbonyl (as Co)	16042-03-8	---	0.1	---	---	---	---	---
Coke oven emissions (see WAC 296-62-200)	---	---	---	---	---	---	---	---
Copper fume (as Cu)	7440-50-0	---	0.1	---	---	---	---	---
Dusts and mists (as Cu)	---	---	1.0	---	---	---	---	---
Cotton dust (raw) ^{g/}	---	---	1.0	---	---	---	---	---
Corundum, (see Aluminum oxide)	---	---	---	---	---	---	---	---
Crag® herbicide (Sesone)	136-78-7	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	X
Cresol (all isomers)	1319-77-3	5.0	22	---	---	---	---	---
Crotonaldehyde	123-73-9; 4170-30-3	2.0	6.0	---	---	---	---	---
Cruformate	299-86-5	---	5.0	---	---	---	---	---
Cumene	90-82-0	50	245	---	---	---	---	X
Cyanamide	420-04-2	---	2.0	---	---	---	---	---
Cyanide (as CN)	Varies with Compound	---	5.0	---	---	---	---	X
Cyanogen	460-19-5	10	20	---	---	---	---	---
Cyanogen chloride	506-77-4	---	---	---	---	0.3	0.6	---
Cyclohexane	110-82-7	300	1,050	---	---	---	---	X
Cyclohexanol	108-93-0	50	200	---	---	---	---	---

III/SPECIAL
TABLE 10

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Cyclohexanone	108-94-1	25	100	---	---	---	---	X
Cyclohexene	110-03-0	300	1,015	---	---	---	---	---
Cyclohexylamine	108-91-8	10	40	---	---	---	---	---
Cyclonite (see ROX)	121-82-4	---	1.5	---	---	---	---	X
Cyclopentadiene	542-92-7	75	200	---	---	---	---	---
Cyclopentane	287-92-3	600	1,720	---	---	---	---	---
Cyhexatin	13121-70-5	---	5.0	---	---	---	---	---
2,4-D (Dichlorophenoxy- acetic acid)	94-75-7	---	10	---	---	---	---	---
DDT (Dichlorodiphenyltri- chloroethane)	50-29-3	---	1.0	---	---	---	---	X
DDVP, Dichlorvos	62-73-7	0.1	1.0	---	---	---	---	X
Decaborane	17702-41-9	0.05	0.3	0.15	0.9	---	---	X
Demeton®	0065-40-3	0.01	0.1	---	---	---	---	X
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	123-42-2	50	240	---	---	---	---	---
1, 2-Diaminoethane (see Ethylenediamine)	---	---	---	---	---	---	---	---
Diazinon	333-41-5	---	0.1	---	---	---	---	X
Diazomethane	334-00-3	0.2	0.4	---	---	---	---	---
Diborane	19207-45-7	0.1	0.1	---	---	---	---	---
Dibrom®, (see Naled)	---	---	---	---	---	---	---	---
1, 2-Dibromo-3-chloropropane (see WAC 296-62-07345)	96-12-3	---	---	---	---	---	---	---
2-N-Dibutylamino ethanol	102-01-0	2.0	14	---	---	---	---	X
Dibutyl phosphate	107-66-4	1.0	5.8	2.0	10	---	---	---

III/SPECIAL
TABLE 1.11

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Dibutyl phthalate	84-74-2	---	5.0	---	---	---	---	---
Dichloroacetylene	7572-29-4	---	---	---	---	0.1	0.4	---
o-Dichlorobenzene	95-50-1	---	---	---	---	50	300	---
p-Dichlorobenzene	106-46-7	75	450	110	675	---	---	---
3, 3'-Dichlorobenzidine (see WAC 296-62-073)	91-94-1	---	---	---	---	---	---	---
Dichlorodifluoromethane	75-71-8	1,000	4,950	---	---	---	---	---
1, 3-Dichloro-5, 6-dimethyl hydantoin	118-52-5	---	0.2	---	0.4	---	---	---
1, 1-Dichloroethane	75-34-3	100	400	---	---	---	---	---
1, 2-Dichloroethane (see Ethylene dichloride)	---	---	---	---	---	---	---	---
1, 2-Dichloroethylene	540-59-0	200	790	---	---	---	---	---
1, 1-Dichloroethylene (see Vinylidene chloride)	---	---	---	---	---	---	---	---
Dichloroethyl ether	111-44-4	5.0	30	10	60	---	---	X
Dichlorofluoromethane	75-43-4	10	40	---	---	---	---	---
Dichloromethane (see Methylene chloride)	---	---	---	---	---	---	---	---
1, 1-Dichloro-1-nitroethane	594-72-9	2.0	10.	10.	---	---	---	---
1, 2-Dichloropropane (see Propylene dichloride)	---	---	---	---	---	---	---	---
Dichloropropene	542-75-6	1.0	5.0	---	---	---	---	X
2, 2-Dichloropropionic acid	75-99-0 ^d	1.0	6.0	---	---	---	---	---
Dichlorotetrafluoroethane	76-14-2	1,000	7,000	---	---	---	---	---
Dichlorvos (DDVP)	62-73-7	0.1	1.0	---	---	---	---	X
Dicrotophos	141-66-2	---	0.25	---	---	---	---	X
Dicyclopentadiene	77-73-6	5.0	30	---	---	---	---	---

III/SPECIAL
TABLE 1.12

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Dicyclopentadienyl iron	102-54-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Dieldrin	60-57-1	---	0.25	---	---	---	---	X
Diethanolamine	111-42-2	3.0	15	---	---	---	---	---
Diethylamine	109-89-7	10	30	25	75	---	---	---
2-Diethylaminoethanol	100-37-8	10	50	---	---	---	---	X
Diethylene triamine	111-40-0	1.0	4.0	---	---	---	---	X
Diethyl ether (see Ethyl ether)	---	---	---	---	---	---	---	---
Diethyl ketone	96-22-0	200	705	---	---	---	---	---
Diethyl phthalate	84-66-2	---	5.0	---	---	---	---	---
Difluorodibromomethane	75-61-6	100	060	---	---	---	---	---
Diglycidyl ether (DGE)	2230-07-5	0.1	0.5	---	---	---	---	---
Dihydroxybenzene (see Hydroquinone)	---	---	---	---	---	---	---	---
Diisobutyl ketone	100-83-0	25	150	---	---	---	---	---
Diisopropylamine	100-18-9	5.0	20	---	---	---	---	X
Dimethoxymethane (see Methylal)	---	---	---	---	---	---	---	---
Dimethyl acetamide	127-19-5	10	35	---	---	---	---	X
Dimethylamine	124-40-3	10	18	---	---	---	---	---

HT/SPECIAL
TABLE 1.13

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
4-Dimethylaminobenzene (see WAC 296-62-073)	60-11-7	---	---	---	---	---	---	---
Dimethylaminobenzene (see Xylidene)	---	---	---	---	---	---	---	---
Dimethylaniline (see N, N-Dimethylaniline)	121-69-7	5.0	25	10	50	---	---	X
Dimethylbenzene (see Xylene)	---	---	---	---	---	---	---	---
Dimethyl-1, 2-dibromo-2, 2-dichloroethyl phosphate (see Naled)	300-76-5	---	3.0	---	---	---	---	X
Dimethylformamide	68-12-2	10	30	---	---	---	---	X
2, 6-Dimethylheptanone (see Diisobutyl ketone)	---	---	---	---	---	---	---	---
1, 1-Dimethylhydrazine	57-14-7	0.5	1.0	---	---	---	---	X
Dimethyl phthalate	131-11-3	---	5.0	---	---	---	---	---
Dimethyl sulfate	77-78-1	0.1	0.5	---	---	---	---	X
Dinitolmide	148-01-6	---	5.0	---	---	---	---	---
(3, 5-Dinitro-o-toluidide)	---	---	5.0	---	---	---	---	---
Dinitrobenzene (all isomers)	(alpha)520-24-0; (MFA) 99-65-0; (Para) 100-25-4	0.15	1.0	---	---	---	---	X
Dinitro-o-cresol	634-62-1	---	0.2	---	---	---	---	X
Dinitrotoluene	25321-14-6	---	1.5	---	---	---	---	X
Dioxane (Diethylene dioxide)	123-91-1	25	90	---	---	---	---	X
Dioxathion	78-34-2	---	0.2	---	---	---	---	X
Diphenyl (Dlphenyl)	92-52-4	0.2	1.0	---	---	---	---	---
Diphenylamine	122-39-4	---	10	---	---	---	---	---
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate (MDI))	---	---	---	---	---	---	---	---
Dipropylene glycol methyl ether	34590-94-8	100	600	150	900	---	---	X

HT/SPECIAL
TABLE 1.14

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Dipropyl ketone	123-19-3	50	235	---	---	---	---	---
Diquat	05-00-7	---	0.5	---	---	---	---	---
Di-sec. Octyl phthalate (Di-2-ethylhexylphthalate)	117-01-7	---	5.0	---	10	---	---	---
Disulfiram	97-77-8	---	2.0	---	---	---	---	---
Disulfoton	290-04-4	---	0.1	---	---	---	---	X
2, 6-Di-tert-butyl-p-cresol	120-37-0	---	10	---	---	---	---	---
Diuron	330-54-1	---	10	---	---	---	---	---
Divinyl benzene	1321-74-0	10	50	---	---	---	---	---
Emery	112-62-9	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Endosulfan (Thiodan®)	115-29-7	---	0.1	---	---	---	---	X
Endrin	72-20-8	---	0.1	---	---	---	---	X
Epichlorohydrin	106-89-8	2.0	8.0	---	---	---	---	X
EPN	2104-64-5	---	0.5	---	---	---	---	X
1, 2-Epoxypropane (see Propylene oxide)	---	---	---	---	---	---	---	---
2, 3-Epoxy-1-propanol (see Glycidol)	---	---	---	---	---	---	---	---
Ethane	---	Simple	Asphyxiant	---	---	---	---	---
Ethanethiol (see Ethyl mercaptan)	---	---	---	---	---	---	---	---
Ethanolamine	141-43-5	3.0	8.0	6.0	15	---	---	---
Ethion	563-12-2	---	0.4	---	---	---	---	X
2-Ethoxyethanol	110-80-5	5.0	19	---	---	---	---	X
2-Ethoxyethyl acetate (Cellulosolve acetate)	111-15-9	5.0	27	---	---	---	---	X

HI/SPECIAL
TABLE 1.15

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ethyl acetate	141-78-6	400	1,400	---	---	---	---	---
Ethyl acrylate	140-88-5	5.0	20	25	100	---	---	X
Ethyl alcohol (ethanol)	64-17-5	1,000	1,900	---	---	---	---	---
Ethylamine	75-04-07	10	10	---	---	---	---	---
Ethyl amyl ketone (5-Methyl-3-heptanone)	641-05-5	25	130	---	---	---	---	---
Ethyl benzene	100-41-4	100	435	125	645	---	---	---
Ethyl bromide	74-96-4	200	090	250	1,110	---	---	---
Ethyl butyl ketone (3-Heptanone)	106-35-4	50	230	---	---	---	---	---
Ethyl chloride	75-00-3	1,000	2,600	---	---	---	---	---
Ethylene	74-85-1	Simple	Asphyxiant	---	---	---	---	---
Ethylene chlorohydrin	107-07-3	---	---	---	---	1.0	3.0	X
Ethylenediamine	107-15-3	10	25	---	---	---	---	X
Ethylene dibromide	106-93-4	0.1	---	0.5	---	---	---	---
Ethylene dichloride	107-06-2	1.0	4.0	2.0	8.0	---	---	---
Ethylene glycol	107-21-1	---	---	---	---	50	125	---
Ethylene glycol dinitrate	620-96-6	---	---	---	0.1	---	---	X
Ethylene glycol monomethyl ether acetate (Methyl cellosolve acetate)	---	5.0	24	---	---	---	---	X
Ethyleneimine (see MAC 296-62-073)	151-56-4	---	---	---	---	---	---	X

HI/SPECIAL
TABLE 1.16

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ethylene oxide (see MAC 296-62-07353)	75-21-8	1.0	2.0	---	---	---	---	---
Ethyl ether	60-29-7	400	1,200	500	1,500	---	---	---
Ethyl formate	109-94-4	100	300	---	---	---	---	---
Ethylidene chloride (see 1, 1-Dichloroethane)	---	---	---	---	---	---	---	---
Ethylidene norbornene	16219-75-3	---	---	---	---	5.0	25	---
Ethyl mercaptan	75-00-1	0.5	1.0	---	---	---	---	---
n-Ethylmorpholine	100-74-3	5.0	23	---	---	---	---	X
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	---	25	130	---	---	---	---	---
Ethyl silicate	70-10-4	10	85	---	---	---	---	---
Fenamiphos	22224-92-6	---	0.1	---	---	---	---	X
Fensulfothion (Dasanit)	115-90-2	---	0.1	---	---	---	---	---
Fenthion	55-30-9	---	0.2	---	---	---	---	X
Ferbam	14404-64-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Ferrovandium dust	12604-50-9	---	1.0	---	3.0	---	---	---
Fluorides (as F)	Varies w/compound	---	2.5	---	---	---	---	---
Fluorine	7702-41-4	0.1	0.2	---	---	---	---	---
Fluorotrichloromethane (see Trichlorofluoro methane)	75-69-4	---	---	---	---	1,000	5,600	---
Fonofos	944-22-9	---	0.1	---	---	---	---	---
Formaldehyde (see MAC 296-62-07540)	50-00-0	1.0	---	2.0	---	---	---	X
Formamide	75-12-7	20	30	30	45	---	---	---
Formic acid	64-18-6	5.0	9.0	---	---	---	---	---
Furfural	90-01-1	2.0	8.0	---	---	---	---	X
Furfuryl alcohol	90-00-0	10	40	15	60	---	---	X
Gasoline	0006-61-9	300	900	500	1,500	---	---	---
Germanium tetrahydride	7702-65-2	0.2	0.6	---	---	---	---	---

III/SPECIAL
TABLE 1.17

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Glass, fibrous or dust	---	---	10	---	---	---	---	---
Glutaraldehyde	111-30-0	---	---	---	---	0.2	0.8	---
Glycerin mist	56-01-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Glycidol (2, 3-Epoxy-1- propanol)	556-52-6	25	75	---	---	---	---	---
Glycol monoethyl ether (see 2-Ethoxyethanol)	---	---	---	---	---	---	---	---
Grain dust (oat, wheat, barley)	---	---	10	---	---	---	---	---
Graphite, natural	7702-42-5	---	---	---	---	---	---	---
Respirable dust	---	---	2.5	---	---	---	---	---
Graphite, Synthetic	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Guthion [®] (see Azinphosmethyl)	---	---	---	---	---	---	---	---
Gypsum	13397-24-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Hafnium	7440-58-6	---	0.5	---	---	---	---	---
Helium	Simple	Asphyxiant	---	---	---	---	---	---
Heptachlor	76-44-8	---	0.5	---	---	---	---	X
Heptane (n-heptane)	142-82-5	400	1,600	500	2,000	---	---	---
2-Heptanone, (see Methyl n-amyl ketone)	---	---	---	---	---	---	---	---
3-Heptanone (see Ethyl butyl ketone)	---	---	---	---	---	---	---	---
Hexachlorobutadiene	87-60-3	0.02	0.24	---	---	---	---	X
Hexachlorocyclopentadiene	77-47-4	0.01	0.1	---	---	---	---	---
Hexachloroethane	67-72-1	1.0	10	---	---	---	---	X
Hexachloronaphthalene	1335-87-1	---	0.2	---	---	---	---	X
Hexafluoroacetone	604-16-2	0.1	0.7	---	---	---	---	X
Hexane n-hexane other isomers	110-54-3 Varies w/compound	50 500	100 1,000	1,000	3,600	---	---	---

III/SPECIAL
TABLE 1.18

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2-Hexanone (Methyl-n-butyl ketone)	591-78-6	5.0	20	---	---	---	---	---
Hexone (Methyl isobutyl ketone)	100-10-1	50	205	75	300	---	---	---
sec-Hexyl acetate	100-04-9	50	300	---	---	---	---	---
Hexylene Glycol	107-41-5	---	---	---	---	25	125	---
Hydrazine	302-01-2	0.1	0.1	---	---	---	---	X
Hydrogen	Simple	Asphyxiant	---	---	---	---	---	---
Hydrogenated terphenyls	61788-32-7	0.5	5.0	---	---	---	---	5.0
Hydrogen bromide	10035-10-6	---	---	---	---	3.0	10	---
Hydrogen chloride	7647-01-0	---	---	---	---	5.0	7.0	---
Hydrogen cyanide	74-90-8	---	---	4.7	5.0	---	---	X
Hydrogen fluoride	7664-39-3	---	---	---	---	3.0	2.5	---
Hydrogen peroxide	7722-84-1	1.0	1.4	---	---	---	---	---
Hydrogen selenide (as Se)	7703-07-5	0.05	0.2	---	---	---	---	---
Hydrogen Sulfide	7703-06-4	10	14	15	21	---	---	---
Hydroquinone	123-31-9	---	2.0	---	---	---	---	---
4-Hydroxy-4-methyl-2-pentanone (see Diacetone alcohol)	---	---	---	---	---	---	---	---
2-Hydroxypropyl acrylate	999-61-1	0.5	3.0	---	---	---	---	X
Indene	95-13-6	10	45	---	---	---	---	---
Indium and compounds (as In)	7440-74-6	---	0.1	---	---	---	---	---
Iodine	7553-56-7	---	---	---	---	0.1	1.0	---
Iodoform	75-47-8	0.6	10	---	---	---	---	---
Iron oxide dust and fume (as Fe) Total particulate	1309-37-1 ---	---	5.0	---	---	---	---	---

HIT/SPECIAL
TABLE 1.19

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6	---	---	---
Iron salts, soluble (as Fe)	Varies w/compound	---	1.0	---	---	---	---	---
Isoamyl acetate	123-92-2	100	525	---	---	---	---	---
Isoamyl alcohol (primary and secondary)	123-51-3	100	360	125	450	---	---	---
Isobutyl acetate	110-19-0	150	700	---	---	---	---	---
Isobutyl alcohol	78-03-1	50	150	---	---	---	---	---
Isooctyl alcohol	26952-21-6	50	270	---	---	---	---	X
Isophorone	78-59-1	4.0	23	---	---	6.0	25	---
Isophorone diisocyanate	4890-71-9	0.005	0.045	0.02	---	---	---	X
Isopropoxyethanol	109-59-1	25	105	---	---	---	---	---
Isopropyl acetate	108-21-4	250	950	310	1,105	---	---	---
Isopropyl alcohol	67-63-0	400	900	500	1,225	---	---	---
Isopropylamine	75-31-0	5.0	12	10	24	---	---	---
N-Isopropylaniline	768-52-5	2.0	10	---	---	---	---	X
Isopropyl ether	100-20-3	250	1,050	---	---	---	---	---
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360	---	---	---
Kaolin								
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Ketene	463-51-4	0.5	0.9	1.5	3.0	---	---	---
Lead inorganic (as Pb) (see WAC 296-62-07521)	7439-92-1	---	0.15	---	---	---	---	---

HIT/SPECIAL
TABLE 1.20

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Lead arsenate (see WAC 296-62-07347)	3607-31-8	---	0.15	---	---	---	---	---
Lead chromate	7750-97-6	---	0.05	---	---	---	---	---
Limestone	1317-65-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Lindane	50-89-9	---	0.5	---	---	---	---	X
Lithium hydride	7500-67-8	---	0.025	---	---	---	---	---
L.P.G. (liquefied petroleum gas)	68476-85-7	1,000	1,800	---	---	---	---	---
Magnesite	546-93-0	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Magnesium oxide fume	1309-48-4	---	---	---	---	---	---	---
Total particulate	---	---	10	---	---	---	---	---
Malathion	121-75-5	---	---	---	---	---	---	X
Total dust	---	---	10	---	---	---	---	---
Maleic anhydride	108-31-6	0.25	1.0	---	---	---	---	---
Manganese and compound (as Mn)	7439-96-5	---	---	---	---	5.0	---	---
Manganese tetroxide and fume (as Mn)	7439-96-5	---	1.0	---	3.0	---	---	---
Manganese cyclopentadienyl tricarbonyl (as Mn)	12079-85-1	---	0.1	---	---	---	---	X
Manganese tetroxide (as Mn)	1317-35-7	---	1.0	---	---	---	---	---
Marble	1317-65-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Mercury (aryl and inorganic) (as Hg)	7439-97-6	---	---	---	---	0.1	---	X
Mercury (organo-alkyl compounds) (as Hg)	7439-97-6	---	0.01	---	0.03	---	---	X
Mercury (vapor) (as Hg) ^{d/}	7439-97-6	---	0.05	---	---	---	---	X

HIT/SPECIAL
TABLE 1.21

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Methyl oxide	141-79-7	15	60	25	100	---	---	---
Methacrylic acid	79-41-4	20	70	---	---	---	---	X
Methane	---	Simple	Asphyxiant	---	---	---	---	---
Methanethiol (see Methyl mercaptan)	---	---	---	---	---	---	---	---
Methonyl (lannate)	16752-77-5	---	2.5	---	---	---	---	---
Methoxychlor	72-43-5	---	10	---	---	---	---	---
Total dust	---	---	---	---	---	---	---	---
2-Methoxyethanol (Methyl cellosolve)	109-86-4	5.0	16	---	---	---	---	X
4-Methoxyphenol	150-76-5	---	5.0	---	---	---	---	---
Methyl acetate	79-20-9	200	610	250	760	---	---	---
Methyl acetylene (propyne)	74-99-7	1,000	1,650	---	---	---	---	---
Methyl acetylene-propadiene mixture (MAPP)	---	1,000	1,800	1,250	2,250	---	---	---
Methyl acrylate	96-33-3	10	35	---	---	---	---	X
Methylacrylonitrile	126-90-7	1.0	3.0	---	---	---	---	X
Methylal (Dimethoxy-methane)	109-87-5	1,000	3,100	---	---	---	---	---
Methyl alcohol (methanol)	67-56-1	200	260	250	325	---	---	X
Methylamine	74-89-5	10	12	---	---	---	---	---
Methyl amyl alcohol (see Methyl isobutyl carbinol)	---	---	---	---	---	---	---	---
Methyl n-amyl ketone (2-Heptanone)	110-43-0	50	235	---	---	---	---	---
N-Methyl aniline (see Monomethyl aniline)	---	---	---	---	---	---	---	---
Methyl bromide	74-83-9	5.0	20	---	---	---	---	X

HIT/SPECIAL
TABLE 1.22

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Methyl butyl ketone (see 2-Hexanone)	---	---	---	---	---	---	---	---
Methyl cellosolve (see 2-Methoxyethanol)	109-86-4	5.0	16	---	---	---	---	X
Methyl cellosolve acetate (2-Methoxyethyl acetate)	110-49-6	5.0	24	---	---	---	---	X
Methyl chloride	74-07-3	50	105	100	210	---	---	---
Methyl chloroform (1, 1, 1-trichloroethane)	71-55-6	350	1,900	450	2,450	---	---	---
Methyl chloromethyl ether (see MAC 296-62-073)	107-30-2	---	---	---	---	---	---	---
Methyl 2-cyanoacrylate	137-05-3	2.0	8.0	4.0	16	---	---	---
Methylcyclohexane	100-87-2	400	1,600	---	---	---	---	---
Methylcyclohexanol	25639-42-3	50	235	---	---	---	---	---
Methylcyclohexanone	583-60-8	50	230	75	345	---	---	X
Methylcyclopentadienyl manganese tricarbonyl (as Mn)	12100-13-3	---	0.2	---	---	---	---	X
Methyl demeton	8022-00-2	---	0.5	---	---	---	---	X
Methylene bisphenyl isocyanate (MDI)	101-68-8	---	---	---	---	0.02	0.2	---
4, 4'-Methylene bis (2-chloroaniline (MDOCA)) (see MAC 296-62-073)	101-14-4	0.02	0.22	---	---	---	---	X
Methylene bis (4-cyclohexylisocyanate)	5124-30-1	---	---	---	---	0.01	0.11	---
Methylene chloride	75-09-2	100	---	500	---	---	---	---
4, 4-Methylene dianiline	101-77-9	0.1	0.8	---	---	---	---	X
Methyl ethyl ketone (MEK) (see 2-Butanone)	78-93-3	---	---	---	---	---	---	---
Methyl ethyl ketone peroxide (MEKP)	1330-23-4	---	---	---	---	0.2	1.5	---
Methyl formate	107-31-3	100	250	150	375	---	---	---

117/SPECIAL
TABLE 1.23

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
5-Methyl-3-heptanone (see Ethyl amyl ketone)	---	---	---	---	---	---	---	---
Methyl hydrazine (see Monomethyl hydrazine)	60-34-4	---	---	---	---	0.2	0.35	X
Methyl iodide	74-00-4	2.0	10	---	---	---	---	X
Methyl isoamyl ketone	110-12-3	50	240	---	---	---	---	---
Methyl isobutyl carbinol	100-11-2	25	100	40	165	---	---	X
Methyl isobutyl ketone (see Hexone)	---	---	---	---	---	---	---	---
Methyl isocyanate	624-83-9	0.02	0.05	---	---	---	---	X
Methyl isopropyl ketone	563-80-4	200	705	---	---	---	---	---
Methyl mercaptan	74-93-1	0.5	1.0	---	---	---	---	---
Methyl methacrylate	90-62-6	100	410	---	---	---	---	---
Methyl parathion	298-00-0	---	0.2	---	---	---	---	X
Methyl propyl ketone (see 2-Pentanone)	---	---	---	---	---	---	---	---
Methyl silicate	604-04-5	1.0	6.0	---	---	---	---	---
alpha-Methyl styrene	90-83-9	50	240	100	465	---	---	---
Methylene bisphenyl isocyanate (MDI)	101-68-8	---	---	---	---	0.02	0.2	---
Hevinphos [®] (see Phosdrin)	---	---	---	---	---	---	---	---
Metribuzin	21087-64-9	---	5.0	---	---	---	---	---
Mica (see Silicates)	---	---	---	---	---	---	---	---
Molybdenum (as Mo) Soluble compounds Insoluble compounds Total dust	7439-98-7 --- --- ---	---	5.0 10 10	---	---	---	---	---
Monomethyl aniline	100-61-8	0.5	2.0	---	---	---	---	---

117/SPECIAL
TABLE 1.24

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Monocrotophos (Azodrin [®])	6923-22-4	---	0.25	---	---	---	---	---
Monomethyl aniline	100-61-8	0.5	2.0	---	---	---	---	X
Monomethyl hydrazine	---	---	---	---	---	0.2	0.35	---
Morpholine	110-91-8	20	70	30	105	---	---	X
Naled	300-76-5	---	3.0	---	---	---	---	X
Naphtha (Coal tar)	8030-30-6	100	400	---	---	---	---	X
Naphthalene	91-20-3	10	50	15	75	---	---	---
alpha-Naphthylamine (see MAC 296-62-073)	134-32-7	---	---	---	---	---	---	---
beta-Naphthylamine (see MAC 296-62-073)	91-59-8	---	---	---	---	---	---	---
Neon	7440-01-9	Simple	Asphyxiant	---	---	---	---	---
Nickel carbonyl (as Ni)	13463-39-3	0.001	0.007	---	---	---	---	---
Nickel, (as Ni) Metal and insoluble compounds Soluble compounds	7440-02-0 --- ---	---	1.0 0.1	---	---	---	---	---
Nicotine	54-11-6	---	0.5	---	---	---	---	X
Nitrapyrin	1929-82-4	---	10	---	20	---	---	---
Nitric acid	7697-37-2	2.0	5.0	4.0	10	---	---	---
Nitric oxide	10102-43-9	25	30	---	---	---	---	---
p-Nitroaniline	100-01-6	---	3.0	---	---	---	---	X
Nitrobenzene	98-95-3	1.0	6.0	---	---	---	---	X
4-Nitrobiphenyl (see MAC 296-62-073)	92-93-3	---	---	---	---	---	---	---
p-Nitrochlorobenzene	100-00-5	---	0.5	---	---	---	---	X
4-Nitrodiphenyl (see MAC 296-62-073)	---	---	---	---	---	---	---	---
Nitroethane	79-24-3	100	310	---	---	---	---	---
Nitrogen	7727-37-9	Simple	Asphyxiant	---	---	---	---	---
Nitrogen dioxide	10102-44-0	---	---	1.0	1.8	---	---	---
Nitrogen trifluoride	7783-54-2	10	29	---	---	---	---	---
Nitroglycerin	55-63-0	---	---	---	0.1	---	---	X
Nitromethane	75-52-5	100	250	---	---	---	---	---
1-Nitropropane	100-03-2	25	90	---	---	---	---	---

HT/SPECIAL
TABLE 1.25

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2-Nitropropane	79-46-9	10	35	---	---	---	---	---
N-Nitrosodimethylamine (see WAC 296-62-073)	62-75-9	---	---	---	---	---	---	---
Illnitrotoluenes:								
o-isomer	88-72-2	2.0	11	---	---	---	---	X
m-isomer	98-08-2	2.0	11	---	---	---	---	X
p-isomer	99-99-0	2.0	11	---	---	---	---	X
Nitrotetrachloromethane (see Chloropicrin)	---	---	---	---	---	---	---	---
Nitrous Oxide (Nitrogen oxide)	10024-97-2	30	54	---	---	---	---	---
Nonane	111-84-2	200	1,050	---	---	---	---	---
Octachloronaphthalene	2234-13-1	---	0.1	---	0.3	---	---	X
Octane	114-65-9	300	1,450	375	1,800	---	---	---
Oil mist, mineral (particulate)	8012-95-1	---	5.0	---	---	---	---	---
Osmium tetroxide (as Os)	20016-12-0	0.0002	0.002	0.0006	0.006	---	---	---
Oxalic acid	144-62-7	---	1.0	---	2.0	---	---	---
Oxygen difluoride	7783-41-7	---	---	---	---	0.05	0.1	---
Ozone	10028-15-6	0.1	0.2	0.3	0.6	---	---	---
Paraffin wax fume	8002-74-2	---	2.0	---	---	---	---	X
Paraquat (Respirable dust)	4685-14-7 1910-42-5 2074-50-2	---	0.1	---	---	---	---	X
Parathion	56-38-2	---	0.1	---	---	---	---	X
Particulate polycyclic aromatic hydrocarbons (see coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Particulates not otherwise regulated (see WAC 296-62-07510)	---	---	---	---	---	---	---	---
Total Dust	---	---	10	---	---	---	---	---
Respirable Fraction	---	---	5.0	---	---	---	---	---
Pentaborane	19624-22-7	0.005	0.01	0.015	0.03	---	---	X
Pentachloronaphthalene	1321-64-8	---	0.6	---	---	---	---	X
Pentachlorophenol	87-06-5	---	0.6	---	---	---	---	X

HT/SPECIAL
TABLE 1.26

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Pentaerythritol	115-77-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Pentane	109-66-0	600	1,000	750	2,250	---	---	---
2-Pentanone (methyl propyl ketone)	107-87-9	200	700	250	875	---	---	---
Perchloroethylene (tetrachloroethylene)	127-10-4	25	170	---	---	---	---	---
Perchloromethyl mercaptan	594-42-3	0.1	0.8	---	---	---	---	---
Perchloryl fluoride	7616-94-6	3.0	14	6.0	28	---	---	---
Perlite	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Petroleum distillates (Naptha)	8002-05-9	100	400	---	---	---	---	---
Phenol	108-95-2	5.0	19	---	---	---	---	X
Phenothiazine	92-84-2	---	5.0	---	---	---	---	X
p-Phenylene diamine	106-50-3	---	0.1	---	---	---	---	X
Phenyl ether (vapor)	101-84-8	1.0	7.0	---	---	---	---	---
Phenyl ether-diphenyl mixture (vapor)	---	1.0	7.0	---	---	---	---	---
Phenylethylene, (see Styrene)	---	---	---	---	---	---	---	---
Phenyl glycidyl ether (PGE)	122-60-1	1.0	6.0	---	---	---	---	---
Phenylhydrazine	100-63-0	5.0	20	10	45	---	---	X
Phenyl mercaptan	108-98-5	0.5	2.0	---	---	---	---	---
Phenylphosphine	638-21-1	---	---	---	---	0.05	0.25	---
Phorate	298-02-2	---	0.05	---	0.2	---	---	X
Phosdrin (Hevinphos®)	7786-34-7	0.01	0.1	0.03	0.3	---	---	X

HI/SPECIAL
TABLE 1.27

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Phosgene (carbonyl chloride)	75-44-5	0.1	0.4	---	---	---	---	---
Phosphine	7803-51-2	0.3	0.4	1.0	1.0	---	---	---
Phosphoric acid	7664-30-2	---	1.0	---	3.0	---	---	---
Phosphorus (yellow)	7723-14-0	---	0.1	---	---	---	---	---
Phosphorous oxychloride	10025-07-3	0.1	0.6	---	---	---	---	---
Phosphorus pentachloride	10026-13-0	0.1	1.0	---	---	---	---	---
Phosphorus pentasulfide	1344-00-3	---	1.0	---	3.0	---	---	---
Phosphorus trichloride	7719-12-2	0.2	1.6	0.5	3.0	---	---	---
Phthalic anhydride	85-44-9	1.0	6.0	---	---	---	---	---
m-Phthalodinitrile	626-17-6	---	6.0	---	---	---	---	---
Picloram	1918-02-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Picric acid	80-09-1	---	0.1	---	---	---	---	X
Pindone (see Pival) (2-Pivalyl)-1, 3-Indandione)	83-26-1	---	0.1	---	---	---	---	---
Piperazine dihydrochloride	142-64-3	---	5.0	---	---	---	---	---
Pival [®] (see Pindone)	-----	---	---	---	---	---	---	---
Plaster of Paris	26499-65-0	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Platinum (as Pt)	7440-06-4	---	---	---	---	---	---	---
Metal	---	---	1.0	---	---	---	---	---
Soluble salts	---	---	0.002	---	---	---	---	---
Polychlorobiphenyls (see Chlorodiphenyls)	---	---	---	---	---	---	---	---
Portland cement	65997-15-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

HI/SPECIAL
TABLE 1.28

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Potassium hydroxide	1310-50-3	---	---	---	---	---	2.0	---
Propane	74-98-6	1,000	1,000	---	---	---	---	---
Propargyl alcohol	107-19-7	1.0	2.0	---	---	---	---	X
beta-Propiolactone (see WAC 296-62-073)	57-57-0	---	---	---	---	---	---	---
Propionic acid	79-09-4	10	30	---	---	---	---	---
Propoxur (Daygon)	114-26-1	---	0.5	---	---	---	---	---
n-Propyl acetate	109-60-4	200	840	250	1,060	---	---	---
n-Propyl alcohol	71-23-8	200	500	250	625	---	---	X
n-Propyl nitrate	627-13-4	25	105	40	170	---	---	---
Propylene	---	Simple	Asphyxiant	---	---	---	---	---
Propylene dichloride (1, 2-Dichloropropane)	78-07-5	75	350	110	510	---	---	---
Propylene glycol dinitrate	6423-43-4	0.05	0.3	---	---	---	---	X
Propylene glycol monomethyl ether	107-90-2	100	360	150	640	---	---	---
Propylene imine	75-55-0	2.0	5.0	---	---	---	---	X
Propylene oxide	75-56-9	20	50	---	---	---	---	---
Propyne, (see Methyl acetylene)	---	---	---	---	---	---	---	---
Pyrethrum	8003-34-7	---	5.0	---	---	---	---	---
Pyridine	110-06-1	5.0	15	---	---	---	---	---
Quinone	106-51-4	0.1	0.4	---	---	---	---	---
QOX (See Cyclonite)	---	---	1.5	---	---	---	---	X
Resorcinol	100-46-3	10	45	20	90	---	---	---
Rhodium (as Rh)	7440-16-6	---	---	---	---	---	---	---
Insoluble compounds, Metal fumes and dusts	---	---	0.1	---	---	---	---	---
Soluble compounds, salts	---	---	0.001	---	---	---	---	---

HI/SPECIAL
TABLE 1.29

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ronnel	299-04-3	---	10	---	---	---	---	---
Rosin core solder, pyrolysis products (as formaldehyde)	---	---	0.1	---	---	---	---	---
Rotenone	83-79-4	---	6.0	---	---	---	---	---
Rouge	---	---	10	---	---	---	---	---
Total dust	---	---	6.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	---	---	---
Rubber solvent (naphtha)	400	1,600	---	---	---	---	---	---
Selenium compounds (as Se)	7782-49-2	---	0.2	---	---	---	---	---
Selenium hexafluoride (as Se)	7703-79-1	0.05	0.2	---	---	---	---	---
Sesone (see Crag herbicide)	---	---	---	---	---	---	---	---
Silane (see Silicon tetrahydride)	---	---	---	---	---	---	---	---
Silica, amorphous, precipitated and gel	---	---	6.0	---	---	---	---	---
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	61790-53-2	---	6.0	---	---	---	---	---
Total dust	---	---	6.0	---	---	---	---	---
Respirable fraction	---	---	3.0	---	---	---	---	---
Silica, crystalline cristobalite (as quartz) respirable dust	14464-46-1	---	0.05	---	---	---	---	---
Silica, crystalline quartz (as quartz), respirable dust	14000-60-7	---	0.1 ^{a/ b/}	---	---	---	---	---
Silica, crystalline tripoli (as quartz), respirable dust	1317-95-9	---	0.1	---	---	---	---	---
Silica, crystalline tridymite (as quartz), respirable dust	15460-32-3	---	0.05	---	---	---	---	---
Silica, fused, respirable dust	60676-06-0	---	0.1	---	---	---	---	---

HI/SPECIAL
TABLE 1.30

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Silicates (less than 1% crystalline silica:								
Mica (Respirable dust)	12001-26-2	---	3.0	---	---	---	---	---
Soapstone, Total dust	---	---	6.0	---	---	---	---	---
Soapstone, Respirable dust	---	---	3.0	---	---	---	---	---
Talc (containing asbestos): use asbestos limit (see WAC 296-62-07517)	---	---	---	---	---	---	---	---
Talc (containing no asbestos), Respirable dust	14007-96-6	---	2.0	---	---	---	---	---
Tremolite (see WAC 296-62-07517)	---	---	---	---	---	---	---	---
Silicon	7440-21-3	---	10	---	---	---	---	---
Total dust	---	---	6.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	---	---	---
Silicon Carbide	409-21-2	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	---	---	---
Silicon tetrahydride	7803-62-5	6.0	7.0	---	---	---	---	---
Silver, metal and soluble compounds (as Ag)	7440-22-4	---	0.01	---	---	---	---	---
Soapstone (see Silicates)	---	---	---	---	---	---	---	---
Sodium azide (as N ₃)	26628-22-8	---	---	---	---	0.1	0.3	X
(as N ₃)	---	---	---	---	---	0.1	0.3	X
Sodium bisulfite	7631-90-5	---	5.0	---	---	---	---	---
Sodium-2, 4-dichlorophenoxyethyl sulfate (see Crag herbicide)	---	---	---	---	---	---	---	---
Sodium fluoroacetate	62-74-8	---	0.05	---	0.15	---	---	X
Sodium hydroxide	1310-73-2	---	---	---	---	---	2.0	---
Sodium metabisulfite	7681-67-4	---	5.0	---	---	---	---	---
Starch	9005-25-8	---	10	---	---	---	---	---
Total dust	---	---	5.0	---	---	---	---	---
Respirable fraction	---	---	---	---	---	---	---	---
Stibine	7803-52-3	0.1	0.5	---	---	---	---	---
Stoddard solvent	0052-41-3	100	525	---	---	---	---	---
Strychnine	57-24-9	---	0.15	---	---	---	---	---
Styrene	100-42-5	50	215	100	425	---	---	---

III/SPECIAL
TABLE 1.31

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Subtilisins (proteolytic enzymes)	1395-21-7	---	---	---	---	---	0.00006	---
Sucrose	57-50-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Sulfotep (see IEDP)	---	---	---	---	---	---	---	X
Sulfur dioxide	7446-09-5	2.0	5.0	5.0	10	---	---	---
Sulfur hexafluoride	2551-62-4	1,000	6,000	---	---	---	---	---
Sulfuric acid	7664-93-9	---	1.0	---	---	---	---	---
Sulfur monochloride	10025-67-9	---	---	---	---	1.0	6.0	---
Sulfur pentafluoride	5714-22-1	---	---	---	---	0.01	0.1	---
Sulfur tetrafluoride	7783-60-0	---	---	---	---	0.1	0.4	---
Sulfuryl fluoride	2599-79-8	5.0	20	10	40	---	---	---
Sulprofos	35400-43-2	---	1.0	---	---	---	---	---
Systox (see Demeton [®])	---	---	---	---	---	---	---	---
2, 4, 5-T	93-76-5	---	10	---	---	---	---	---
Talc (see Silicates)	---	---	---	---	---	---	---	---
Tantalum	7440-25-7	---	5.0	---	---	---	---	---
Metal and oxide dusts	---	---	---	---	---	---	---	---
IEDP (Sulfotep)	3609-24-5	---	0.2	---	---	---	---	X
Tellurium and compounds (as Te)	13494-00-9	---	0.1	---	---	---	---	---
Tellurium hexafluoride (as Te)	7783-00-4	0.02	0.2	---	---	---	---	---
Temphos	3303-96-8	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
TEPP	107-49-3	0.004	0.05	---	---	---	---	X
Terphenyls	26140-60-3	---	---	---	---	0.5	5.0	---
1, 1, 1, 2-Tetrachloro-2, 2-difluoroethane	76-11-0	500	4,170	---	---	---	---	---

III/SPECIAL
TABLE 1.32

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
1, 1, 2, 2-Tetrachloro-1, 2-difluoroethane	76-12-0	500	4,170	---	---	---	---	---
1, 1, 2, 2-Tetrachloroethane	79-34-5	1.0	7.0	---	---	---	---	X
Tetrachloroethylene (see Perchloroethylene)	---	---	---	---	---	---	---	---
Tetrachloromethane (see Carbon tetrachloride)	---	---	---	---	---	---	---	---
Tetrachloronaphthalene	1335-00-2	---	2.0	---	---	---	---	X
Tetraethyl lead (as Pb)	78-00-2	---	0.075	---	---	---	---	X
Tetrahydrofuran	109-99-9	200	590	250	735	---	---	---
Tetramethyl lead (as Pb)	76-74-1	---	0.075	---	---	---	---	X
Tetramethyl succinonitrile	3333-52-6	0.5	3.0	---	---	---	---	X
Tetranitromethane	509-14-8	1.0	8.0	---	---	---	---	---
Tetrasodium pyrophosphate	7722-08-5	---	5.0	---	---	---	---	---
Tetryl (2, 4, 6-trinitrophenyl-methyl nitramine)	479-45-8	---	1.5	---	---	---	---	X
Thallium (soluble compounds) (as Tl)	7440-28-0	---	0.1	---	---	---	---	X
4, 4-Thiobis (6-tert-butyl-m-cresol)	96-69-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Thioglycolic acid	68-11-1	1.0	4.0	---	---	---	---	X
Thionyl chloride	7719-09-7	---	---	---	---	1.0	6.0	---
Thiram [®] (see WAC 296-62-07519)	137-26-8	---	5.0	---	---	---	---	---
Tin (as Sn)	7440-31-5	---	2.0	---	---	---	---	---
Inorganic compounds (except oxides)	---	---	---	---	---	---	---	---
Tin, Organic compounds (as Sn)	7440-31-5	---	0.1	---	---	---	---	X

HI/SPECIAL
TABLE 1.33

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Tin Oxide (as Sn)	21651-19-4	---	2.0	---	---	---	---	---
Titanium dioxide	13463-67-7	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Toluene	108-88-3	100	375	150	560	---	---	---
Toluene-2, 4-diisocyanate (TDI)	504-04-9	0.005	0.04	0.02	0.15	---	---	---
m-Toluidine	100-44-1	2.0	9.0	---	---	---	---	X
o-Toluidine	95-53-4	2.0	9.0	---	---	---	---	X
p-Toluidine	106-49-0	2.0	9.0	---	---	---	---	X
Toxaphene (see Chlorinated camphene)	---	---	---	---	---	---	---	---
Tremolite (see Silicates)	---	---	---	---	---	---	---	---
Tributyl phosphate	126-73-8	0.2	2.5	---	---	---	---	---
Trichloroacetic acid	76-03-9	1.0	7.0	---	---	---	---	---
1, 2, 4-Trichlorobenzene	120-02-1	---	---	---	---	5.0	40	---
1, 1, 1-Trichloroethane (see Methyl chloroform)	---	---	---	---	---	---	---	---
1, 1, 2-Trichloroethane	79-00-5	10	45	---	---	---	---	---
Trichloroethylene	79-01-8	50	270	200	1,000	---	---	---
Trichlorofluoromethane	75-69-4	---	---	---	---	1,000	5,600	---
Trichloromethane (see Chloroform)	---	---	---	---	---	---	---	---
Trichloronaphthalene	1321-65-9	---	5.0	---	---	---	---	X
1, 2, 3-Trichloropropane	96-10-4	10	60	---	---	---	---	X
1, 1, 2-Trichloro-1, 2, 2-trifluoroethane	76-13-1	1,000	7,600	1,250	9,500	---	---	---
Tricyclohexyltin hydroxide (see Cyhexatin)	---	---	---	---	---	---	---	---
Triethylamine	121-44-8	10	40	15	60	---	---	---
Trifluorobromomethane	75-63-8	1,000	6,100	---	---	---	---	---
Trimellitic anhydride	552-30-7	0.005	0.04	---	---	---	---	---

HI/SPECIAL
TABLE 1.34

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Trimethylamine	75-50-3	10	24	15	36	---	---	---
Trimethyl benzene	25551-13-7	25	125	---	---	---	---	---
Trimethyl phosphite	121-45-9	2.0	10	---	---	---	---	---
2, 4, 6-Trinitrophenol (see Picric acid)	---	---	---	---	---	---	---	---
2, 4, 6-Trinitrophenyl- methylamine (see Tetryl)	---	---	---	---	---	---	---	---
2, 4, 6-Trinitrotoluene (TNT)	118-96-7	---	0.5	---	---	---	---	X
Triorthocresyl phosphate	78-30-8	---	0.1	---	---	---	---	X
Triphenyl amine	603-34-9	---	5.0	---	---	---	---	---
Triphenyl phosphate	115-86-6	---	3.0	---	---	---	---	---
Tungsten (as W)	7440-33-7	---	---	---	---	---	---	---
Soluble compounds	---	---	1.0	---	3.0	---	---	---
Insoluble compounds	---	---	5.0	---	10	---	---	---
Turpentine	8006-64-2	100	560	---	---	---	---	---
Uranium (as U)	7440-51-1	---	---	---	---	---	---	---
Soluble compounds	---	---	0.05	---	---	---	---	---
Insoluble compounds	---	---	0.2	---	0.6	---	---	---
n-Valeraldehyde	110-62-3	50	175	---	---	---	---	---
Vanadium (as V ₂ O ₅) Respirable dust and fume	1314-62-1	---	0.05	---	---	---	---	---
Vegetable oil mist	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Vinyl acetate	108-05-1	10	30	20	60	---	---	---
Vinyl benzene (see Styrene)	---	---	---	---	---	---	---	---
Vinyl bromide	593-60-2	5.0	20	---	---	---	---	---
Vinyl chloride (see MAC 296-62-07329)	75-01-4	---	---	---	---	---	---	---

HT/SPECIAL
TABLE 1.35

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{e/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Vinyl cyanide (see Acrylonitrile)	---	---	---	---	---	---	---	---
Vinyl cyclohexene dioxide	106-07-6	10	60	---	---	---	---	X
Vinyl toluene	25013-15-4	50	240	---	---	---	---	---
Vinylidene chloride (1, 1-Dichloroethylene)	75-35-4	1.0	4.0	---	---	---	---	---
2,6-Naphtha	0032-32-4	300	1,350	400	1,000	---	---	---
Warfarin	01-01-2	---	0.1	---	---	---	---	---
Welding fumes ^{f/} (total particulate)	---	---	5.0	---	---	---	---	---
Wood dust:	---	---	---	---	---	---	---	---
Nonallergenic; All soft woods and hard woods except allergenics	---	---	5.0	---	10	---	---	---
Allergenic; (e.g. cedar, mahogany and teak)	---	---	2.5	---	---	---	---	---
Xylenes (Xylol) (o-, m-, p-isomers)	1330-20-7	100	435	150	655	---	---	---
m-Xylene alpha, alpha-diamine	1477-36-0	---	---	---	---	---	0.1	X
Xylidine	1300-73-0	2.0	10	---	---	---	---	X
Yttrium	7440-65-9	---	1.0	---	---	---	---	---
Zinc chloride fume	7646-05-7	---	1.0	---	2.0	---	---	---
Zinc chromate (as CrO ₃)	Varies w/compound	---	0.05	---	---	---	0.1	---
Zinc oxide	1314-13-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Zinc oxide fume	1314-13-2	---	5.0	---	10	---	---	---
Zinc stearate	657-05-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

HT/SPECIAL
TABLE 1.36

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS Number	TWA		STEL ^{e/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Zirconium compounds (as Zr)	7440-67-2	---	5.0	---	10	---	---	---

- Notes:
- a/ Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm. Hg. pressure (torr.).
 - b/ Approximate milligrams of substance per cubic meter of air.
 - c/ Duration is for 15 minutes, unless otherwise noted.
 - d/ The final benzene standard in WAC 296-62-07523 applies to all occupational exposures to benzene except some sub-segments of industry where exposures are consistently under the action level (i.e., distribution and sale of fuels, sealed containers and pipelines, coke production, oil and gas drilling and production, natural gas processing, and the percentage exclusion for liquid mixtures).
 - e/ This 8-hour TWA applies to respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. The time-weighted average applies to the cotton waste processing operations of waste recycling (sorting, blending, cleaning, and willowing) and ginning. See also WAC 296-62-14533 for cotton dust limits applicable to other sectors.
 - f/ As determined from breathing-zone air samples.
 - g/ Total dust formula for Silica (as quartz) is: $\frac{30 \text{ mg/m}^3}{\% \text{SiO}_2 + 3}$
 - h/ Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

Containing less than 1% quartz if 1% quartz, use quartz limit.

The measurements under this note refer to the use of an AEC (now HRC) instrument. The respirable fraction of coal dust is determined with an HRE the figure corresponding to that of 2.4 mg/m³ in the table for coal dust is 4.5 mg/m³.

HT/SPECIAL
TABLE 2.1

TABLE 2
TRANSITIONAL LIMITS

The transitional limits listed are in effect until December 31, 1992. These limits require the use of engineering controls, where feasible, the additional protection to achieve the more protective limits listed in Table 1 may be achieved using protective control measures as set forth in WAC 296-62-07501(3).

Substance	PEL		Acceptable Ceiling Concentration	
	ppm	mg/m ³	ppm	mg/m ³
Carbon disulfide	10	---	15	---
Carbon monoxide	60	65	---	---
Carbon tetrachloride	5.0	---	20	---
Chloroform (Trichloromethane)	10	60	50	240
Coal dust-respirable (less than 5X 510 ₂)	---	2.4	---	---
Cobalt metal, dust and fume (as Co)	---	0.1	---	---
Ethylene dichloride	10	---	15	---
Ethylene glycol dinitrate	0.05	0.3	0.2	1.0
Nitrogen dioxide	---	---	5.0	9.0
Nitroglycerin	0.05	0.3	0.2	1.0
Perchloroethylene (Tetrachloroethylene)	60	---	200	---
Styrene	100	---	200	---

HT/PEL
TABLE 1.1

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Abate, see Temephos	---	---	---	---	---	---	---	---
Acetaldehyde	75-07-0	100	180	150	270	---	---	---
Acetic acid	64-19-7	10	25	---	---	---	---	---
Acetic anhydride	108-24-7	---	---	---	---	5.0	20	---
Acetone	67-64-1	750	1800	1000	2400	---	---	---
Acetonitrile	75-05-8	40	70	60	105	---	---	---
2-Acetylaminofluorene (see WAC 296-62-073)	53-96-3	---	---	---	---	---	---	---
Acetylene	74-86-2	Simple	Asphyxiant	---	---	---	---	---
Acetylene dichloride (see 1,2-Dichloroethylene)	---	---	---	---	---	---	---	---
Acetylene tetrabromide	79-27-6	1.0	14	---	---	---	---	---
Acetylsalicylic acid (Aspirin)	50-78-2	---	5.0	---	---	---	---	---
Acrolein	107-02-8	0.1	0.25	0.3	0.8	---	---	---
Acrylamide	79-06-1	---	0.03	---	---	---	---	X
Acrylic acid	79-10-7	10	30	---	---	---	---	X
Acrylonitrile (see WAC 296-62-07341)	107-13-1	---	---	---	---	---	---	---
Aldrin	309-00-2	---	0.25	---	---	---	---	X
Allyl alcohol	107-18-6	2.0	5.0	4.0	10	---	---	X
Allyl Chloride	107-05-1	1.0	3.0	2.0	6.0	---	---	---
Allyl glycidyl ether (AGE)	106-92-3	5.0	22	10	44	---	---	---
Allyl propyl disulfide	2179-59-1	2.0	12	3.0	18	---	---	---
alpha-Alumina (see Aluminum oxide)	1344-28-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

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TABLE 1.2

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Aluminum, metal and oxide (as Al)	7429-90-5	---	---	---	---	---	---	---
Total dust		---	10	---	---	---	---	---
Respirable fraction		---	5.0	---	---	---	---	---
pyro powders	---	---	5.0	---	---	---	---	---
welding fumes ^{f/}	---	---	5.0	---	---	---	---	---
soluble salts	---	---	2.0	---	---	---	---	---
alkyls (NOC)	---	---	2.0	---	---	---	---	---
Alundum (see Aluminum oxide)	---	---	---	---	---	---	---	---
4-Aminodiphenyl (see WAC 296-62-073)	92-67-1	---	---	---	---	---	---	---
2-Aminoethanol (see Ethanolamine)	---	---	---	---	---	---	---	---
2-Aminopyridine	504-29-0	0.5	2.0	---	---	---	---	---
Amitrole	61-82-5	---	0.2	---	---	---	---	---
Ammonia	7664-41-7	25	18	35	27	---	---	---
Ammonium chloride, fume	12125-02-9	---	10	---	20	---	---	---
Ammonium sulfate (Amate)	7773-06-0	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
n-Amyl acetate	628-63-7	100	525	---	---	---	---	---
sec-Amyl acetate	626-38-0	125	650	---	---	---	---	---
Aniline and homologues	62-53-3	2.0	8.0	---	---	---	---	X
Anisidine (o, p-isomers)	29191-52-4	0.1	0.5	---	---	---	---	X
Antimony and Compounds (as Sb)	7440-36-0	---	0.5	---	---	---	---	---
ANTU (alpha Naphthyl thiourea)	86-88-4	---	0.3	---	---	---	---	---
Argon	7440-37-1	Simple	Asphyxiant	---	---	---	---	---
Arsenic, Organic compounds (as As)	7440-38-2	---	0.2	---	---	---	---	---

HT/PEL
TABLE 1.3

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Arsenic, Inorganic compounds, (as As) (Varies with compound) (see WAC 296-62-07347 for applications and exclusions)	7440-38-2	---	0.2	---	---	---	---	---
Arsine	7784-42-1	0.05	0.2	---	---	---	---	---
Asbestos (see WAC 296-62-(07515)077 through 62-07753)	---	---	---	---	---	---	---	---
Asphalt (Petroleum fumes)	8052-42-4	---	5.0	---	---	---	---	---
Atrazine	1912-24-9	---	5.0	---	---	---	---	---
Azinphos methyl	86-50-0	---	0.2	---	---	---	---	X
Barium, soluble compounds (as Ba)	7440-39-3	---	0.5	---	---	---	---	---
Barium Sulfate	7727-43-7	---	---	---	---	---	---	---
Total dust	---	---	10.0	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Benomyl	17804-35-2	---	---	---	---	---	---	---
Total dust	---	0.8	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Benzene, (see WAC 296-62-07523) ^{d/}	71-43-2	1.0	---	5.0	---	---	---	---
Benzidine, (see WAC 296-62-073)	92-87-5	---	---	---	---	---	---	---
p-Benzoquinone, (see Quinone)	---	---	---	---	---	---	---	---
Benzo(a) pyrene; (see Coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Benzoyl peroxide	94-36-0	---	5.0	---	---	---	---	---
Benzyl chloride	100-44-7	1.0	5.0	---	---	---	---	---
Beryllium and beryllium compounds (as Be)	7440-41-7	0.002	---	0.005 (30 min.)	---	0.025	---	---

HT/PEL
TABLE 1.4

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Biphenyl (see Diphenyl)	---	---	---	---	---	---	---	---
Bismuth telluride, Undoped	1304-82-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Bismuth telluride, Se-doped	---	---	5.0	---	---	---	---	---
Borates, tetra, sodium salts:	---	---	---	---	---	---	---	---
Anhydrous	1330-43-4	---	1.0	---	---	---	---	---
Decahydrate	1303-96-4	---	5.0	---	---	---	---	---
Pentahydrate	12179-04-3	---	1.0	---	---	---	---	---
Boron oxide	1303-86-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
((Respirable Fraction	---	---	5.0	---	---	---	---	---
Boron tribromide	10294-33-4	---	---	---	---	1.0	10	---
Boron trifluoride	7637-07-2	---	---	---	---	1.0	3.0	---
Bromacil	314-40-9	1.0	10	---	---	---	---	---
Bromine	7726-95-6	0.1	0.7	0.3	2.0	---	---	---
Bromine pentafluoride	7789-30-2	0.1	0.7	---	---	---	---	---
Bromochloromethane, (see Chlorobromethane)	---	---	---	---	---	---	---	---
Bromoform	15-25-2	0.5	5.0	---	---	---	---	X
Butadiene (1,3-butadiene)	106-99-0	10	22	---	---	---	---	---
Butane	106-97-8	800	1,900	---	---	---	---	---
Butanethiol (see Butyl mercaptan)	---	---	---	---	---	---	---	---
2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	300	885	---	---	---
2-Butoxy ethanol (Butyl Cellosolve)	111-76-2	25	120	---	---	---	---	X
n-Butyl acetate	123-86-4	150	710	200	950	---	---	---

HT/PEL
TABLE 1.5

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
sec-Butyl acetate	105-46-4	200	950	---	---	---	---	---
tert-Butyl acetate	540-88-5	200	950	---	---	---	---	---
Butyl acrylate	141-32-2	10	55	---	---	---	---	---
n-Butyl alcohol	71-36-3	---	---	---	---	50	150	X
sec-Butyl alcohol	78-92-2	100	305	---	---	---	---	---
tert-Butyl alcohol	75-65-0	100	300	150	450	---	---	---
Butylamine	109-73-9	---	---	---	---	5.0	15	X
tert-Butyl chromate (see Cr ₂ O ₃)	1189-85-1	---	---	---	---	---	0.1	X
n-Butyl glycidyl ether (BGE)	2426-08-6	25	135	---	---	---	---	---
n-Butyl lactate	138-22-7	5.0	25	---	---	---	---	---
Butyl mercaptan	109-79-5	0.5	1.5	---	---	---	---	---
o-sec-Butylphenol	89-72-5	5.0	30	---	---	---	---	X
p-tert-Butyl-toluene	98-51-1	10	60	20	120	---	---	---
Cadmium oxide fume, (as Cd)	1306-19-0	---	---	---	---	---	0.05	---
Cadmium dust and salts (as Cd)	7440-43-9	---	0.05	---	---	---	---	---
Calcium arsenate (see WAC 296-62-07347)	-----	---	---	---	---	---	---	---
Calcium carbonate	1317-65-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Calcium cyanamide	156-62-7	---	0.5	---	---	---	---	---
Calcium hydroxide	1305-62-0	---	5.0	---	---	---	---	---
Calcium oxide	1305-78-8	---	2.0	---	---	---	---	---
Calcium silicate	1344-95-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Calcium sulfate	7778-18-9	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---

HT/PEL
TABLE 1.6

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Camphor(synthetic)	76-22-2	---	2.0	---	---	---	---	---
Caprolactam;	105-60-2	---	---	---	---	---	---	---
Dust	---	---	1.0	---	3.0	---	---	---
Vapor	---	5.0	20	10	40	---	---	---
Captafol (Difolatan®)	2425-06-1	---	0.1	---	---	---	---	X
Captan	133-06-2	---	5.0	---	---	---	---	---
Carbaryl (Sevin®)	63-25-2	---	5.0	---	---	---	---	---
Carbofuran (Furadon®)	1563-66-2	---	0.1	---	---	---	---	---
Carbon black	1333-86-4	---	3.5	---	---	---	---	---
Carbon dioxide	124-38-9	5,000	9,000	30,00	54,000	---	---	---
Carbon disulfide	75-15-0	4.0	12	---	36	---	---	X
Carbon monoxide	630-08-0	35	40	---	---	200	229	---
Carbon tetrabromide	558-13-4	0.1	1.4	0.3	4.0	---	---	---
Carbon tetrachloride	56-23-5	2.0	12.6	---	---	---	---	---
Carbonyl chloride (see Phosgene)	---	---	---	---	---	---	---	---
Carbonyl fluoride	353-50-4	2.0	5.0	5.0	15	---	---	---
Catechol (Pyrocatechol)	120-80-9	5.0	20	---	---	---	---	X
Cellulose (paper fiber)	9004-34-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Cesium hydroxide	21351-79-1	---	2.0	---	---	---	---	---
Chlordane	57-74-9	---	0.5	---	---	---	---	X
Chlorinated camphene	8001-35-2	---	0.5	---	1.0	---	---	X
Chlorinated diphenyl oxide	55720-99-5	---	0.5	---	---	---	---	---
Chlorine	7782-50-5	0.5	1.5	1.0	3.0	1.0	3.0	---
Chlorine dioxide	10049-04-4	0.1	0.3	0.3	0.9	---	---	---
Chlorine trifluoride	7790-91-2	---	---	---	---	0.1	0.4	---
Chloroacetaldehyde	107-20-0	---	---	---	---	1.0	3.0	---

HT/PEL
TABLE 1.7

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
α-Chloroacetophenone (Phenacyl((de+)) chloride)	532-21-4	0.05	0.3	---	---	---	---	---
Chloroacetyl chloride	79-04-9	0.05	0.2	---	---	---	---	---
Chlorobenzene (Monochlorobenzene)	108-90-7	75	350	---	---	---	---	---
o-Chlorobenzylidene malononitrile (OCBM)	2698-41-1	---	---	---	---	0.05	0.4	X
Chlorobromomethane	74-97-5	200	1,050	---	---	---	---	---
2-Chloro-1, 3-butadiene (see beta-Chloroprene)	---	---	---	---	---	---	---	---
Chlorodifluoromethane	75-45-6	1,000	3,500	---	---	---	---	---
Chlorodiphenyl (42% Chlorine) (PCB)	53469-21-9	---	1.0	---	---	---	---	X
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1	---	0.5	---	---	---	---	X
1-Chloro-2, 3-epoxypropane, (see Epichlorhydrin)	---	---	---	---	---	---	---	---
2-Chloroethanol (see Ethylene chlorohydrin)	---	---	---	---	---	---	---	---
Chloroethylene (see vinyl chloride)	---	---	---	---	---	---	---	---
Chloroform (Trichloromethane)	67-66-3	2.0	9.78	---	---	---	---	---
1-Chloro-1-nitropropane	600-25-9	2.0	10	---	---	---	---	---
bis-Chloromethyl ether (see WAC 296-62-073)	542-88-1	---	---	---	---	---	---	---
Chloromethyl methyl ether (See Methyl carbomethyl ether)	107-30-2	---	---	---	---	---	---	---
Chloropentafluoroethane	76-15-3	1,000	6,320	---	---	---	---	---
Chloropicrin	76-06-2	0.1	0.7	---	---	---	---	---
beta-Chloroprene	126-99-8	10	35	---	---	---	---	X

HT/PEL
TABLE 1.8

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
o-Chlorostyrene	2039-87-4	50	285	75	428	---	---	---
o-Chlorotoluene	95-49-8	50	250	---	---	---	---	---
2-Chloro-6-trichloromethyl pyridine (see Nitrapyrin)	1929-82-4	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Chlorpyrifos	2921-88-2	---	0.2	---	---	---	---	X
Chromic acid and chromates (as CrO ₃)	Varies w/compounds	---	---	---	---	---	0.1	---
Chromium (II) compounds (as Cr)	7440-47-3	---	0.5	---	---	---	---	---
Chromium (III) compounds (as Cr)	7440-47-3	---	0.5	---	---	---	---	---
Chromium (VI) compounds (as Cr)	---	---	0.05	---	---	---	---	---
Chromium Metal	7440-47-3	---	0.5	---	---	---	---	---
Chromyl chloride	14977-61-8	0.025	0.15	---	---	---	---	---
Chrysene: (see Coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Clopidol	2971-90-6	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Coal Dust (less than 5% SiO ₂) Respirable ((quartz)) fraction	---	---	2.0	---	---	---	---	---
Coal dust (greater than or equal to 5% SiO ₂) Respirable ((quartz)) fraction	---	---	0.1	---	---	---	---	---
Coal tar pitch volatiles (benzene soluble fraction anthracene, 8aP, phenanthrene, acridine, chrysene, pyrene)	65996-93-2	---	0.2	---	---	---	---	---

HT/PEL
TABLE 1.9

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Cobalt, metal fume & dust, (as Co)	7440-48-4	---	0.05	---	---	---	---	---
Cobalt carbonyl (as Co)	10210-68-1	---	0.1	---	---	---	---	---
Cobalt hydrocarbonyl (as Co)	16842-03-8	---	0.1	---	---	---	---	---
Coke oven emissions (see WAC 296-62-200)	---	---	---	---	---	---	---	---
Copper fume (as Cu)	7440-50-8	---	0.1	---	---	---	---	---
Dusts and mists (as Cu)	---	---	1.0	---	---	---	---	---
Cotton dust (raw) ^{e/}	---	---	1.0	---	---	---	---	---
Corundum, (see Aluminum oxide)	---	---	---	---	---	---	---	---
Crag® herbicide (Sesone)	136-78-7	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Cresol (all isomers)	1319-77-3	5.0	22	---	---	---	---	X
Crotonaldehyde	123-73-9; 4170-30-3	2.0	6.0	---	---	---	---	---
Cruformate	299-86-5	---	5.0	---	---	---	---	---
Cumene	98-82-8	50	245	---	---	---	---	X
Cyanamide	420-04-2	---	2.0	---	---	---	---	---
Cyanide (as CN)	Varies with Compound	---	5.0	---	---	---	---	X
Cyanogen	460-19-5	10	20	---	---	---	---	---
Cyanogen chloride	506-77-4	---	---	---	---	0.3	0.6	---
Cyclohexane	110-82-7	300	1,050	---	---	---	---	---
Cyclohexanol	108-93-0	50	200	---	---	---	---	X
Cyclohexanone	108-94-1	25	100	---	---	---	---	X
Cyclohexene	110-83-8	300	1,015	---	---	---	---	---
Cyclohexylamine	108-91-8	10	40	---	---	---	---	---
Cyclonite (see RDX)	121-82-4	---	1.5	---	---	---	---	X
Cyclopentadiene	542-92-7	75	200	---	---	---	---	---

HT/PEL
TABLE 1.10TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Cyclopentane	287-92-3	600	1,720	---	---	---	---	---
Cyhexatin	13121-70-5	---	5.0	---	---	---	---	---
2,4-D (Dichlorophenoxy- acetic acid)	94-75-7	---	10	---	---	---	---	---
DDT (Dichlorodiphenyltri- chloroethane)	50-29-3	---	1.0	---	---	---	---	X
DDVP, Dichlorvos	62-73-7	0.1	1.0	---	---	---	---	X
Decaborane	17702-41-9	0.05	0.3	0.15	0.9	---	---	X
Demeton®	8065-48-3	0.01	0.1	---	---	---	---	X
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	123-42-2	50	240	---	---	---	---	---
1, 2-Diaminoethane (see Ethylenediamine)	---	---	---	---	---	---	---	---
Diazinon	333-41-5	---	0.1	---	---	---	---	X
Diazomethane	334-88-3	0.2	0.4	---	---	---	---	---
Diborane	19287-45-7	0.1	0.1	---	---	---	---	---
Dibrom®, (see Naled)	---	---	---	---	---	---	---	---
1, 2-Dibromo-3-chloropropane (see WAC 296-62-07345)	96-12-3	---	---	---	---	---	---	---
2-N-Dibutylamino ethanol	102-81-8	2.0	14	---	---	---	---	X
Dibutyl phosphate	107-66-4	1.0	5.0	2.0	10	---	---	---
Dibutyl phthalate	84-74-2	---	5.0	---	---	---	---	---
Dichloroacetylene	7572-29-4	---	---	---	---	0.1	0.4	---
o-Dichlorobenzene	95-50-1	---	---	---	---	50	300	---
p-Dichlorobenzene	106-46-7	75	450	110	675	---	---	---
3, 3'-Dichlorobenzidine (see WAC 296-62-073)	91-94-1	---	---	---	---	---	---	---
Dichlorodifluoromethane	75-71-8	1,000	4,950	---	---	---	---	---
1, 3-Dichloro-5, 5-dimethyl hydantoin	118-52-5	---	0.2	---	0.4	---	---	---

HT/PEL
TABLE 1.11TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
1, 1-Dichloroethane	75-34-3	100	400	---	---	---	---	---
1, 2-Dichloroethane (see Ethylene dichloride)	---	---	---	---	---	---	---	---
1, 2-Dichloroethylene	540-59-0	200	790	---	---	---	---	---
1, 1-Dichloroethylene (see Vinylidene chloride)	---	---	---	---	---	---	---	---
Dichloroethyl ether	111-44-4	5.0	30	10	60	---	---	X
Dichlorofluoromethane	75-43-4	10	40	---	---	---	---	---
Dichloromethane (see Methylene chloride)	---	---	---	---	---	---	---	---
1, 1-Dichloro-1-nitroethane	594-72-9	2.0	10	10	---	---	---	---
1, 2-Dichloropropane (see Propylene dichloride)	---	---	---	---	---	---	---	---
Dichloropropene	542-75-6	1.0	5.0	---	---	---	---	X
2, 2-Dichloropropionic acid	75-99-0	1.0	6.0	---	---	---	---	---
Dichlorotetrafluoroethane	76-14-2	1,000	7,000	---	---	---	---	---
Dichlorvos (DDVP)	62-73-7	0.1	1.0	---	---	---	---	X
Dicrotophos	141-66-2	---	0.25	---	---	---	---	X
Dicyclopentadiene	77-73-6	5.0	30	---	---	---	---	---
Dicyclopentadienyl iron	102-54-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Dieldrin	60-57-1	---	0.25	---	---	---	---	X
Diethanolamine	111-42-2	3.0	15	---	---	---	---	---
Diethylamine	109-89-7	10	30	25	75	---	---	---
2-Diethylaminoethanol	100-37-8	10	50	---	---	---	---	---
Diethylene triamine	111-40-0	1.0	4.0	---	---	---	---	X
Diethyl ether (see Ethyl ether)	---	---	---	---	---	---	---	---
Diethyl ketone	96-22-0	200	705	---	---	---	---	---
Diethyl phthalate	84-66-2	---	5.0	---	---	---	---	---

HT/PEL
TABLE1.12

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Difluorodibromomethane	75-61-6	100	860	---	---	---	---	---
Diglycidyl ether (DGE)	2238-07-5	0.1	0.5	---	---	---	---	---
0ihydroxybenzene (see Hydroquinone)	---	---	---	---	---	---	---	---
Diisobutyl ketone	108-83-8	25	150	---	---	---	---	---
Diisopropylamine	108-18-9	5.0	20	---	---	---	---	X
Dimethoxymethane (see Methylal)	---	---	---	---	---	---	---	---
Dimethyl acetamide	127-19-5	10	35	---	---	---	---	X
Dimethylamine	124-40-3	10	18	---	---	---	---	---
4-Dimethylaminoazobenzene (see WAC 296-62-073)	60-11-7	---	---	---	---	---	---	---
Dimethylaminobenzene (see Xylidene)	---	---	---	---	---	---	---	---
Dimethylaniline (see N, N-Dimethylaniline)	121-69-7	5.0	25	10	50	---	---	X
Dimethylbenzene (see Xylene)	---	---	---	---	---	---	---	---
Dimethyl-1, 2-dibromo-2, 2-dichloroethyl phosphate (see Naled)	300-76-5	---	3.0	---	---	---	---	X
Dimethylformamide	68-12-2	10	30	---	---	---	---	X
2, 6-Dimethylheptanone (see Diisobutyl ketone)	---	---	---	---	---	---	---	---
1, 1-Dimethylhydrazine	57-14-7	0.5	1.0	---	---	---	---	X
Dimethyl phthalate	131-11-3	---	5.0	---	---	---	---	---
Dimethyl sulfate	77-78-1	0.1	0.5	---	---	---	---	X
Dinitolmide	148-01-6	---	5.0	---	---	---	---	---
(3, 5-Dinitro-o-tolamide)	---	---	5.0	---	---	---	---	---
Dinitrobenzene (all isomers) (alpha)528-29-0; 0.15 (m)99-65-0; (p)100-25-4	---	---	1.0	---	---	---	---	X

HT/PEL
TABLE1.13

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Dinitro-o-cresol	534-52-1	---	0.2	---	---	---	---	X
Dinitrotoluene	25321-14-6	---	1.5	---	---	---	---	X
Dioxane (Diethylene dioxide)	123-91-1	25	90	---	---	---	---	X
Dioxathion	78-34-2	---	0.2	---	---	---	---	X
Diphenyl (Biphenyl)	92-52-4	0.2	1.0	---	---	---	---	---
Diphenylamine	122-39-4	---	10	---	---	---	---	---
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate (MDI))	---	---	---	---	---	---	---	---
Dipropylene glycol methyl ether	34590-94-8	100	600	150	900	---	---	X
Dipropyl ketone	123-19-3	50	235	---	---	---	---	---
Diquat	85-00-7	---	0.5	---	---	---	---	---
D1-sec, Octyl phthalate (D1-2-ethylhexylphthalate)	117-81-7	---	5.0	---	10	---	---	---
Disulfram	97-77-8	---	2.0	---	---	---	---	---
Disulfoton	298-04-4	---	0.1	---	---	---	---	X
2, 6-Di-tert-butyl-p-cresol	128-37-0	---	10	---	---	---	---	---
Diuron	330-54-1	---	10	---	---	---	---	---
Divinyl benzene	1321-74-0	10	50	---	---	---	---	---
Emery	112-62-9	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Endosulfan (Thiodan®)	115-29-7	---	0.1	---	---	---	---	X
Endrin	72-20-8	---	0.1	---	---	---	---	X
Epichlorhydrin	106-89-8	2.0	8.0	---	---	---	---	X
EPN	2104-64-5	---	0.5	---	---	---	---	X
1, 2-Epoxypropane (see Propylene oxide)	---	---	---	---	---	---	---	---
2, 3-Epoxy-1-propanol (see Glycidol)	---	---	---	---	---	---	---	---

HT/PEL
TABLE 1.14

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ethane	---	Simple	Asphyxiant	---	---	---	---	---
Ethaneithiol (see Ethyl mercaptan)	---	---	---	---	---	---	---	---
Ethanolamine	141-43-5	3.0	8.0	6.0	15	---	---	---
Ethion	563-12-2	---	0.4	---	---	---	---	X
2-Ethoxyethanol	110-80-5	5.0	19	---	---	---	---	X
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9	5.0	27	---	---	---	---	X
Ethyl acetate	141-78-6	400	1,400	---	---	---	---	---
Ethyl acrylate	140-88-5	5.0	20	25	100	---	---	X
Ethyl alcohol (ethanol)	64-17-5	1,000	1,900	---	---	---	---	---
Ethylamine	75-04-07	10	18	---	---	---	---	---
Ethyl amyl ketone (5-Methyl-3-heptanone)	541-85-5	25	130	---	---	---	---	---
Ethyl benzene	100-41-4	100	435	125	545	---	---	---
Ethyl bromide	74-96-4	200	890	250	1,110	---	---	---
Ethyl butyl ketone (3-Heptanone)	106-35-4	50	230	---	---	---	---	---
Ethyl chloride	75-00-3	1,000	2,600	---	---	---	---	---
Ethylene	74-85-1	Simple	Asphyxiant	---	---	---	---	---
Ethylene chlorohydrin	107-07-3	---	---	---	---	1.0	3.0	X
Ethylenediamine	107-15-3	10	25	---	---	---	---	X
Ethylene dibromide	106-93-4	0.1	---	0.5	---	---	---	---
Ethylene dichloride	107-06-2	1.0	4.0	2.0	8.0	---	---	---
Ethylene glycol	107-21-1	---	---	---	---	50	125	---
Ethylene glycol dinitrate	628-96-6	---	---	---	0.1	---	---	X
Ethylene glycol monomethyl ether acetate (Methyl cellosolve acetate)	---	5.0	24	---	---	---	---	X
Ethyleneimine (see WAC 296-62-073)	151-56-4	---	---	---	---	---	---	X

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TABLE 1.15

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Ethylene oxide (see WAC 296-62-07353)	75-21-8	1.0	2.0	---	---	---	---	---
Ethyl ether	60-29-7	400	1,200	500	1,500	---	---	---
Ethyl formate	109-94-4	100	300	---	---	---	---	---
Ethylidene chloride (see 1, 1-Dichloroethane)	---	---	---	---	---	---	---	---
Ethylidene norbornene	16219-75-3	---	---	---	---	5.0	25	---
Ethyl mercaptan	75-08-1	0.5	1.0	---	---	---	---	---
n-Ethylmorpholine	100-74-3	5.0	23	---	---	---	---	X
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	---	25	130	---	---	---	---	---
Ethyl silicate	78-10-4	10	85	---	---	---	---	---
Fenamiphos	22224-92-6	---	0.1	---	---	---	---	X
Fensulfothion (Oasanit)	115-90-2	---	0.1	---	---	---	---	---
Fenthion	55-38-9	---	0.2	---	---	---	---	X
Ferbam	14484-64-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Ferrovandium dust	12604-58-9	---	1.0	---	3.0	---	---	---
Fluorides (as F)	Varies w/compound	---	2.5	---	---	---	---	---
Fluorine	7782-41-4	0.1	0.2	---	---	---	---	---
Fluorotrichloromethane (see Trichlorofluoro methane)	75-69-4	---	---	---	---	1,000	5,600	---
Fonofos	944-22-9	---	0.1	---	---	---	---	X
Formaldehyde (see WAC 296-62-07540)	50-00-0	1.0	---	2.0	---	---	---	---
Formamide	75-12-7	20	30	30	45	---	---	---
Formic acid	64-18-6	5.0	9.0	---	---	---	---	---
Furfural	98-01-1	2.0	8.0	---	---	---	---	---
Furfuryl alcohol	98-00-0	10	40	15	60	---	---	X
Gasoline	8006-61-9	300	900	500	1,500	---	---	---
Germanium tetrahydride (Respirable Fraction	7782-65-2	0.2	0.6	---	---	---	---	---
			5.0					---

HT/PEL
TABLE 1.16

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Glass, fibrous or dust	---	---	10	---	---	---	---	---
Gluteraldehyde	111-30-8	---	---	---	---	0.2	0.8	---
Glycerin mist	56-81-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Glycidol (2, 3-Epoxy-1- propanol)	556-52-5	25	75	---	---	---	---	---
Glycol monoethyl ether (see 2-Ethoxyethanol)	---	---	---	---	---	---	---	---
Grain dust (oat, wheat, barley)	---	---	10	---	---	---	---	---
Graphite, natural	7782-42-5	---	---	---	---	---	---	---
Respirable dust	---	---	2.5	---	---	---	---	---
Graphite, Synthetic	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Guthlon® (see Azinphosmethyl)	---	---	---	---	---	---	---	---
Gypsum	13397-24-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Hafnium	7440-58-6	---	0.5	---	---	---	---	---
Helium	---	Simple	Asphyxiant	---	---	---	---	X
Heptachlor	76-44-8	---	0.5	---	---	---	---	---
Heptane (n-heptane)	142-82-5	400	1,600	500	2,000	---	---	---
2-Heptanone, (see Methyl n-amyl ketone)	---	---	---	---	---	---	---	---
3-Heptanone (see Ethyl butyl ketone)	---	---	---	---	---	---	---	---
Hexachlorobutadiene	87-68-3	0.02	0.24	---	---	---	---	X
Hexachlorocyclopentadiene	77-47-4	0.01	0.1	---	---	---	---	---

HT/PEL
TABLE 1.17

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Hexachloroethane	67-72-1	1.0	10	---	---	---	---	X
Hexachloronaphthalene	1335-87-1	---	0.2	---	---	---	---	X
Hexafluoroacetone	684-16-2	0.1	0.7	---	---	---	---	X
Hexane	---	---	---	---	---	---	---	---
n-hexane	110-54-3	50	180	---	---	---	---	---
other Isomers	Varies w/compound	500	1,800	1,000	3,600	---	---	---
2-Hexanone (Methyl-n-butyl ketone)	591-78-6	5.0	20	---	---	---	---	---
Hexone (Methyl isobutyl ketone)	108-10-1	50	205	75	300	---	---	---
sec-Hexyl acetate	108-84-9	50	300	---	---	---	---	---
Hexylene Glycol	107-41-5	---	---	---	---	25	125	---
Hydrazine	302-01-2	0.1	0.1	---	---	---	---	X
Hydrogen	---	Simple	Asphyxiant	---	---	---	---	---
Hydrogenated terphenyls	61788-32-7	0.5	5.0	---	---	---	---	---
Hydrogen bromide	10035-10-6	---	---	---	---	3.0	10	---
Hydrogen chloride	7647-01-0	---	---	---	---	5.0	7.0	---
Hydrogen cyanide	74-90-8	---	---	4.7	5.0	---	---	X
Hydrogen fluoride	7664-39-3	---	---	---	---	3.0	2.5	---
Hydrogen peroxide	7722-84-1	1.0	1.4	---	---	---	---	---
Hydrogen selenide (as Se)	7783-07-5	0.05	0.2	---	---	---	---	---
Hydrogen Sulfide	7783-06-4	10	14	15	21	---	---	---
Hydroquinone	123-31-9	---	2.0	---	---	---	---	---
4-Hydroxy-4-methyl-2-pentanone (see Diacetone alcohol)	---	---	---	---	---	---	---	---
2-Hydroxypropyl acrylate	999-61-1	0.5	3.0	---	---	---	---	X
Indene	95-13-6	10	45	---	---	---	---	---
Indium and compounds (as In)	7440-74-6	---	0.1	---	---	---	---	---
Iodine	7553-56-2	---	---	---	---	0.1	1.0	---
Iodoform	75-47-8	0.6	10	---	---	---	---	---
Iron oxide dust and fume (as Fe)	1309-37-1	---	---	---	---	---	---	---
Total particulate	---	---	5.0	---	---	---	---	---

HT/PEL
TABLE 1.18

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6	---	---	---
Iron salts, soluble (as Fe)	Varies w/compound	---	1.0	---	---	---	---	---
Isoamyl acetate	123-92-2	100	525	---	---	---	---	---
Isoamyl alcohol (primary and secondary)	123-51-3	100	360	125	450	---	---	---
Isobutyl acetate	110-19-0	150	700	---	---	---	---	---
Isobutyl alcohol	78-83-1	50	150	---	---	---	---	---
Isooctyl alcohol	26952-21-6	50	270	---	---	---	---	X
Isophorone	78-59-1	4.0	23	---	---	5.0	25	---
Isophorone diisocyanate	4098-71-9	0.005	0.045	0.02	---	---	---	X
Isopropoxyethanol	109-59-1	25	105	---	---	---	---	---
Isopropyl acetate	108-21-4	250	950	310	1,185	---	---	---
Isopropyl alcohol	67-63-0	400	980	500	1,225	---	---	---
Isopropylamine	75-31-0	5.0	12	10	24	---	---	---
N-Isopropylaniline	768-52-5	2.0	10	---	---	---	---	X
Isopropyl ether	108-20-3	250	1,050	---	---	---	---	---
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360	---	---	---
Kaolin								
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Ketene	463-51-4	0.5	0.9	1.5	3.0	---	---	---
Lead inorganic (as Pb) (see WAC 296-62-07521)	7439-92-1	---	0.15	---	---	---	---	---
Lead arsenate (see WAC 296-62-07347)	3687-31-8	---	0.15	---	---	---	---	---
Lead chromate	7758-97-6	---	0.05	---	---	---	---	---
Limestone	1317-65-3							
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Lindane	58-89-9	---	0.5	---	---	---	---	X

HT/PEL
TABLE 1.19

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Lithium hydride	7580-67-8	---	0.025	---	---	---	---	---
L.P.G. (liquefied petroleum gas)	68476-85-7	1,000	1,800	---	---	---	---	---
Magnesite	546-93-0							
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Magnesium oxide fume	1309-48-4	---	---	---	---	---	---	---
Total particulate	---	---	10	---	---	---	---	---
Malathion	121-75-5							
Total dust	---	---	10	---	---	---	---	X
Maleic anhydride	108-31-6	0.25	1.0	---	---	---	---	---
Manganese and compound (as Mn)	7439-96-5	---	---	---	---	---	5.0	---
Manganese tetroxide and fume (as Mn)	7439-96-5	---	1.0	---	3.0	---	---	---
Manganese cyclopentadienyl tricarbonyl (as Mn)	12079-65-1	---	0.1	---	---	---	---	X
Manganese tetroxide (as Mn)	1317-35-7	---	1.0	---	---	---	---	---
Marble	1317-65-3							
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Mercury (aryl and inorganic) (as Hg)	7439-97-6	---	---	---	---	---	0.1	X
Mercury (organo-alkyl compounds) (as Hg)	7439-97-6	---	0.01	---	0.03	---	---	X
Mercury (vapor) (as Hg)	7439-97-6	---	0.05	---	---	---	---	X
Mesityl oxide	141-79-7	15	60	25	100	---	---	---
Methacrylic acid	79-41-4	20	70	---	---	---	---	X
Methane	---	Simple	Asphyxiant	---	---	---	---	---
Methanethiol (see Methyl mercaptan)	---	---	---	---	---	---	---	---
Methomyl (lannate)	16752-77-5	---	2.5	---	---	---	---	---
Methoxychlor	72-43-5							
Total dust	---	---	10	---	---	---	---	---

HT/PEL
TABLE 1.20

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2-Methoxyethanol (Methyl cellosolve)	109-86-4	5.0	16	---	---	---	---	X
4-Methoxyphenol	150-76-5	---	5.0	---	---	---	---	---
Methyl acetate	79-20-9	200	610	250	760	---	---	---
Methyl acetylene (propyne)	74-99-7	1,000	1,650	---	---	---	---	---
Methyl acetylene-propadiene mixture (MAPP)	---	1,000	1,800	1,250	2,250	---	---	---
Methyl acrylate	96-33-3	10	35	---	---	---	---	X
Methylacrylonitrile	126-98-7	1.0	3.0	---	---	---	---	X
Methylal (Dimethoxy-methane)	109-87-5	1,000	3,100	---	---	---	---	---
Methyl alcohol (methanol)	67-56-1	200	260	250	325	---	---	X
Methylamine	74-89-5	10	12	---	---	---	---	---
Methyl amyl alcohol (see Methyl isobutyl carbinol)	---	---	---	---	---	---	---	---
Methyl n-amyl ketone (2-Heptanone)	110-43-0	50	235	---	---	---	---	---
N-Methyl aniline (see Monomethyl aniline)	---	---	---	---	---	---	---	---
Methyl bromide	74-83-9	5.0	20	---	---	---	---	X
Methyl butyl ketone (see 2-Hexanone)	---	---	---	---	---	---	---	---
Methyl cellosolve (see 2-Methoxyethanol)	109-86-4	5.0	16	---	---	---	---	X
Methyl cellosolve acetate (2-Methoxyethyl acetate)	110-49-6	5.0	24	---	---	---	---	X
Methyl chloride	74-87-3	50	105	100	210	---	---	---
Methyl chloroform (1, 1, 1-trichloroethane)	71-55-6	350	1,900	450	2,450	---	---	---
Methyl chloromethyl ether (see WAC 296-62-073)	107-30-2	---	---	---	---	---	---	---

HT/PEL
TABLE 1.21

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Methyl 2-cyanoacrylate	137-05-3	2.0	8.0	4.0	16	---	---	---
Methylcyclohexane	108-87-2	400	1,600	---	---	---	---	---
Methylcyclohexanol	25639-42-3	50	235	---	---	---	---	---
Methylcyclohexanone	583-60-8	50	230	75	345	---	---	X
Methylcyclopentadienyl manganese tricarbonyl (as Mn)	12108-13-3	---	0.2	---	---	---	---	X
Methyl demeton	8022-00-2	---	0.5	---	---	---	---	X
Methylene bisphenyl isocyanate (MDI)	101-68-8	---	---	---	---	0.02	0.2	---
4, 4'-Methylene bis (2-chloroaniline (MBOCA)) (see WAC 296-62-073)	101-14-4	0.02	0.22	---	---	---	---	X
Methylene bis (4-cyclohexylisocyanate)	5124-30-1	---	---	---	---	0.01	0.11	---
Methylene chloride	75-09-2	100	---	500	---	---	---	---
4, 4-Methylene dianiline	101-77-9	0.1	0.8	---	---	---	---	X
Methyl ethyl ketone (MEK) (see 2-Butanone)	78-93-3	---	---	---	---	---	---	---
Methyl ethyl ketone peroxide (MEKP)	1338-23-4	---	---	---	---	0.2	1.5	---
Methyl formate	107-31-3	100	250	150	375	---	---	---
5-Methyl-3-heptanone (see Ethyl amyl ketone)	---	---	---	---	---	---	---	---
Methyl hydrazine (see Monomethyl hydrazine)	60-34-4	---	---	---	---	0.2	0.35	X
Methyl iodide	74-88-4	2.0	10	---	---	---	---	X
Methyl isoamyl ketone	110-12-3	50	240	---	---	---	---	---
Methyl isobutyl carbinol	108-11-2	25	100	40	165	---	---	X
Methyl isobutyl ketone (see Hexone)	---	---	---	---	---	---	---	---

HT/PEL
TABLE 1.22

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Methyl isocyanate	624-83-9	0.02	0.05	---	---	---	---	X
Methyl isopropyl ketone	563-80-4	200	705	---	---	---	---	---
Methyl mercaptan	74-93-1	0.5	1.0	---	---	---	---	---
Methyl methacrylate	80-62-6	100	410	---	---	---	---	---
Methyl parathion	298-00-0	---	0.2	---	---	---	---	X
Methyl propyl ketone (see 2-Pentanone)	---	---	---	---	---	---	---	---
Methyl silicate	684-84-5	1.0	6.0	---	---	---	---	---
alpha-Methyl styrene	98-83-9	50	240	100	485	---	---	---
Methylene bisphenyl isocyanate (MDI)	101-68-8	---	---	---	---	0.02	0.2	---
Mevinphos® (see Phosdrin)	---	---	---	---	---	---	---	---
Metribuzin	21087-64-9	---	5.0	---	---	---	---	---
Mica (see Silicates)	---	---	---	---	---	---	---	---
Molybdenum (as Mo)	7439-98-7	---	---	---	---	---	---	---
Soluble compounds	---	---	5.0	---	---	---	---	---
Insoluble compounds	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
(Monomethyl aniline	100-16-8	0.5	2.0	---	---	---	---	---
Monocrotophos (Azodrin®)	6923-22-4	---	0.25	---	---	---	---	---
Monomethyl aniline	100-61-8	0.5	2.0	---	---	---	---	X
Monomethyl hydrazine	---	---	---	---	---	0.2	0.35	---
Morpholine	110-91-8	20	70	30	105	---	---	X
Naled	300-76-5	---	3.0	---	---	---	---	X
Naphtha (Coal tar)	8030-30-6	100	400	---	---	---	---	X
Naphthalene	91-20-3	10	50	15	75	---	---	---
alpha-Naphthylamine (see WAC 296-62-073)	134-32-7	---	---	---	---	---	---	---
beta-Naphthylamine (see WAC 296-62-073)	91-59-8	---	---	---	---	---	---	---

HT/PEL
TABLE 1.23

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Neon	7440-01-9	Simple	Asphyxiant	---	---	---	---	---
Nickel carbonyl (as Ni)	13463-39-3	0.001	0.007	---	---	---	---	---
Nickle, (as Ni)	7440-02-0	---	1.0	---	---	---	---	---
Metal and insoluble compounds	---	---	0.1	---	---	---	---	---
Soluble compounds	---	---	0.5	---	---	---	---	X
Nicotine	54-11-5	---	(10)---	---	---	---	---	---
Nitrapyrin (see 2-Chloro-6 trichloromethyl pyridine)	1929-82-4	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Nitric acid	7697-37-2	2.0	5.0	4.0	10	---	---	---
Nitric oxide	10102-43-9	25	30	---	---	---	---	---
p-Nitroaniline	100-01-6	---	3.0	---	---	---	---	X
Nitrobenzene	98-95-3	1.0	5.0	---	---	---	---	X
4-Nitrobiphenyl (see WAC 296-62-073)	92-93-3	---	---	---	---	---	---	---
p-Nitrochlorobenzene	100-00-5	---	0.5	---	---	---	---	X
4-Nitrodiphenyl (see WAC 296-62-073)	---	---	---	---	---	---	---	---
Nitroethane	79-24-3	100	310	---	---	---	---	---
Nitrogen	7727-37-9	Simple	Asphyxiant	---	---	---	---	---
Nitrogen dioxide	10102-44-0	---	---	1.0	1.8	---	---	---
Nitrogen trifluoride	7783-54-2	10	29	---	---	---	---	---
Nitroglycerin	55-63-0	---	---	---	0.1	---	---	X
Nitromethane	75-52-5	100	250	---	---	---	---	---
1-Nitropropane	108-03-2	25	90	---	---	---	---	---
2-Nitropropane	79-46-9	10	35	---	---	---	---	---
N-Nitrosodimethylamine (see WAC 296-62-073)	62-75-9	---	---	---	---	---	---	---

HT/PEL
TABLE 1.24

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Nitrotoluene:								
o-isomer	88-72-2	2.0	11	---	---	---	---	X
m-isomer	98-08-2	2.0	11	---	---	---	---	X
p-isomer	99-99-0	2.0	11	---	---	---	---	X
Nitrotirchloromethane (see Chloropicrin)	---	---	---	---	---	---	---	---
Nitrous Oxide (Nitrogen oxide)	10024-97-2	30	54	---	---	---	---	---
Nonane	111-84-2	200	1,050	---	---	---	---	---
Octachloronaphthalene	2234-13-1	---	0.1	---	0.3	---	---	X
Octane	111-65-9	300	1,450	375	1,800	---	---	---
Oil mist, mineral (particulate)	8012-95-1	---	5.0	---	---	---	---	---
Osmium tetroxide (as Os)	20816-12-0	0.0002	0.002	0.0006	0.006	---	---	---
Oxalic acid	144-62-7	---	1.0	---	2.0	---	---	---
Oxygen difluoride	7783-41-7	---	---	---	---	0.05	0.1	---
Ozone	10028-15-6	0.1	0.2	0.3	0.6	---	---	---
Paraffin wax fume	8002-74-2	---	2.0	---	---	---	---	---
Paraquat (Respirable dust)	4685-14-7 1910-42-5 2074-50-2	---	0.1	---	---	---	---	X
Parathion	56-38-2	---	0.1	---	---	---	---	X
Particulate polycyclic aromatic hydrocarbons (see coal tar pitch volatiles)	---	---	---	---	---	---	---	---
Particulates not otherwise regulated (see WAC 296-62-07510)	---	---	---	---	---	---	---	---
Total Dust	---	---	10	---	---	---	---	---
Respirable Fraction	---	---	5.0	---	---	---	---	---
Pentaborane	19624-22-7	0.005	0.01	0.015	0.03	---	---	---
Pentachloronaphthalene	1321-64-8	---	0.5	---	---	---	---	X
Pentachlorophenol	87-86-5	---	0.5	---	---	---	---	X

HT/PEL
TABLE 1.25

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Pentaerythritol	115-77-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Pentane	109-66-0	600	1,800	750	2,250	---	---	---
2-Pentanone (methyl propyl ketone)	107-87-9	200	700	250	875	---	---	---
Perchloroethylene (tetrachloroethylene)	127-18-4	25	170	---	---	---	---	---
Perchloromethyl mercaptan	594-42-3	0.1	0.8	---	---	---	---	---
Perchloryl fluoride	7616-94-6	3.0	14	6.0	28	---	---	---
Perlite	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Petroleum distillates (Naptha)	8002-05-9	100	400	---	---	---	---	---
Phenol	108-95-2	5.0	19	---	---	---	---	X
Phenothiazine	92-84-2	---	5.0	---	---	---	---	X
p-Phenylene diamine	106-50-3	---	0.1	---	---	---	---	X
Phenyl ether (vapor)	101-84-8	1.0	7.0	---	---	---	---	---
Phenyl ether-diphenyl mixture (vapor)	---	1.0	7.0	---	---	---	---	---
Phenylethylene, (see Styrene)	---	---	---	---	---	---	---	---
Phenyl glycidyl ether (PGE)	122-60-1	1.0	6.0	---	---	---	---	---
Phenylhydrazine	100-63-0	5.0	20	10	45	---	---	X
Phenyl mercaptan	108-98-5	0.5	2.0	---	---	---	---	---
Phenylphosphine	638-21-1	---	---	---	---	0.05	0.25	---
Phorate	298-02-2	---	0.05	---	0.2	---	---	X
Phosdrin (Mevinphos®)	7786-34-7	0.01	0.1	0.03	0.3	---	---	X
Phosgene (carbonyl chloride)	75-44-5	0.1	0.4	---	---	---	---	---
Phosphine	7803-51-2	0.3	0.4	1.0	1.0	---	---	---
Phosphoric acid	7664-38-2	---	1.0	---	3.0	---	---	---
Phosphorus (yellow)	7723-14-0	---	0.1	---	---	---	---	---

HT/PEL
TABLE 1.26

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Phosphorous oxychloride	10025-87-3	0.1	0.6	---	---	---	---	---
Phosphorus pentachloride	10026-13-8	0.1	1.0	---	---	---	---	---
Phosphorus pentasulfide	1314-80-3	---	1.0	---	3.0	---	---	---
Phosphorus trichloride	7719-12-2	0.2	1.5	0.5	3.0	---	---	---
Phthalic anhydride	85-44-9	1.0	6.0	---	---	---	---	---
m-Phthalodinitrile	626-17-5	---	5.0	---	---	---	---	---
Picloram	1918-02-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Picric acid	88-89-1	---	0.1	---	---	---	---	X
Pindone (see Pival) (2-Pivalyl-1, 3-indandione)	83-26-1	---	0.1	---	---	---	---	---
Piperazine dihydrochloride	142-64-3	---	5.0	---	---	---	---	---
Pival [®] (see Pindone)	-----	---	---	---	---	---	---	---
Plaster of Paris	26499-65-0	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Platinum (as Pt)	7440-06-4	---	---	---	---	---	---	---
Metal	---	---	1.0	---	---	---	---	---
Soluble salts	---	---	0.002	---	---	---	---	---
Polychlorobiphenyls (see Chlorodiphenyls)	---	---	---	---	---	---	---	---
Portland cement	65997-15-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Potassium hydroxide	1310-58-3	---	---	---	---	---	2.0	---
Propane	74-98-6	1,000	1,800	---	---	---	---	---
Propargyl alcohol	107-19-7	1.0	2.0	---	---	---	---	X
beta-Propiolactone (see WAC 296-62-073)	57-57-8	---	---	---	---	---	---	---
Propionic acid	79-09-4	10	30	---	---	---	---	---

HT/PEL
TABLE 1.27

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Propoxur (Baygon)	114-26-1	---	0.5	---	---	---	---	---
n-Propyl acetate	109-60-4	200	840	250	1,050	---	---	---
n-Propyl alcohol	71-23-8	200	500	250	625	---	---	X
n-Propyl nitrate	627-13-4	25	105	40	170	---	---	---
Propylene	---	Simple	Asphyxiant	---	---	---	---	---
Propylene dichloride (1, 2-Dichloropropane)	78-87-5	75	350	110	510	---	---	---
Propylene glycol dinitrate	6423-43-4	0.05	0.3	---	---	---	---	X
Propylene glycol monomethyl ether	107-98-2	100	360	150	540	---	---	---
Propylene imine	75-55-8	2.0	5.0	---	---	---	---	X
Propylene oxide	75-56-9	20	50	---	---	---	---	---
Propyne, (see Methyl acetylene)	---	---	---	---	---	---	---	---
Pyrethrum	8003-34-7	---	5.0	---	---	---	---	---
Pyridine	110-86-1	5.0	15	---	---	---	---	---
Quinone	106-51-4	0.1	0.4	---	---	---	---	---
ROX (See Cyclonite)	---	---	1.5	---	---	---	---	X
Resorcinol	108-46-3	10	45	20	90	---	---	---
Rhodium (as Rh)	7440-16-6	---	---	---	---	---	---	---
Insoluble compounds, Metal fumes and dusts	---	---	0.1	---	---	---	---	---
Soluble compounds, salts	---	---	0.001	---	---	---	---	---
Ronnel	299-84-3	---	10	---	---	---	---	---
Rosin core solder, pyrolysis products (as formaldehyde)	---	---	0.1	---	---	---	---	---
Rotenone	83-79-4	---	5.0	---	---	---	---	---
Rouge	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Rubber solvent (naphtha) ((400)8002-05-9 ((1,600)100 ((---)400	---	---	---	---	---	---	---	---
Selenium compounds (as Se)	7782-49-2	---	0.2	---	---	---	---	---

HT/PEL
TABLE 1.28

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL) ^{c/}

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Selenium hexafluoride (as Se)	7783-79-1	0.05	0.2	---	---	---	---	---
Sesone (see Crag herbicide)	---	---	---	---	---	---	---	---
Silane (see Silicon tetrahydride)	---	---	---	---	---	---	---	---
Silica, amorphous, precipitated and gel	---	---	6.0	---	---	---	---	---
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	61790-53-2	---	6.0	---	---	---	---	---
Total dust	---	---	6.0	---	---	---	---	---
Respirable fraction	---	---	3.0	---	---	---	---	---
Silica, crystalline cristobalite (as quartz) respirable dust	14464-46-1	---	0.05	---	---	---	---	---
Silica, crystalline quartz (as quartz), respirable dust	14808-60-7	---	0.1 ^{g/ h/}	---	---	---	---	---
Silica, crystalline tripoli (as quartz), respirable dust	1317-95-9	---	0.1	---	---	---	---	---
Silica, crystalline tridymite (as quartz), respirable dust	15468-32-3	---	0.05	---	---	---	---	---
Silica, fused, respirable dust	60676-86-0	---	0.1	---	---	---	---	---
Silicates (less than 1% crystalline silica:								
Mica (Respirable dust)	12001-26-2	---	3.0	---	---	---	---	---
Soapstone, Total dust	---	---	6.0	---	---	---	---	---
Soapstone, Respirable dust	---	---	3.0	---	---	---	---	---
Talc (containing asbestos): use asbestos limit (see WAC 296-62-07517)	---	---	---	---	---	---	---	---

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TABLE 1.29

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL) ^{c/}

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Talc (containing no asbestos), Respirable dust	14807-96-6	---	2.0	---	---	---	---	---
Tremolite (see WAC 296-62-07517)	---	---	---	---	---	---	---	---
Silicon	7440-21-3	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Silicon Carbide	409-21-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Silicon tetrahydride	7803-62-5	5.0	---	---	---	---	---	---
Silver, metal dust and soluble compounds (as Ag)	7440-22-4	---	0.01	---	---	---	---	---
Soapstone (see Silicates)	---	---	---	---	---	---	---	---
Sodium azide (as HN ₃)	26628-22-8	---	---	---	---	0.1	0.3	X
(as NaN ₃)	---	---	---	---	---	0.1	0.3	X
Sodium bisulfite	7631-90-5	---	5.0	---	---	---	---	---
Sodium-2, 4-dichlorophenoxyethyl sulfate (see Crag herbicide)	---	---	---	---	---	---	---	---
Sodium fluoroacetate	62-74-8	---	0.05	---	0.15	---	---	X
Sodium hydroxide	1310-73-2	---	---	---	---	---	2.0	---
Sodium metabisulfite	7681-57-4	---	5.0	---	---	---	---	---
Starch	9005-25-8	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Stibine	7803-52-3	0.1	0.5	---	---	---	---	---
Stoddard solvent	8052-41-3	100	525	---	---	---	---	---
Strychnine	57-24-9	---	0.15	---	---	---	---	---
Styrene	100-42-5	50	215	100	425	---	---	---

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TABLE 1.30

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Subtilisin	((1395-21-7))9014-01-1	---	---	---	0.00006 (60 min.) ^{d/}	---	---	---
Sucrose	57-50-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Sulfotep (see TEDP)	---	---	---	---	---	---	---	X
Sulfur dioxide	7446-09-5	2.0	5.0	5.0	10	---	---	---
Sulfur hexafluoride	2551-62-4	1,000	6,000	---	---	---	---	---
Sulfuric acid	7664-93-9	---	1.0	---	---	---	---	---
Sulfur monochloride	10025-67-9	---	---	---	---	1.0	6.0	---
Sulfur pentafluoride	5714-22-1	---	---	---	---	0.01	0.1	---
Sulfur tetrafluoride	7783-60-0	---	---	---	---	0.1	0.4	---
Sulfuryl fluoride	2699-79-8	5.0	20	10	40	---	---	---
Sulprofos	35400-43-2	---	1.0	---	---	---	---	---
Systox (see Demeton®)	---	---	---	---	---	---	---	---
2, 4, 5-T	93-76-5	---	10	---	---	---	---	---
Talc (see Silicates)	---	---	---	---	---	---	---	---
Tantalum	7440-25-7	---	5.0	---	---	---	---	---
Metal and oxide dusts	---	---	---	---	---	---	---	---
TEDP (Sulfotep)	3689-24-5	---	0.2	---	---	---	---	X
Tellurium and compounds (as Te)	13494-80-9	---	0.1	---	---	---	---	---
Tellurium hexafluoride (as Te)	7783-80-4	0.02	0.2	---	---	---	---	---
Temphos	3383-96-8	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
TEPP	107-49-3	0.004	0.05	---	---	---	---	X
Terphenyls	26140-60-3	---	---	---	---	0.5	5.0	---
1, 1, 1, 2-Tetrachloro-2, 2-difluoroethane	76-11-0	500	4,170	---	---	---	---	---
1, 1, 2, 2-Tetrachloro-1, 2-difluoroethane	76-12-0	500	4,170	---	---	---	---	---

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TABLE 1.31

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
1, 1, 2, 2-Tetrachloroethane	79-34-5	1.0	7.0	---	---	---	---	X
Tetrachloroethylene (see Perchloroethylene)	---	---	---	---	---	---	---	---
Tetrachloromethane (see Carbon tetrachloride)	---	---	---	---	---	---	---	---
Tetrachloronaphthalene	1335-88-2	---	2.0	---	---	---	---	X
Tetraethyl lead (as Pb)	78-00-2	---	0.075	---	---	---	---	X
Tetrahydrofuran	109-99-9	200	590	250	735	---	---	---
Tetramethyl lead (as Pb)	75-74-1	---	0.075	---	---	---	---	X
Tetramethyl succinonitrile	3333-52-6	0.5	3.0	---	---	---	---	X
Tetranitromethane	509-14-8	1.0	8.0	---	---	---	---	---
Tetrasodium pyrophosphate	7722-88-5	---	5.0	---	---	---	---	---
Tetryl (2, 4, 6-trinitrophenyl- methyl nitramine)	479-45-8	---	1.5	---	---	---	---	X
Thallium (soluble compounds) (as Tl)	7440-28-0	---	0.1	---	---	---	---	X
4, 4-Thiobis (6-tert-butyl-m-cresol)	96-69-5	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Thioglycolic acid	68-11-1	1.0	4.0	---	---	---	---	X
Thionyl chloride	7719-09-7	---	---	---	---	1.0	5.0	---
Thiram® (see WAC 296-62-07519)	137-26-8	---	5.0	---	---	---	---	---
Tin (as Sn)	7440-31-5	---	2.0	---	---	---	---	---
Inorganic compounds (except oxides)	---	---	---	---	---	---	---	---
Tin, Organic compounds (as Sn)	7440-31-5	---	0.1	---	---	---	---	X
Tin Oxide (as Sn)	21651-19-4	---	2.0	---	---	---	---	---
Titanium dioxide	13463-67-7	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Toulene	108-88-3	100	375	150	560	---	---	---

HT/PEL
TABLE 1.32

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
Toluene-2, 4-diisocyanate (TOI)	584-84-9	0.005	0.04	0.02	0.15	---	---	---
m-Toluidine	108-44-1	2.0	9.0	---	---	---	---	X
o-Toluidine	95-53-4	2.0	9.0	---	---	---	---	X
p-Toluidine	106-49-0	2.0	9.0	---	---	---	---	X
Toxaphene (see Chlorinated camphene)	---	---	---	---	---	---	---	---
Tremolite (see Silicates)	---	---	---	---	---	---	---	---
Tributyl phosphate	126-73-8	0.2	2.5	---	---	---	---	---
Trichloroacetic acid	76-03-9	1.0	7.0	---	---	---	---	---
1, 2, 4-Trichlorobenzene	120-82-1	---	---	---	---	5.0	40	---
1, 1, 1-Trichloroethane (see Methyl chloroform)	---	---	---	---	---	---	---	---
1, 1, 2-Trichloroethane	79-00-5	10	45	---	---	---	---	---
Trichloroethylene	79-01-6	50	270	200	1,080	---	---	---
Trichlorofluoromethane	75-69-4	---	---	---	---	1,000	5,600	---
Trichloromethane (see Chloroform)	---	---	---	---	---	---	---	---
Trichloronaphthalene	1321-65-9	---	5.0	---	---	---	---	X
1, 2, 3-Trichloropropane	96-18-4	10	60	---	---	---	---	X
1, 1, 2-Trichloro-1, 2, 2-trifluoroethane	76-13-1	1,000	7,600	1,250	9,500	---	---	---
Tricyclohexyltin hydroxide (see Cyhexatin)	---	---	---	---	---	---	---	---
Triethylamine	121-44-8	10	40	15	60	---	---	---
Trifluorobromomethane	75-63-8	1,000	6,100	---	---	---	---	---
Trimellitic anhydride	552-30-7	0.005	0.04	---	---	---	---	---
Trimethylamine	75-50-3	10	24	15	36	---	---	---
Trimethyl benzene	25551-13-7	25	125	---	---	---	---	---
Trimethyl phosphite	121-45-9	2.0	10	---	---	---	---	---
2, 4, 6-Trinitrophenol (see Picric acid)	---	---	---	---	---	---	---	---

HT/PEL
TABLE 1.33

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Design- nation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
2, 4, 6-Trinitrophenyl- methylnitramine (see Tetryl)	---	---	---	---	---	---	---	---
2, 4, 6-Trinitrotoluene (TNT)	118-96-7	---	0.5	---	---	---	---	X
Triorthocresyl phosphate	78-30-8	---	0.1	---	---	---	---	X
Triphenyl amine	603-34-9	---	5.0	---	---	---	---	---
Triphenyl phosphate	115-86-6	---	3.0	---	---	---	---	---
Tungsten (as W)	7440-33-7	---	---	---	---	---	---	---
Soluble compounds	---	---	1.0	---	3.0	---	---	---
Insoluble compounds	---	---	5.0	---	10	---	---	---
Turpentine	8006-64-2	100	560	---	---	---	---	---
Uranium (as U)	7440-61-1	---	---	---	---	---	---	---
Soluble compounds	---	---	0.05	---	---	---	---	---
Insoluble compounds	---	---	0.2	---	0.6	---	---	---
n-Valeraldehyde	110-62-3	50	175	---	---	---	---	---
Vanadium (as V ₂ O ₅)	1314-62-1	---	0.05	---	---	---	---	---
Respirable dust and fume	---	---	---	---	---	---	---	---
Vegetable oil mist	---	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Vinyl acetate	108-05-1	10	30	20	60	---	---	---
Vinyl benzene (see Styrene)	---	---	---	---	---	---	---	---
Vinyl bromide	593-60-2	5.0	20	---	---	---	---	---
Vinyl chloride (see MAC 296-62-07329)	75-01-4	---	---	---	---	---	---	---
Vinyl cyanid (see Acrylonitrile)	---	---	---	---	---	---	---	---
Vinyl cyclohexene dioxide	106-87-6	10	60	---	---	---	---	X
Vinyl toluene	25013-15-4	50	240	---	---	---	---	---
Vinylidene chloride (1, 1-Dichloroethylene)	75-35-4	1.0	4.0	---	---	---	---	---

HT/PEL
TABLE 1.34

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

Substance	CAS ^{1/} Number	TWA		STEL ^{c/}		CEILING		Skin Designation
		ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	ppm ^{a/}	mg/m ³ ^{b/}	
VM & P Naphtha	8032-32-4	300	1,350	400	1,800	---	---	---
Warfarin	B1-81-2	---	0.1	---	---	---	---	---
Welding fumes ^{f/} (total particulate)	---	---	5.0	---	---	---	---	---
Wood dust:	---	---	---	---	---	---	---	---
Nonallergenic;								
All soft woods and hard woods except allergenics	---	---	5.0	---	10	---	---	---
Allergenics; (e.g. cedar, mahogany and teak)	---	---	2.5	---	---	---	---	---
Xylenes(Xylo)l	1330-20-7	100	435	150	655	---	---	---
(o-, m-, p-isomers)								
m-Xylene alpha, alpha-diamine	1477-55-0	---	---	---	---	---	0.1	X
Xylidine	1300-73-8	2.0	10	---	---	---	---	X
Yttrium	7440-65-5	---	1.0	---	---	---	---	---
Zinc chloride fume	7646-85-7	---	1.0	---	2.0	---	---	---
Zinc chromate (as CrO ₃)	Varies w/compound	---	0.05	---	---	---	0.1	---
Zinc oxide	1314-13-2	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Zinc oxide fume	1314-13-2	---	5.0	---	10	---	---	---
Zinc stearate	557-05-1	---	---	---	---	---	---	---
Total dust	---	---	10	---	---	---	---	---
Respirable fraction	---	---	5.0	---	---	---	---	---
Zirconium compounds (as Zr)	7440-67-2	---	5.0	---	10	---	---	---

Notes: ^{a/} Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm. Hg. pressure (torr.).
^{b/} Approximate milligrams of substance per cubic meter of air.
^{c/} Duration is for 15 minutes, unless otherwise noted.
^{d/} The final benzene standard in WAC 296-62-07523 applies to all occupational exposures to benzene except some sub-segments of industry where exposures are consistently under the action level (i.e., distribution and sale of fuels, sealed containers and pipelines, coke production, oil and gas drilling and production, natural gas processing, and the percentage exclusion for liquid mixtures).

HT/PEL
TABLE 1.35

TABLE 1: LIMITS FOR AIR CONTAMINANTS
Permissible Exposure Limits (PEL)

- ^{e/} This 8-hour TWA applies to respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. The time-weighted average applies to the cotton waste processing operations of waste recycling (sorting, blending, cleaning, and willowing) and garretting. See also WAC 296-62-14533 for cotton dust limits applicable to other sectors.
- ^{f/} As determined from breathing-zone air samples.
- ^{g/} Total dust formula for Silica (as quartz) is: $\frac{30 \text{ mg/m}^3}{\% \text{ SiO}_2 + 3}$
- ^{h/} Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

containing less than 1% quartz if 1% quartz,
use quartz limit.

The measurements under this note refer to the use of an AEC (now NRC) instrument. The respirable fraction of coal dust is determined with an MRE the figure corresponding to that of 2.4 mg/m³ in the table for coal dust is 4.5 mg/m³.

Notes: 1/ The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound measured as the metal, the CAS number for the metal is given -- not CAS numbers for the individual compounds.

j/ Compliance with the subtilisins PEL is assessed by sampling with a high volume sampler (600-800 liters per minute) for at least 60 minutes.

HT/PEL
TABLE 2.1

TABLE 2
TRANSITIONAL LIMITS

The transitional limits listed are in effect until December 31, 1992. These limits require the use of engineering controls, where feasible, the additional protection to achieve the more protective limits listed in Table 1 may be achieved using protective control measures as set forth in WAC 296-62-07501(3).

Substance	PEL		Acceptable Ceiling Concentration	
	ppm	mg/m ³	ppm	mg/m ³
Carbon disulfide	10	---	15	---
Carbon monoxide	50	55	---	---
Carbon tetrachloride	5.0	---	20	---
Chloroform (Trichloromethane)	10	50	50	240
Coal dust-respirable (less than 5% SiO ₂)	---	2.4	---	---
Cobalt metal, dust and fume (as Co)	---	0.1	---	---
Ethylene dichloride	10	---	15	---
Ethylene glycol dinitrate	0.05	0.3	0.2	1.0
Nitrogen dioxide	---	---	5.0	9.0
Nitroglycerin	0.05	0.5	0.2	2.0 (1.0)
Perchloroethylene (Tetrachloroethylene)	50	---	200	---
Styrene	100	---	200	---

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-07521 LEAD. (1) Scope and application.

(a) This section applies to all occupational exposure to lead, except as provided in subdivision (1)(b).

(b) This section does not apply to the construction industry or to agricultural operations covered by chapter 296-306 WAC.

(2) Definitions as applicable to this part.

(a) "Action level" - employee exposure, without regard to the use of respirators, to an airborne concentration of lead of thirty micrograms per cubic meter of air (30 µg/m³) averaged over an eight-hour period.

(b) "Director" - the director of the department of labor and industries.

(c) "Lead" - metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

(3) Permissible exposure limit (PEL).

(a) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air (50 µg/m³) averaged over an eight-hour period.

(b) If an employee is exposed to lead for more than eight hours in any work day, the permissible exposure limit, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

$$\text{Maximum permissible limit (in } \mu\text{g/m}^3\text{)} = 400 \div \text{hours worked in the day.}$$

(c) When respirators are used to supplement engineering and work practice controls to comply with the PEL and all the requirements of subsection (6) have been met, employee exposure, for the purpose of determining whether the employer has complied with the PEL, may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(4) Exposure monitoring.

(a) General.

(i) For the purposes of subsection (4), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) With the exception of monitoring under subdivision (4)(c), the employer shall collect full shift (for at least seven continuous hours)

personal samples including at least one sample for each shift for each job classification in each work area.

(iii) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(b) Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.

(c) Basis of initial determination.

(i) The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy the requirement to monitor under item (4)(c)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (4)(i) of this section.

(d) Positive initial determination and initial monitoring.

(i) Where a determination conducted under subdivision (4)(b) and (4)(c) of this section shows the possibility of any employee exposure at or above the action level, the employer shall conduct monitoring which is representative of the exposure for each employee in the workplace who is exposed to lead.

(ii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (4)(i) of this section.

(e) Negative initial determination. Where a determination, conducted under subdivisions (4)(b) and (4)(c) of this section is made that no employee is exposed to airborne concentrations of lead at or above the action level, the employer shall make a written record of such determination. The record shall include at least the information specified in

subdivision (4)(c) of this section and shall also include the date of de-termination, location within the worksite, and the name and social security number of each employee monitored.

(f) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subdivision (4)(g) of this section.

(ii) If the initial determination or subsequent monitoring reveals employee exposure to be at or above the action level but below the permissible exposure limit the employer shall repeat monitoring in accordance with this subsection at least every six months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in subdivision (4)(g) of this section.

(iii) If the initial monitoring reveals that employee exposure is above the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in item (4)(f)(ii), except as otherwise provided in subdivision (4)(g) of this section.

(g) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to lead, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to lead, additional monitoring in accordance with this subsection shall be conducted.

(h) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken or to be taken to reduce exposure to or below the permissible exposure limit.

(i) Accuracy of measurement. The employer shall use a method of monitoring and analysis which has an accuracy (to a confidence level of ninety-five percent) of not less than plus or minus twenty percent for airborne concentrations of lead equal to or greater than 30 µg/m³.

(5) Methods of compliance.

(a) Engineering and work practice controls.

(i) Where any employee is exposed to lead above the permissible exposure limit for more than thirty days per year, the employer shall implement engineering and work practice controls (including administrative controls) to reduce and maintain employee exposure to lead in accordance with the implementation schedule in Table I below, except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest feasible level and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (6) of this section.

(ii) Where any employee is exposed to lead above the permissible exposure limit, but for thirty days or less per year, the employer shall implement engineering controls to reduce exposures to 200 µg/m³, but thereafter may implement any combination of engineering, work practice (including administrative controls), and respiratory controls to reduce and maintain employee exposure to lead to or below 50 µg/m³.

TABLE I
IMPLEMENTATION SCHEDULE

Industry ¹	((Compliance Dates ²		
	200 µg/m ³	100 µg/m ³	50 µg/m ³
Primary lead production	(³)	3	10
Secondary lead production	(³)	3	5
Lead-acid battery manufacturing	(³)	2	5
Automobile manufacture/ solder grinding	(³)	N/A	7

Industry ¹	((Compliance Dates ²		
	200 µg/m ³	100 µg/m ³	50 µg/m ³
Electronics, gray iron found- ries, ink manufacture, paints and coatings man- ufacture, wall paper man- ufacture, can manufac- ture, and printing	(³)	N/A	1
Lead pigment manufacture, nonferrous foundries, lead-steel manufacture, lead-chemical manufac- ture, shipbuilding and ship repair, battery breaking in the collection and pro- cessing of scrap (excluding collection and processing of scrap which is part of a secondary smelting op- eration), secondary lead smelting of copper, and lead casting	(³)	N/A	N/A
All other industries	(³)	N/A	2 1/2

Industry ¹	Compliance Dates ²		
	200 µg/m ³	100 µg/m ³	50 µg/m ³
Primary lead production	(³)	² June 29, 1984	² June 29, 1991.
Secondary lead production	(³)	² June 29, 1984	² June 29, 1986.
Lead-acid battery manufacturing	(³)	² June 29, 1983	² June 29, 1986.
Automobile manufacture/ solder grinding	(³)	N/A	² June 29, 1988.
Electronics, gray iron found- ries, ink manufacture, paints and coatings man- ufacture, wall paper man- ufacture, can manufac- ture, and printing	(³)	N/A	² June 29, 1982.
Brass and bronze ingot manufacture, lead chemical manufacture, and secondary copper smelting	(³)	N/A	⁴ 5 years.
Nonferrous foundries	(³)	N/A	⁴ 2 1/2 years.
All other industries	(³)	N/A	⁴ 2 1/2 years.

Note: ¹Includes ancillary activities located on the same worksite.
²(Expressed as the number of years from the effective date by which compliance with the given airborne exposure level, as an eight-hour TWA, must be achieved.) ³This date is calculated by counting, from June 29, 1981, (the date when the United States Supreme Court denied certiorari and lifted the stay on the implementation of paragraph (5)(a)), the number of years specified for the particular industry in the original lead standard for compliance with the given airborne exposure level. The denial of certiorari followed a decision of the United States Court of Appeals for the District of Columbia Circuit finding compliance with paragraph (5)(a) to be feasible for the relevant industries.
⁴On effective date. This continues an obligation from WAC 296-62-07515 Table 1 which had been in effect since 1973.
⁵Expressed as the number of years from the date on which the court lifts the stay on the implementation of paragraph (5)(a) for the particular industry.

(b) Respiratory protection. Where engineering and work practice controls do not reduce employee exposure to or below the 50 µg/m³ permissible exposure limit, the employer shall supplement these controls with respirators in accordance with subsection (6).

(c) Compliance program.
 (i) Each employer shall establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit, and interim levels if applicable, solely by means of engineering and work practice controls in accordance with the implementation schedule in subdivision (5)(a).
 (ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which lead is emitted; e.g., machinery used, material processed, controls in place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(F) A work practice program which includes items required under subsections (7), (8) and (9) of this regulation;

(G) An administrative control schedule required by subdivision (5)(f), if applicable; and

(H) Other relevant information.

(iii) Written programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) Written programs shall be revised and updated at least every six months to reflect the current status of the program.

(d) Bypass of interim level. Where an employer's compliance plan provides for a reduction of employee exposures to or below the PEL solely by means of engineering and work practice controls in accordance with the implementation schedule in Table I, and the employer has determined that compliance with the 100 $\mu\text{g}/\text{m}^3$ interim level would divert resources to the extent that it clearly precludes compliance, otherwise attainable, with the PEL by the required time, the employer may proceed with the plan to comply with the PEL in lieu of compliance with the interim level if:

(i) The compliance plan clearly documents the basis of the determination;

(ii) The employer takes all feasible steps to provide maximum protection for employees until the PEL is met; and

(iii) The employer notifies the director in writing within ten working days of the completion or revision of the compliance plan reflecting the determination.

(e) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every three months. Measurements of the system's effectiveness in controlling exposure shall be made within five days of any change in production, process, or control which might result in a change in employee exposure to lead.

(ii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the employer shall assure that (A) the system has a high efficiency filter with reliable back-up filter; and (B) controls to monitor the concentration of lead in the return air and to bypass the recirculation system automatically if it fails are installed, operating, and maintained.

(f) Administrative controls. If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(6) Respiratory protection.

(a) General. Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this subsection. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement engineering or work practice controls, except that after the dates for compliance with the interim levels in Table I, no employer shall require an employee to wear a negative pressure respirator longer than 4.4 hours per day;

(ii) In work situations in which engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit; and

(iii) Whenever an employee requests a respirator.

(b) Respirator selection.

(i) Where respirators are required under this section the employer shall select the appropriate respirator or combination of respirators from Table II.

TABLE II
RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator ¹
Not in excess of 0.5 mg/m ³ (10X PEL).	Half-mask, air-purifying respirator equipped with high efficiency filters. ^{2,3}
Not in excess of 2.5 mg/m ³ (50X PEL).	Full facepiece, air-purifying respirator with high efficiency filters. ²
Not in excess of 50 mg/m ³ (1000X PEL).	(1) Any powered, air-purifying respirator with high efficiency filters ² ; or (2) Half-mask supplied air respirator operated in positive-pressure mode. ²
Not in excess of 100 mg/m ³ (2000X PEL).	Supplied-air respirators with full facepiece, hood, helmet, or suit, operated in positive pressure mode.
Greater than 100 mg/m ³ , unknown concentration or fire fighting.	Full facepiece, self-contained breathing apparatus operated in positive-pressure mode.

Note: ¹Respirators specified for high concentrations can be used at lower concentrations of lead.

²Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.

³A high efficiency particulate filter means 99.97 percent efficient against 0.3 micron size particles.

(ii) The employer shall provide a powered, air-purifying respirator in lieu of the respirator specified, in Table II whenever:

(A) An employee chooses to use this type of respirator; and

(B) This respirator will provide adequate protection to the employee.

(iii) The employer shall select respirators from among those approved for protection against lead dust, fume, and mist by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(c) Respirator usage.

(i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with Appendix D. The tests shall be used to select facepieces that provide the required protection as prescribed in Table II.

(iii) If an employee exhibits difficulty in breathing during the fitting test or during use, the employer shall make available to the employee an examination in accordance with subitem (10)(c)(i)(C) of this section to determine whether the employee can wear a respirator while performing the required duty.

(d) Respirator program.

(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.

(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.

(7) Protective work clothing and equipment.

(a) Provision and use. If an employee is exposed to lead above the PEL, without regard to the use of respirators or where the possibility of skin or eye irritation exists, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, hats, and shoes or disposable shoe coverlets; and

(iii) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-078.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subdivision (7)(a) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over $200 \mu\text{g}/\text{m}^3$ of lead as an eight-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, or disposal of protective clothing and equipment required by subdivision (7)(a) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms provided for that purpose as prescribed in subdivision (9)(b) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by subdivision (7)(b)(v) are labeled as follows:

CAUTION: CLOTHING CONTAMINATED WITH LEAD. DO NOT REMOVE DUST BY BLOWING OR SHAKING. DISPOSE OF LEAD CONTAMINATED WASH WATER IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, OR FEDERAL REGULATIONS.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(8) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of lead.

(b) Cleaning floors.

(i) Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

(ii) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner which minimizes the re-entry of lead into the workplace.

(9) Hygiene facilities and practices.

(a) The employer shall assure that in areas where employees are exposed to lead above the PEL, without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in change rooms, lunchrooms, and showers required under subdivision (9)(b) through (9)(d) of this section.

(b) Change rooms.

(i) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that change rooms are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(c) Showers.

(i) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators, shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-24-12009.

(iii) The employer shall assure that employees who are required to shower pursuant to item (9)(c)(i) do not leave the workplace wearing any clothing or equipment worn during the work shift.

(d) Lunchrooms.

(i) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply, and are readily accessible to employees.

(iii) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL without regard to the use of a respirator wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunch-room facilities with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method.

(e) Lavatories. The employer shall provide an adequate number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(10) Medical surveillance.

(a) General.

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed above the action level for more than thirty days per year.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iii) The employer shall provide the required medical surveillance including multiple physician review under item (10)(c)(iii) without cost to employees and at a reasonable time and place.

(b) Biological monitoring.

(i) Blood lead and ZPP level sampling and analysis. The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under item (10)(a)(i) of this section on the following schedule:

(A) At least every six months to each employee covered under item (10)(a)(i) of this section;

(B) At least every two months for each employee whose last blood sampling and analysis indicated a blood lead level at or above $40 \mu\text{g}/100 \text{ g}$ of whole blood. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below $40 \mu\text{g}/100 \text{ g}$ of whole blood; and

(C) At least monthly during the removal period of each employee removed from exposure to lead due to an elevated blood lead level.

(ii) Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under item (11)(a)(i), the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) Accuracy of blood lead level sampling and analysis. Blood lead level sampling and analysis provided pursuant to this section shall have an accuracy (to a confidence level of ninety-five percent) within plus or minus fifteen percent or $6 \mu\text{g}/100 \text{ ml}$, whichever is greater, and shall be conducted by a laboratory licensed by the Center for Disease Control (CDC), United States Department of Health, Education and Welfare or which has received a satisfactory grade in blood lead proficiency testing from CDC in the prior twelve months.

(iv) Employee notification. Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level exceeds $40 \mu\text{g}/100 \text{ g}$: (A) of that employee's blood lead level and (B) that the standard requires temporary medical removal with medical removal protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under item (11)(a)(i) of this section.

(c) Medical examinations and consultations.

(i) Frequency. The employer shall make available medical examinations and consultations to each employee covered under item (10)(a)(i) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding twelve months indicated a blood lead level at or above $40 \mu\text{g}/100 \text{ g}$;

(B) Prior to assignment for each employee being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level;

(C) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(D) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) Content. Medical examinations made available pursuant to sub-items (10)(c)(i)(A) through (B) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and nonoccupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(I) Blood lead level;

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(III) Zinc protoporphyrin;

(IV) Blood urea nitrogen; and

(V) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test which the examining physician deems necessary by sound medical practice.

The content of medical examinations made available pursuant to subitems (10)(c)(i)(C) through (D) of this section shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(iii) Multiple physician review mechanism.

(A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(I) To review any findings, determinations or recommendations of the initial physician; and

(II) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(I) The employee informing the employer that he or she intends to seek a second medical opinion, and

(II) The employee initiating steps to make an appointment with a second physician.

(C) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(I) To review any findings, determinations or recommendations of the prior physicians; and

(II) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(iv) Information provided to examining and consulting physicians.

(A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(I) A copy of this regulation for lead including all appendices;

(II) A description of the affected employee's duties as they relate to the employee's exposure;

(III) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(IV) A description of any personal protective equipment used or to be used;

(V) Prior blood lead determinations; and

(VI) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) Written medical opinions.

(A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examining or consulting physician which contains the following information:

(I) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(II) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(III) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(IV) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(I) Not reveal either in the written opinion, or in any other means of communication with the employer, findings, including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(II) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) Alternate physician determination mechanisms. The employer and an employee or authorized employee representative may agree upon the use of any expeditious alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by this subsection so long as the alternate mechanism otherwise satisfies the requirements contained in this subsection.

(d) Chelation.

(i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in item (10)(d)(i), the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(11) Medical removal protection.

(a) Temporary medical removal and return of an employee.

(i) Temporary removal due to elevated blood lead levels.

(A) First year of the standard. During the first year following the effective date of the standard, the employer shall remove an employee from work having a daily eight hour TWA exposure to lead at or above $100 \mu\text{g}/\text{m}^3$ on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above $80 \mu\text{g}/100 \text{ g}$ of whole blood;

(B) Second year of the standard. During the second year following the effective date of the standard, the employer shall remove an employee from work having a daily eight hour TWA exposure to lead at or above $50 \mu\text{g}/\text{m}^3$ on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above $70 \mu\text{g}/100 \text{ g}$ of whole blood;

(C) Third year of the standard, and thereafter. Beginning with the third year following the effective date of the standard, the employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above $60 \mu\text{g}/100 \text{ g}$ of whole blood; and

(D) Fifth year of the standard, and thereafter. Beginning with the fifth year following the effective date of the standard, the employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above $50 \mu\text{g}/100 \text{ g}$ of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below $40 \mu\text{g}/100 \text{ g}$ of whole blood.

(ii) Temporary removal due to a final medical determination.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer shall implement and act consistent with the recommendation.

(iii) Return of the employee to former job status.

(A) The employer shall return an employee to his or her former job status:

(I) For an employee removed due to a blood lead level at or above 80 $\mu\text{g}/100\text{ g}$, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 60 $\mu\text{g}/100\text{ g}$ of whole blood;

(II) For an employee removed due to a blood lead level at or above 70 $\mu\text{g}/100\text{ g}$, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 50 $\mu\text{g}/100\text{ g}$ of whole blood;

(III) For an employee removed due to a blood lead level at or above 60 $\mu\text{g}/100\text{ g}$, or due to an average blood lead level at or above 50 $\mu\text{g}/100\text{ g}$, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 $\mu\text{g}/100\text{ g}$ of whole blood;

(IV) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) Employer options pending a final medical determination. Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) Removal. The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) Return. The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions. If:

(I) The initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(II) The employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(b) Medical removal protection benefits.

(i) Provision of medical removal protection benefits. The employer shall provide to an employee up to eighteen months of medical removal protection benefits on each occasion that an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the

earnings, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to lead or otherwise limited.

(iii) Follow-up medical surveillance during the period of employee removal or limitation. During the period of time that an employee is removed from normal exposure to lead or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment related expenses.

(v) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) Employees whose blood lead levels do not adequately decline within eighteen months of removal. The employer shall take the following measures with respect to any employee removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen months of removal so that the employee has been returned to his or her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(B) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps should be taken to protect the employee's health;

(C) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

(D) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an unacceptable blood lead level, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the blood lead level removal criteria provided by this section.

(vii) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by item (11)(b)(i) of this section.

(12) Employee information and training.

(a) Training program.

(i) Each employer who has a workplace in which there is a potential exposure to airborne lead at any level shall inform employees of the content of Appendices A and B of this regulation.

(ii) The employer shall institute a training program for and assure the participation of all employees who are subject to exposure to lead at or above the action level or for whom the possibility of skin or eye irritation exists.

(iii) The employer shall provide initial training by one hundred eighty days from the effective date for those employees covered by item (12)(a)(ii) on the standard's effective date and prior to the time of initial job assignment for those employees subsequently covered by this subsection.

(iv) The training program shall be repeated at least annually for each employee.

(v) The employer shall assure that each employee is informed of the following:

- (A) The content of this standard and its appendices;
- (B) The specific nature of the operations which could result in exposure to lead above the action level;
- (C) The purpose, proper selection, fitting, use, and limitations of respirators;
- (D) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females);
- (E) The engineering controls and work practices associated with the employee's job assignment;
- (F) The contents of any compliance plan in effect; and
- (G) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician.
 - (b) Access to information and training materials.
 - (i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.
 - (ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.
 - (iii) In addition to the information required by item (12)(a)(v), the employer shall include as part of the training program, and shall distribute to employees, any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to the act, and this lead standard, which are made available to the employer by the director.
- (13) Signs.
 - (a) General.
 - (i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this subsection.
 - (ii) The employer shall assure that no statement appears on or near any sign required by this subsection which contradicts or detracts from the meaning of the required sign.
 - (b) Signs.
 - (i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

- (ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.
- (14) Recordkeeping.
 - (a) Exposure monitoring.
 - (i) The employer shall establish and maintain an accurate record of all monitoring required in subsection (4) of this section.
 - (ii) This record shall include:
 - (A) The date(s), number, duration, location and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;
 - (B) A description of the sampling and analytical methods used and evidence of their accuracy;
 - (C) The type of respiratory protective devices worn, if any;
 - (D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and
 - (E) the environmental variables that could affect the measurement of employee exposure.
 - (iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.
 - (b) Medical surveillance.
 - (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (10) of this section.
 - (ii) This record shall include:
 - (A) The name, social security number, and description of the duties of the employee;
 - (B) A copy of the physician's written opinions;
 - (C) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and
 - (D) Any employee medical complaints related to exposure to lead.

- (iii) the employer shall keep, or assure that the examining physician keeps, the following medical records:
 - (A) A copy of the medical examination results including medical and work history required under subsection (10) of this section;
 - (B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information; and
 - (C) A copy of the results of biological monitoring.
- (iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment plus twenty years, whichever is longer.
 - (c) Medical removals.
 - (i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to subsection (11) of this section.
 - (ii) Each record shall include:
 - (A) The name and social security number of the employee;
 - (B) The date on each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;
 - (C) A brief explanation of how each removal was or is being accomplished; and
 - (D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.
 - (iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.
 - (d) Availability.
 - (i) The employer shall make available upon request all records required to be maintained by subsection (14) of this section to the director for examination and copying.
 - (ii) Environmental monitoring, medical removal, and medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. Medical removal records shall be provided in the same manner as environmental monitoring records.
 - (iii) Upon request, the employer shall make an employee's medical records required to be maintained by this section available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees for examination and copying.
 - (e) Transfer of records.
 - (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (14) of this section.
 - (ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.
 - (iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if requested within the period.
 - (iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.
 - (15) Observation of monitoring.
 - (a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to subsection (4) of this section.
 - (b) Observation procedures.
 - (i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.
 - (ii) Without interfering with the monitoring, observers shall be entitled to:
 - (A) Receive an explanation of the measurement procedures;
 - (B) Observe all steps related to the monitoring of lead performed at the place of exposure; and
 - (C) Record the results obtained or receive copies of the results when returned by the laboratory.
 - (16) Effective date. The effective date of this standard is September 6, 1980.

(17) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation. Appendices are available from:

The Technical Services Section
Division of Industrial Safety and Health
P.O. Box 207
Olympia, WA 98504 (206) 753-6381

(18) Startup dates. All obligations of this standard commence on the effective date except as follows:

(a) The initial determination under subdivision (4)(b) shall be made as soon as possible but no later than thirty days from the effective date.

(b) Initial monitoring under subdivision (4)(d) shall be completed as soon as possible but no later than ninety days from the effective date.

(c) Initial biological monitoring and medical examinations under subsection (10) shall be completed as soon as possible but no later than one hundred eighty days from the effective date. Priority for biological monitoring and medical examinations shall be given to employees whom the employer believes to be at greatest risk from continued exposure.

(d) Initial training and education shall be completed as soon as possible but no later than one hundred eighty days from the effective date.

(e) Hygiene and lunchroom facilities under subsection (9) shall be in operation as soon as possible but no later than one year from the effective year.

(f) Respiratory protection required by subsection (6) shall be provided as soon as possible but no later than the following schedule:

(i) Employees whose eight-hour TWA exposure exceeds $200 \mu\text{g}/\text{m}^3$ - on the effective date.

(ii) Employees whose eight-hour TWA exposure exceeds the PEL but is less than $200 \mu\text{g}/\text{m}^3$ - one hundred fifty days from the effective date.

(iii) Powered, air-purifying respirators provided under (6)(b)(ii) - two hundred ten days from the effective date.

(iv) Quantitative fit testing required under item (6)(c)(ii) - one year from effective date. Qualitative fit testing is required in the interim.

(g) Written compliance plans required by subdivision (5)(c) shall be completed and available for inspection and copying as soon as possible but no later than the following schedule:

(i) Employers for whom compliance with the PEL or interim level is required within one year from the effective date - six months from the effective date.

(ii) Employers in secondary lead smelting and refining(;) and in lead storage battery manufacturing(, lead pigment manufacturing and nonferrous foundry industries-) - one year from the effective date.

(iii) Employers in primary smelting and refining industry - one year from the effective date from the interim level; five years from the effective date for PEL.

(iv) Plans for construction of hygiene facilities, if required - six months from the effective date.

(v) All other industries - one year from the date on which the court lifts the stay on the implementation of paragraph (5)(a) for the particular industry.

(h) The permissible exposure limit in subsection (3) shall become effective one hundred fifty days from the effective date.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-07540 FORMALDEHYDE. (1) Scope and application. This standard applies to all occupational exposures to formaldehyde, i.e., from formaldehyde gas, its solutions, and materials that release formaldehyde.

(2) Definitions. For purposes of this standard, the following definitions shall apply:

(a) "Action level" means a concentration of 0.5 part formaldehyde per million parts of air (0.5 ppm) calculated as an 8-hour time-weighted average (TWA) concentration.

(b) "Approved" means approved by the director of the department of labor and industries or his authorized representative: PROVIDED, HOWEVER, That should a provision of this chapter state that approval by an employer or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provision of WAC 296-24-006 shall apply.

(c) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(d) "Director" means the director of the department of labor and industries, or his designated representative.

(e) "Emergency" is any occurrence, such as but not limited to equipment failure, rupture of containers, or failure of control equipment that results in an uncontrolled release of a significant amount of formaldehyde.

(f) "Employee exposure" means the exposure to airborne formaldehyde which would occur without corrections for protection provided by any respirator that is in use.

(g) "Formaldehyde" means the chemical substance, HCHO, Chemical Abstracts Service Registry No. 50-00-0.

(3) Permissible exposure limit (PEL).

(a) TWA: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds one part formaldehyde per million parts of air (1 ppm) as an 8-hour TWA.

(b) Short term exposure limit (STEL): The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds two parts formaldehyde per million parts of air (2 ppm) as a fifteen-minute STEL.

(4) Exposure monitoring.

(a) General.

(i) Each employer who has a workplace covered by this standard shall monitor employees to determine their exposure to formaldehyde.

(ii) Exceptions.

(A) The employer need not initiate exposure monitoring unless there is a formaldehyde hazard as defined in subsection (13) of this section or there are employee health complaints possibly associated with formaldehyde exposure.

(B) Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will not be required to measure employee exposure to formaldehyde unless there are employee health complaints possibly associated with formaldehyde exposure.

(iii) When an employee's exposure is determined from representative sampling, the measurements used shall be representative of the employee's full shift or short-term exposure to formaldehyde, as appropriate.

(iv) Representative samples for each job classification in each work area shall be taken for each shift unless the employer can document with objective data that exposure levels for a given job classification are equivalent for different workshifts.

(b) Initial monitoring. The employer shall identify all employees who may be exposed at or above the action level or at or above the STEL and accurately determine the exposure of each employee so identified.

(i) Unless the employer chooses to measure the exposure of each employee potentially exposed to formaldehyde, the employer shall develop a representative sampling strategy and measure sufficient exposures within each job classification for each workshift to correctly characterize and not underestimate the exposure of any employee within each exposure group.

(ii) The initial monitoring process shall be repeated each time there is a change in production, equipment, process, personnel, or control measures which may result in new or additional exposure to formaldehyde.

(c) Periodic monitoring.

(i) The employer shall periodically measure and accurately determine exposure to formaldehyde for employees shown by the initial monitoring to be exposed at or above the action level or at or above the STEL.

(ii) If the last monitoring results reveal employee exposure at or above the action level, the employer shall repeat monitoring of the employees at least every six months.

(iii) If the last monitoring results reveal employee exposure at or above the STEL, the employer shall repeat monitoring of the employees at least once a year under worst conditions.

(d) Termination of monitoring. The employer may discontinue periodic monitoring for employees if results from two consecutive sampling periods taken at least seven days apart show that employee exposure is below the action level and the STEL. The results must be statistically

representative and consistent with the employer's knowledge of the job and work operation.

(e) Accuracy of monitoring. Monitoring shall be accurate, at the ninety-five percent confidence level, to within plus or minus twenty-five percent for airborne concentrations of formaldehyde at the TWA and the STEL and to within plus or minus thirty-five percent for airborne concentrations of formaldehyde at the action level.

(f) Employee notification of monitoring results. Within fifteen days of receiving the results of exposure monitoring conducted under this standard, the employer shall notify the affected employees of these results. Notification shall be in writing, either by distributing copies of the results to the employees or by posting the results. If the employee exposure is over either PEL, the employer shall develop and implement a written plan to reduce employee exposure to or below both PELs, and give written notice to employees. The written notice shall contain a description of the corrective action being taken by the employer to decrease exposure.

(g) Observation of monitoring.

(i) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to formaldehyde required by this standard.

(ii) When observation of the monitoring of employee exposure to formaldehyde requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the clothing and equipment to the observer, require the observer to use such clothing and equipment, and assure that the observer complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and accessways with signs bearing the following information:

DANGER
FORMALDEHYDE
IRRITANT AND POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(b) The employer shall limit access to regulated areas to authorized persons who have been trained to recognize the hazards of formaldehyde.

(c) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering controls and work practices. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to formaldehyde at or below the TWA and the STEL.

(b) Exception. Whenever the employer has established that feasible engineering and work practice controls cannot reduce employee exposure to or below either of the PELs, the employer shall apply these controls to reduce employee exposures to the extent feasible and shall supplement them with respirators which satisfy this standard.

(7) Respiratory protection.

(a) General. Where respiratory protection is required, the employer shall provide the respirators at no cost to the employee and shall assure that they are properly used. The respirators shall comply with the requirements of this standard and shall reduce the concentration of formaldehyde inhaled by the employee to at or below both the TWA and the STEL. Respirators shall be used in the following circumstances:

(i) During the interval necessary to install or implement feasible engineering and work practice controls;

(ii) In work operations, such as maintenance and repair activities or vessel cleaning, for which the employer establishes that engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the PELs; and

(iv) In emergencies.

(b) Respirator selection.

(i) The appropriate respirators as specified in Table 1 shall be selected from those approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(ii) The employer shall make available a powered air-purifying respirator (~~(meeting the specifications in Table 1.)~~) adequate to protect against formaldehyde exposure to any employee who experiences difficulty wearing a negative-pressure respirator to reduce exposure to formaldehyde.

(c) Respirator usage.

(i) Whenever respirator use is required by this standard, the employer shall institute a respiratory protection program in accordance with WAC 296-62-07109, 296-62-07111, 296-62-07115, and 296-62-07117.

(ii) The employer shall perform either quantitative or qualitative face fit tests in accordance with the procedures outlined in Appendix E at the time of initial fitting and at least annually thereafter for all employees required by this standard to wear negative-pressure respirators.

(A) Respirators selected shall be from those exhibiting the best facepiece fit.

(B) No respirator shall be chosen that would potentially permit the employee to inhale formaldehyde at concentrations in excess of either the TWA or the STEL.

TABLE 1
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION
AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 10 ppm	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde.
Up to 100 ppm	Full-face mask(;) with chin style or chest or back mounted type((with)) industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator(;) pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 100 ppm or unknown (emergencies).....	Self-contained breathing apparatus (SCBA) with positive-pressure full facepiece. Combination supplied-air, full facepiece positive-pressure respirator with auxiliary self-contained air supply.
Firefighting	SCBA with positive-pressure in full facepiece.
Escape	SCBA in demand or pressure demand mode. Full-face mask(;) with chin style or front or back mounted type ((with)) industrial size canister specifically approved for protection against formaldehyde.

¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

(iii) Where air purifying chemical cartridge respirators are used, the cartridges shall be replaced after three hours of use or at the end of the workshift, whichever is sooner unless the cartridge contains a NIOSH-approved end-of-service indicator to show when breakthrough occurs.

(iv) Unless the canister contains a NIOSH-approved end-of-service life indicator to show when breakthrough occurs, canisters used in atmospheres up to 10 ppm shall be replaced every four hours and industrial sized canisters used in atmospheres up to 100 ppm shall be replaced every two hours or at the end of the workshift, whichever is sooner.

(v) Employers shall permit employees to leave the work area to wash their faces and respirator facepieces as needed to prevent skin irritation from respirator use.

(8) Protective equipment and clothing. Employers shall comply with the provisions of WAC 296-24-07501 and 296-24-078. When protective equipment or clothing is provided under these provisions, the employer shall provide these protective devices at no cost to the employee and assure that the employee wears them.

(a) Selection. The employer shall select protective clothing and equipment based upon the form of formaldehyde to be encountered, the conditions of use, and the hazard to be prevented.

(i) All contact of the eyes and skin with liquids containing one percent or more formaldehyde shall be prevented by the use of chemical protective clothing made of material impervious to formaldehyde and the use of other personal protective equipment, such as goggles and face shields, as appropriate to the operation.

(ii) Contact with irritating or sensitizing materials shall be prevented to the extent necessary to eliminate the hazard.

(iii) Where a face shield is worn, chemical safety goggles are also required if there is a danger of formaldehyde reaching the area of the eye.

(iv) Full body protection shall be worn for entry into areas where concentrations exceed 100 ppm and for emergency reentry into areas of unknown concentration.

(b) Maintenance of protective equipment and clothing.

(i) The employer shall assure that protective equipment and clothing that has become contaminated with formaldehyde is cleaned or laundered before its reuse.

(ii) When ventilating formaldehyde-contaminated clothing and equipment, the employer shall establish a storage area so that employee exposure is minimized. Containers for contaminated clothing and equipment and storage areas shall have labels and signs containing the following information:

DANGER
FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
AVOID INHALATION AND SKIN CONTACT

(iii) The employer shall assure that only persons trained to recognize the hazards of formaldehyde remove the contaminated material from the storage area for purposes of cleaning, laundering, or disposal.

(iv) The employer shall assure that no employee takes home equipment or clothing that is contaminated with formaldehyde.

(v) The employer shall repair or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(vi) The employer shall inform any person who launders, cleans, or repairs such clothing or equipment of formaldehyde's potentially harmful effects and of procedures to safely handle the clothing and equipment.

(9) Hygiene protection.

(a) The employer shall provide change rooms, as described in WAC 296-24-120 for employees who are required to change from work clothing into protective clothing to prevent skin contact with formaldehyde.

(b) If employees' skin may become splashed with solutions containing one percent or greater formaldehyde, for example because of equipment failure or improper work practices, the employer shall provide conveniently located quick drench showers and assure that affected employees use these facilities immediately.

(c) If there is any possibility that an employee's eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde, the employer shall provide acceptable eyewash facilities within the immediate work area for emergency use.

(10) Housekeeping. For operations involving formaldehyde liquids or gas, the employer shall conduct a program to detect leaks and spills, including regular visual inspections.

(a) Preventative maintenance of equipment, including surveys for leaks, shall be undertaken at regular intervals.

(b) In work areas where spillage may occur, the employer shall make provisions to contain the spill, to decontaminate the work area, and to dispose of the waste.

(c) The employer shall assure that all leaks are repaired and spills are cleaned promptly by employees wearing suitable protective equipment and trained in proper methods for cleanup and decontamination.

(d) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing a label warning of formaldehyde's presence and of the hazards associated with formaldehyde.

(11) Emergencies. For each workplace where there is the possibility of an emergency involving formaldehyde, the employer shall assure

appropriate procedures are adopted to minimize injury and loss of life. Appropriate procedures shall be implemented in the event of an emergency.

(12) Medical surveillance.

(a) Employees covered.

(i) The employer shall institute medical surveillance programs for all employees exposed to formaldehyde at concentrations at or exceeding the action level or exceeding the STEL.

(ii) The employer shall make medical surveillance available for employees who develop signs and symptoms of overexposure to formaldehyde and for all employees exposed to formaldehyde in emergencies. When determining whether an employee may be experiencing signs and symptoms of possible overexposure to formaldehyde, the employer may rely on the evidence that signs and symptoms associated with formaldehyde exposure will occur only in exceptional circumstances when airborne exposure is less than 0.1 ppm and when formaldehyde is present in materials in concentrations less than 0.1 percent.

(b) Examination by a physician. All medical procedures, including administration of medical disease questionnaires, shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(c) Medical disease questionnaire. The employer shall make the following medical surveillance available to employees prior to assignment to a job where formaldehyde exposure is at or above the action level or above the STEL and annually thereafter. The employer shall also make the following medical surveillance available promptly upon determining that an employee is experiencing signs and symptoms indicative of possible overexposure to formaldehyde.

(i) Administration of a medical disease questionnaire, such as in Appendix D, which is designed to elicit information on work history, smoking history, any evidence of eye, nose, or throat irritation; chronic airway problems or hyperreactive airway disease; allergic skin conditions or dermatitis; and upper or lower respiratory problems.

(ii) A determination by the physician, based on evaluation of the medical disease questionnaire, of whether a medical examination is necessary for employees not required to wear respirators to reduce exposure to formaldehyde.

(d) Medical examinations. Medical examinations shall be given to any employee who the physician feels, based on information in the medical disease questionnaire, may be at increased risk from exposure to formaldehyde and at the time of initial assignment and at least annually thereafter to all employees required to wear a respirator to reduce exposure to formaldehyde. The medical examination shall include:

(i) A physical examination with emphasis on evidence of irritation or sensitization of the skin and respiratory system, shortness of breath, or irritation of the eyes.

(ii) Laboratory examinations for respirator wearers consisting of baseline and annual pulmonary function tests. As a minimum, these tests shall consist of forced vital capacity (FVC), forced expiratory volume in one second (FEV1), and forced expiratory flow (FEF).

(iii) Any other test which the examining physician deems necessary to complete the written opinion.

(iv) Counseling of employees having medical conditions that would be directly or indirectly aggravated by exposure to formaldehyde on the increased risk of impairment of their health.

(e) Examinations for employees exposed in an emergency. The employer shall make medical examinations available as soon as possible to all employees who have been exposed to formaldehyde in an emergency.

(i) The examination shall include a medical and work history with emphasis on any evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation.

(ii) Other examinations shall consist of those elements considered appropriate by the examining physician.

(f) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and Appendices A, C, D, and E;

(ii) A description of the affected employee's job duties as they relate to the employee's exposure to formaldehyde;

(iii) The representative exposure level for the employee's job assignment;

(iv) Information concerning any personal protective equipment and respiratory protection used or to be used by the employee; and

(v) Information from previous medical examinations of the affected employee within the control of the employer.

(vi) In the event of a nonroutine examination because of an emergency, the employer shall provide to the physician as soon as possible: A description of how the emergency occurred and the exposure the victim may have received.

(g) Physician's written opinion.

(i) For each examination required under this standard, the employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination except that it shall not reveal specific findings or diagnoses unrelated to occupational exposure to formaldehyde. The written opinion shall include:

(A) The physician's opinion as to whether the employee has any medical condition that would place the employee at an increased risk of material impairment of health from exposure to formaldehyde;

(B) Any recommended limitations on the employee's exposure or changes in the use of personal protective equipment, including respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which would be aggravated by exposure to formaldehyde, whether these conditions may have resulted from past formaldehyde exposure or from exposure in an emergency, and whether there is a need for further examination or treatment.

(ii) The employer shall provide for retention of the results of the medical examination and tests conducted by the physician.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within fifteen days of its receipt.

(13) Hazard communication.

(a) General. Notwithstanding any exemption granted in WAC 296-62-05403 (6)(c) for wood products, each employer who has a workplace covered by this standard shall comply with the requirements of WAC 296-62-05409 through 296-62-05419.

(i) For purposes of hazard communication, formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air under any normal condition of use at concentrations reaching or exceeding 0.1 ppm shall be considered a health hazard.

(ii) As a minimum, specific health hazards that the employer shall address are: Cancer, irritation and sensitization of the skin and respiratory system, eye and throat irritation, and acute toxicity.

(b) Manufacturers and importers who produce or import formaldehyde or formaldehyde-containing products shall provide downstream employers using or handling these products with an objective determination through the required labels and MSDSs if these items may constitute a health hazard within the meaning of WAC 296-62-05407 under normal conditions of use.

(c) Labels.

(i) The employer shall assure that hazard warning labels complying with the requirements of WAC 296-62-05411 are affixed to all containers where the presence of formaldehyde constitutes a health hazard.

(ii) Information on labels. As a minimum, labels shall identify the hazardous chemical; list the name and address of the responsible party; contain the information "potential cancer hazard"; and appropriately warn of all other hazards as defined in Part C (WAC 296-62-054 through 296-62-05425), Appendices A and B.

(iii) Substitute warning labels. The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this subitem.

(d) Material safety data sheets.

(i) Any employer who uses formaldehyde-containing materials that constitute a health hazard as defined in this standard shall comply with the requirements of WAC 296-62-05413 with regard to the development and updating of material safety data sheets.

(ii) Manufacturers, importers, and distributors of formaldehyde containing materials that constitute a health hazard as defined in this standard shall assure that material safety data sheets and updated information are provided to all employers purchasing such materials at the time of the initial shipment and at the time of the first shipment after a material safety data sheet is updated.

(14) Employee information and training.

(a) Employee training. Written materials for employee training shall be updated as soon as possible, but no later than two months after the effective date of the standard.

(b) Participation. The employer shall assure that all employees who are assigned to workplaces where there is a health hazard from formaldehyde participate in a training program.

(c) Frequency.

(i) Employers shall provide employees with information and training on formaldehyde at the time of their initial assignment and whenever a new hazard from formaldehyde is introduced into their work area.

(ii) Employers shall provide such information and training at least annually for all employees exposed to formaldehyde concentrations at or above the action level or the STEL.

(d) Training program. The training program shall be conducted in a manner which the employee is able to understand and shall include:

(i) A discussion of the contents of this regulation and the contents of the material safety data sheet;

(ii) The purpose for and a description of the medical surveillance program required by this standard, including:

(A) A description of the potential health hazards associated with exposure to formaldehyde and a description of the signs and symptoms of exposure to formaldehyde.

(B) Instructions to immediately report to the employer the development of any adverse signs or symptoms that the employee suspects is attributable to formaldehyde exposure.

(iii) Description of operations in the work area where formaldehyde is present and an explanation of the safe work practices appropriate for limiting exposure to formaldehyde in each job;

(iv) The purpose for, proper use of, and limitations of personal protective clothing and equipment;

(v) Instructions for the handling of spills, emergencies, and clean-up procedures;

(vi) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls; and

(vii) A review of emergency procedures including the specific duties or assignments of each employee in the event of an emergency.

(e) Access to training materials.

(i) The employer shall inform all affected employees of the location of written training materials and shall make these materials readily available, without cost, to the affected employees.

(ii) The employer shall provide, upon request, all training materials relating to the employee training program to the director of labor and industries, or his designated representative.

(15) Recordkeeping.

(a) Exposure measurements. The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to formaldehyde. This record shall include:

(i) The date of measurement;

(ii) The operation being monitored;

(iii) The methods of sampling and analysis and evidence of their accuracy and precision;

(iv) The number, durations, time, and results of samples taken;

(v) The types of protective devices worn; and

(vi) The names, job classifications, Social Security numbers, and exposure estimates of the employees whose exposures are represented by the actual monitoring results.

(b) Exposure determinations. Where the employer has determined that no monitoring is required under this standard, the employer shall maintain a record of the objective data relied upon to support the determination that no employee is exposed to formaldehyde at or above the action level.

(c) Medical surveillance. The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under this standard. This record shall include:

(i) The name and Social Security number of the employee;

(ii) The physician's written opinion;

(iii) A list of any employee health complaints that may be related to exposure to formaldehyde; and

(iv) A copy of the medical examination results, including medical disease questionnaires and results of any medical tests required by the standard or mandated by the examining physician.

(d) Respirator fit testing.

(i) The employer shall establish and maintain accurate records for employees subject to negative-pressure respirator fit testing required by this standard.

(ii) This record shall include:

(A) A copy of the protocol selected for respirator fit testing;

(B) A copy of the results of any fit testing performed;

(C) The size and manufacturer of the types of respirators available for selection; and

(D) The date of the most recent fit testing, the name and Social Security number of each tested employee, and the respirator type and facepiece selected.

(e) Record retention. The employer shall retain records required by this standard for at least the following periods:

(i) Exposure records and determinations shall be kept for at least thirty years;

(ii) Medical records shall be kept for the duration of employment plus thirty years; and

(iii) Respirator fit testing records shall be kept until replaced by a more recent record.

(f) Availability of records.

(i) Upon request, the employer shall make all records maintained as a requirement of this standard available for examination and copying to the director of labor and industries, or his designated representative.

(ii) The employer shall make employee exposure records, including estimates made from representative monitoring and available upon request for examination and copying, to the subject employee, or former employee, and employee representatives in accordance with WAC 296-62-052 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(iii) Employee medical records required by this standard shall be provided upon request for examination and copying, to the subject employee, or former employee, or to anyone having the specific written consent of the subject employee or former employee.

(16) Effective dates.

(a) Laboratories. This standard shall become effective for anatomy, histology, and pathology laboratories thirty days after the adoption date, except as noted in (b) of this subsection. For all laboratories other than anatomy, histology, and pathology, subsections (2) and (4) through (15) of this section shall become effective on September 1, 1988, except as noted in (b) of this subsection.

(b) Engineering and work practice controls. Engineering and work practice controls required by this standard shall be implemented as soon as possible, but no later than February 2, 1989.

(c) Employee training. Written materials for employee training shall be updated as soon as possible, but no later than two months after the effective date of the standard.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-62-07544 APPENDIX B—SAMPLING STRATEGY AND ANALYTICAL METHODS FOR FORMALDEHYDE.

(1) To protect the health of employees, exposure measurements must be unbiased and representative of employee exposure. The proper measurement of employee exposure requires more than a token commitment on the part of the employer. WISHA's mandatory requirements establish a baseline; under the best of circumstances all questions regarding employee exposure will be answered. Many employers, however, will wish to conduct more extensive monitoring before undertaking expensive commitments, such as engineering controls, to assure that the modifications are truly necessary. The following sampling strategy, which was developed at NIOSH by Nelson A. Leidel, Kenneth A. Busch, and Jeremiah R. Lynch and described in NIOSH publication No. 77-173 (Occupational Exposure Sampling Strategy Manual) will assist the employer in developing a strategy for determining the exposure of his or her employees.

(2) There is no one correct way to determine employee exposure. Obviously, measuring the exposure of every employee exposed to formaldehyde will provide the most information on any given day. Where few employees are exposed, this may be a practical solution. For most employers, however, use of the following strategy will give just as much information at less cost.

(3) Exposure data collected on a single day will not automatically guarantee the employer that his or her workplace is always in compliance with the formaldehyde standard. This does not imply, however, that it is impossible for an employer to be sure that his or her worksite is in compliance with the standard. Indeed, a properly designed sampling strategy showing that all employees are exposed below the PELs, at least with a ninety-five percent certainty, is compelling evidence that the exposure limits are being achieved provided that measurements are conducted using valid sampling strategy and approved analytical methods.

(4) There are two PELs, the TWA concentration and the STEL.

(a) Most employers will find that one of these two limits is more critical in the control of their operations, and ((OSHA)) WISHA expects that the employer will concentrate monitoring efforts on the critical component.

(b) If the more difficult exposure is controlled, this information, along with calculations to support the assumptions, should be adequate to show that the other exposure limit is also being achieved.

(5) Sampling strategy.

(a) Determination of the need for exposure measurements.

(b) The employer must determine whether employees may be exposed to concentrations in excess of the action level. This determination becomes the first step in an employee exposure monitoring program that minimizes employer sampling burdens while providing adequate employee protection.

(c) If employees may be exposed above the action level, the employer must measure exposure. Otherwise, an objective determination that employee exposure is low provides adequate evidence that exposure potential has been examined.

(d) The employer should examine all available relevant information, e.g., insurance company and trade association data and information from suppliers or exposure data collected from similar operations.

(e) The employer may also use previously-conducted sampling including area monitoring. The employer must make a determination relevant to each operation although this need not be on a separate piece of paper.

(f) If the employer can demonstrate conclusively that no employee is exposed above the action level or the STEL through the use of objective data, the employer need proceed no further on employee exposure monitoring until such time that conditions have changed and the determination is no longer valid.

(g) If the employer cannot determine that employee exposure is less than the action level and the STEL, employee exposure monitoring will have to be conducted.

(6) Workplace material survey.

(a) The primary purpose of a survey of raw material is to determine if formaldehyde is being used in the work environment and if so, the conditions under which formaldehyde is being used.

(b) The first step is to tabulate all situations where formaldehyde is used in a manner such that it may be released into the workplace atmosphere or contaminate the skin. This information should be available through analysis of company records and information on the MSDSs available through provisions of this standard and the hazard communication standard.

(c) If there is an indication from materials handling records and accompanying MSDSs that formaldehyde is being used in the following types of processes or work operations, there may be a potential for releasing formaldehyde into the workplace atmosphere:

(i) Any operation that involves grinding, sanding, sawing, cutting, crushing, screening, sieving, or any other manipulation of material that generates formaldehyde-bearing dust.

(ii) Any processes where there have been employee complaints or symptoms indicative of exposure to formaldehyde.

(iii) Any liquid or spray process involving formaldehyde.

(iv) Any process that uses formaldehyde in preserved tissue.

(v) Any process that involves the heating of a formaldehyde-bearing resin.

Processes and work operations that use formaldehyde in these manners will probably require further investigation at the worksite to determine the extent of employee monitoring that should be conducted.

(7) Workplace observations.

(a) To this point, the only intention has been to provide an indication as to the existence of potentially exposed employees. With this information, a visit to the workplace is needed to observe work operations, to identify potential health hazards, and to determine whether any employees may be exposed to hazardous concentrations of formaldehyde.

(b) In many circumstances, sources of formaldehyde can be identified through the sense of smell. However, this method of detection should be used with caution because of olfactory fatigue.

(c) Employee location in relation to source of formaldehyde is important in determining if an employee may be significantly exposed to formaldehyde. In most instances, the closer a worker is to the source, the higher the probability that a significant exposure will occur.

Other characteristics should be considered. Certain high temperature operations give rise to higher evaporation rates. Locations of open doors and windows provide natural ventilation that tend to dilute

formaldehyde emissions. General room ventilation also provides a measure of control.

(8) Calculation of potential exposure concentrations.

(a) By knowing the ventilation rate in a workplace and the quantity of formaldehyde generated, the employer may be able to determine by calculation if the PELs might be exceeded.

(b) To account for poor mixing of formaldehyde into the entire room, locations of fans and proximity of employees to the work operation, the employer must include a safety factor.

(c) If an employee is relatively close to a source, particularly if he or she is located downwind, a safety factor of one hundred may be necessary.

(d) For other situations, a factor of ten may be acceptable. If the employer can demonstrate through such calculations that employee exposure does not exceed the action level or the STEL, the employer may use this information as objective data to demonstrate compliance with the standard.

(9) Sampling strategy.

(a) Once the employer determines that there is a possibility of substantial employee exposure to formaldehyde, the employer is obligated to measure employee exposure.

(b) The next step is selection of a maximum risk employee. When there are different processes where employees may be exposed to formaldehyde, a maximum risk employee should be selected for each work operation.

(c) Selection of the maximum risk employee requires professional judgment. The best procedure for selecting the maximum risk employee is to observe employees and select the person closest to the source of formaldehyde. Employee mobility may affect this selection; e.g., if the closest employee is mobile in his tasks, he may not be the maximum risk employee. Air movement patterns and differences in work habits will also affect selection of the maximum risk employee.

(d) When many employees perform essentially the same task, a maximum risk employee cannot be selected. In this circumstance, it is necessary to resort to random sampling of the group of workers. The objective is to select a subgroup of adequate size so that there is a high probability that the random sample will contain at least one worker with high exposure if one exists. The number of persons in the group influences the number that need to be sampled to ensure that at least one individual from the highest ten percent exposure group is contained in the sample. For example, to have ninety percent confidence in the results, if the group size is ten, nine should be sampled; for fifty, only eighteen need to be sampled.

(e) If measurement shows exposure to formaldehyde at or above the action level or the STEL, the employer needs to identify all other employees who may be exposed at or above the action level or STEL and measure or otherwise accurately characterize the exposure of these employees.

(f) Whether representative monitoring or random sampling are conducted, the purpose remains the same to determine if the exposure of any employee is above the action level. If the exposure of the most exposed employee is less than the action level and the STEL, regardless of how the employee is identified, then it is reasonable to assume that measurements of exposure of the other employees in that operation would be below the action level and the STEL.

(10) Exposure measurements.

(a) There is no "best" measurement strategy for all situations. Some elements to consider in developing a strategy are:

- (i) Availability and cost of sampling equipment;
- (ii) Availability and cost of analytic facilities;
- (iii) Availability and cost of personnel to take samples;
- (iv) Location of employees and work operations;
- (v) Intraday and interday variations in the process;
- (vi) Precision and accuracy of sampling and analytic methods; and
- (vii) Number of samples needed.

(b) Samples taken for determining compliance with the STEL differ from those that measure the TWA concentration in important ways. STEL samples are best taken in a nonrandom fashion using all available knowledge relating to the area, the individual, and the process to obtain samples during periods of maximum expected concentrations. At least three measurements on a shift are generally needed to spot gross errors or mistakes; however, only the highest value represents the STEL.

(c) If an operation remains constant throughout the workshift, a much greater number of samples would need to be taken over the thirty-two discrete nonoverlapping periods in an 8-hour workshift to verify compliance with a STEL. If employee exposure is truly uniform

throughout the workshift, however, an employer in compliance with the 1 ppm TWA would be in compliance with the 2 ppm STEL, and this determination can probably be made using objective data.

(11) Need to repeat the monitoring strategy.

(a) Interday and intraday fluctuations in employee exposure are mostly influenced by the physical processes that generate formaldehyde and the work habits of the employee. Hence, in-plant process variations influence the employer's determination of whether or not additional controls need to be imposed. Measurements that employee exposure is low on a day that is not representative of worst conditions may not provide sufficient information to determine whether or not additional engineering controls should be installed to achieve the PELs.

(b) The person responsible for conducting sampling must be aware of systematic changes which will negate the validity of the sampling results. Systematic changes in formaldehyde exposure concentration for an employee can occur due to:

- (i) The employee changing patterns of movement in the workplace;
- (ii) Closing of plant doors and windows;
- (iii) Changes in ventilation from season to season;
- (iv) Decreases in ventilation efficiency or abrupt failure of engineering control equipment; and
- (v) Changes in the production process or work habits of the employee.

(c) Any of these changes, if they may result in additional exposure that reaches the next level of action (i.e., 0.5 or 1.0 ppm as an 8-hour average or 2 ppm over fifteen minutes) require the employer to perform additional monitoring to reassess employee exposure.

(d) A number of methods are suitable for measuring employee exposure to formaldehyde or for characterizing emissions within the worksite. The preamble to this standard describes some methods that have been widely used or subjected to validation testing. A detailed analytical procedure derived from the WISHA Method (~~(ALDE-1)~~) A.C.R.O. for acrolein and formaldehyde is presented below for informational purposes.

(e) Inclusion of WISHA's method in this appendix in no way implies that it is the only acceptable way to measure employee exposure to formaldehyde. Other methods that are free from significant interferences and that can determine formaldehyde at the permissible exposure limits within ± 25 percent of the "true" value at the ninety-five percent confidence level are also acceptable. Where applicable, the method should also be capable of measuring formaldehyde at the action level to ± 35 percent of the "true" value with a ninety-five percent confidence level. WISHA encourages employers to choose methods that will be best for their individual needs. The employer must exercise caution, however, in choosing an appropriate method since some techniques suffer from interferences that are likely to be present in workplaces of certain industry sectors where formaldehyde is used.

(12) WISHA's analytical laboratory method.

~~(Method No. ALDE-1)~~ A.C.R.O. (also use methods F.O.R.M. and F.O.R.M. 2 when applicable).

Matrix: Air.

(a) Target concentration: 1 ppm (1.2 mg/m³).

(b) Procedures: Air samples are collected by drawing known volumes of air through sampling tubes containing XAD-2 adsorbent which have been coated with 2-(hydroxymethyl) piperidine. The samples are desorbed with toluene and then analyzed by gas chromatography using a nitrogen selective detector.

(c) Recommended sampling rate and air volumes: 0.1 L/min and 24 L.

(d) Reliable quantitation limit: 16 ppb (20 ug/m³).

(e) Standard error of estimate at the target concentration: 7.3%.

(f) Status of the method: A sampling and analytical method that has been subjected to the established evaluation procedures of the organic methods evaluation branch.

(13) Date: March, 1985.

(a) General discussion.

(i) Background: The current WISHA method for collecting acrolein vapor recommends the use of activated 13X molecular sieves. The samples must be stored in an ice bath during and after sampling and also they must be analyzed within forty-eight hours of collection. The current WISHA method for collecting formaldehyde vapor recommends the use of bubblers containing ten percent methanol in water as the trapping solution.

This work was undertaken to resolve the sample stability problems associated with acrolein and also to eliminate the need to use bubblers to sample formaldehyde. A goal of this work was to develop and/or to

evaluate a common sampling and analytical procedure for acrolein and formaldehyde.

NIOSH has developed independent methodologies for acrolein and formaldehyde which recommend the use of reagent-coated adsorbent tubes to collect the aldehydes as stable derivatives. The formaldehyde sampling tubes contain Chromosorb 102 adsorbent coated with N-benzylethanolamine (BEA) which reacts with formaldehyde vapor to form a stable oxazolidine compound. The acrolein sampling tubes contain XAD-2 adsorbent coated with 2-(hydroxymethyl) piperidine (2-HMP) which reacts with acrolein vapor to form a different, stable oxazolidine derivative. Acrolein does not appear to react with BEA to give a suitable reaction product. Therefore, the formaldehyde procedure cannot provide a common method for both aldehydes. However, formaldehyde does react with 2-HMP to form a very suitable reaction product. It is the quantitative reaction of acrolein and formaldehyde with 2-HMP that provides the basis for this evaluation.

This sampling and analytical procedure is very similar to the method recommended by NIOSH for acrolein. Some changes in the NIOSH methodology were necessary to permit the simultaneous determination of both aldehydes and also to accommodate WISHA laboratory equipment and analytical techniques.

(i) Limit-defining parameters: The analyte air concentrations reported in this method are based on the recommended air volume for each analyte collected separately and a desorption volume of 1 mL. The amounts are presented as acrolein and/or formaldehyde, even though the derivatives are the actual species analyzed.

(A) Detection limits of the analytical procedure: The detection limit of the analytical procedure was 386 pg per injection for formaldehyde. This was the amount of analyte which gave a peak whose height was about five times the height of the peak given by the residual formaldehyde derivative in a typical blank front section of the recommended sampling tube.

(B) Detection limits of the overall procedure: The detection limits of the overall procedure were 482 ng per sample (16 ppb or 20 ug/m³ for formaldehyde). This was the amount of analyte spiked on the sampling device which allowed recoveries approximately equal to the detection limit of the analytical procedure.

(C) Reliable quantitation limits: The reliable quantitation limit was 482 ng per sample (16 ppb or 20 ug/m³) for formaldehyde. These were the smallest amounts of analyte which could be quantitated within the limits of a recovery of at least seventy-five percent and a precision (± 1.96 SD) of $\pm 25\%$ or better.

The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operating parameters.

(D) Sensitivity: The sensitivity of the analytical procedure over concentration ranges representing 0.4 to 2 times the target concentration, based on the recommended air volumes, was seven thousand five hundred eighty-nine area units per ug/mL for formaldehyde. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

(E) Recovery: The recovery of formaldehyde from samples used in an eighteen-day storage test remained above ninety-two percent when the samples were stored at ambient temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least seventy-five percent following storage.

(F) Precision (analytical method only): The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.4 to 2 times the target concentration was 0.0052 for formaldehyde ((d)(C)(iii) of this subsection).

(G) Precision (overall procedure): The precision at the ninety-five percent confidence level for the ambient temperature storage tests was $\pm 14.3\%$ for formaldehyde. These values each include an additional $\pm 5\%$ for sampling error. The overall procedure must provide results at the target concentrations that are $\pm 25\%$ at the ninety-five percent confidence level.

(H) Reproducibility: Samples collected from controlled test atmospheres and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The formaldehyde samples were analyzed following fifteen days storage. The average recovery was 96.3% and the standard deviation was 1.7%.

(iii) Advantages:

(A) The sampling and analytical procedures permit the simultaneous determination of acrolein and formaldehyde.

(B) Samples are stable following storage at ambient temperature for at least eighteen days.

(iv) Disadvantages: None.

(b) Sampling procedure.

(i) Apparatus:

(A) Samples are collected by use of a personal sampling pump that can be calibrated to within $\pm 5\%$ of the recommended 0.1 L/min sampling rate with the sampling tube in line.

(B) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane treated glass and is about 8-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with a 75-mg backup section, located nearest the tapered end and a 150-mg sampling section of pretreated XAD-2 adsorbent which has been coated with 2-HMP. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic end caps. Instructions for the pretreatment and the coating of XAD-2 adsorbent are presented in (d) of this subsection.

(C) Sampling tubes, similar to those recommended in this method, are marketed by Supelco, Inc. These tubes were not available when this work was initiated; therefore, they were not evaluated.

(ii) Reagents: None required.

(iii) Technique:

(A) Properly label the sampling tube before sampling and then remove the plastic end caps.

(B) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the large, front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

(C) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps.

(D) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

(E) List any potential interferences on the sample data sheet.

(iv) Breakthrough:

(A) Breakthrough was defined as the relative amount of analyte found on a backup sample in relation to the total amount of analyte collected on the sampling train.

(B) For formaldehyde collected from test atmospheres containing six times the PEL, the average five percent breakthrough air volume was 41 L. The sampling rate was 0.1 L/min and the average mass of formaldehyde collected was 250 ug.

(v) Desorption efficiency: No desorption efficiency corrections are necessary to compute air sample results because analytical standards are prepared using coated adsorbent. Desorption efficiencies were determined, however, to investigate the recoveries of the analytes from the sampling device. The average recovery over the range of 0.4 to 2 times the target concentration, based on the recommended air volumes, was 96.2% for formaldehyde. Desorption efficiencies were essentially constant over the ranges studied.

(vi) Recommended air volume and sampling rate:

(A) The recommended air volume for formaldehyde is 24 L.

(B) The recommended sampling rate is ((θ +)) 0.1 L/min.

(vii) Interferences:

(A) Any collected substance that is capable of reacting with 2-HMP and thereby depleting the derivatizing agent is a potential interference. Chemicals which contain a carbonyl group, such as acetone, may be capable of reacting with 2-HMP.

(b) There are no other known interferences to the sampling method.

(viii) Safety precautions:

(A) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

(B) Follow all safety practices that apply to the work area being sampled.

(c) Analytical procedure.

(i) Apparatus:

(A) A gas chromatograph (GC), equipped with a nitrogen selective detector.

(B) A GC column capable of resolving the analytes from any interference. A 6 ft x 1/4 in OD (2mm ID) glass GC column containing

10% UCON 50-HB-5100 + 2% KOH on 80/100 mesh Chromosorb W-AW was used for the evaluation. Injections were performed on-column.

(C) Vials, glass 2-mL with Teflon-lined caps.

(D) Volumetric flasks, pipets, and syringes for preparing standards, making dilutions, and performing injections.

(ii) Reagents:

(A) Toluene and dimethylformamide. Burdick and Jackson solvents were used in this evaluation.

(B) Helium, hydrogen, and air, GC grade.

(C) Formaldehyde, thirty-seven percent by weight, in water. Aldrich Chemical, ACS Reagent Grade formaldehyde was used in this evaluation.

(D) Ambrlite XAD-2 adsorbent coated with 2-(hydroxymethyl) piperidine (2-HMP), 10% by weight ((d) of this subsection).

(E) Desorbing solution with internal standard. This solution was prepared by adding 20 μ L of dimethylformamide to 100 mL of toluene.

(iii) Standard preparation:

(A) Formaldehyde: Prepare stock standards by diluting known volumes of thirty-seven percent formaldehyde solution with methanol. A procedure to determine the formaldehyde content of these standards is presented in (d) of this subsection. A standard containing 7.7 mg/mL formaldehyde was prepared by diluting 1 mL of the thirty-seven percent reagent to 50 mL with methanol.

(B) It is recommended that analytical standards be prepared about sixteen hours before the air samples are to be analyzed in order to ensure the complete reaction of the analytes with 2-HMP. However, rate studies have shown the reaction to be greater than ninety-five percent complete after four hours. Therefore, one or two standards can be analyzed after this reduced time if sample results are outside the concentration range of the prepared standards.

(C) Place 150-mg portions of coated XAD-2 adsorbent, from the same lot number as used to collect the air samples, into each of several glass 2-mL vials. Seal each vial with a Teflon-lined cap.

(D) Prepare fresh analytical standards each day by injecting appropriate amounts of the diluted analyte directly onto 150-mg portions of coated adsorbent. It is permissible to inject both acrolein and formaldehyde on the same adsorbent portion. Allow the standards to stand at room temperature. A standard, approximately the target levels, was prepared by injecting 11 μ L of the acrolein and 12 μ L of the formaldehyde stock standards onto a single coated XAD-2 adsorbent portion.

(E) Prepare a sufficient number of standards to generate the calibration curves. Analytical standard concentrations should bracket sample concentrations. Thus, if samples are not in the concentration range of the prepared standards, additional standards must be prepared to determine detector response.

(F) Desorb the standards in the same manner as the samples following the sixteen-hour reaction time.

(iv) Sample preparation:

(A) Transfer the 150-mg section of the sampling tube to a 2-mL vial. Place the 75-mg section in a separate vial. If the glass wool plugs contain a significant number of adsorbent beads, place them with the appropriate sampling tube section. Discard the glass wool plugs if they do not contain a significant number of adsorbent beads.

(B) Add 1 mL of desorbing solution to each vial.

(C) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand with vigorous force several times during the desorption time.

(D) Save the used sampling tubes to be cleaned and recycled.

(v) Analysis:

(A) GC conditions.

Column temperature:

Bi-level temperature program.

First level: 100°C to 140°C at 4°C/min following completion of the first level.

Second level: 140°C to 180°C at 20°C/min following completion of the first level.

Isothermal period: Hold column at 180°C until the recorder pen returns to baseline (usually about twenty-five minutes after injection).

Injector temperature: 180°C.

Helium flow rate: 30 mL/min (detector response will be reduced if nitrogen is substituted for helium carrier gas).

Injection volume: 51 0.8 μ L.

GC column: Six-ft x 1/4-in OD (2 mm ID) glass GC column containing 10% UCON 50-HB-5100N/ZG651+512% KOH on 80/100 Chromosorb W-AW.

NPD conditions:

Hydrogen flow rate: 3 mL/min.

Air flow rate: 50 mL/min.

Detector temperature: 275 5151C.

(B) Use a suitable method, such as electronic integration, to measure detector response.

(C) Use an internal standard method to prepare the calibration curve with several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report results in μ g/mL.

(D) Bracket sample concentrations with standards.

(vi) Interferences (analytical).

(A) Any compound with the same general retention time as the analytes and which also gives a detector response is a potential interference. Possible interferences should be reported to the laboratory with submitted samples by the industrial hygienist.

(B) GC parameters (temperature, column, etc.), may be changed to circumvent interferences.

(C) A useful means of structure designation is GC/MS. It is recommended this procedure be used to confirm samples whenever possible.

(D) The coated adsorbent usually contains a very small amount of residual formaldehyde derivative.

(vii) Calculations:

(A) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

(B) The concentration, in μ g/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If either of the analytes is found on the backup section, it is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

(C) The acrolein and/or formaldehyde air concentration can be expressed using the following equation:

$$\text{Mg/m}^3 = (A)(B)/C.$$

where A = μ g/mL from 3.7.2, B = desorption volume, and C = L of air sampled.

No desorption efficiency corrections are required.

(D) The following equation can be used to convert results in mg/m³ to ppm.

$$\text{ppm} = (\text{mg/m}^3)(24.45)/\text{MW}$$

where mg/m³ = result from 3.7.3, ((24.45)) 24.45 = molar volume of an ideal gas at 760 mm Hg and 25 5151C, MW = molecular weight (Formaldehyde = 30.0).

(d) Backup data.

(i) Backup data on detection limits, reliable quantitation limits, sensitivity and precision of the analytical method, breakthrough, desorption efficiency, storage, reproducibility, and generation of test atmospheres are available in OSHA Method 52, developed by the Organics Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah.

(ii) Procedure to coat XAD-2 adsorbent with 2-HMP:

(A) Apparatus: Soxhlet extraction apparatus, rotary evaporation apparatus, vacuum dessicator, 1-L vacuum flask, 1-L round-bottomed evaporative flask, 1-L Erlenmeyer flask, 250-mL Buchner funnel with a coarse fritted disc, etc.

(B) Reagents:

(I) Methanol, isooctane, and toluene.

(II) (Hydroxymethyl) piperidine.

(III) Amberlite XAD-2 nonionic polymeric adsorbent, twenty to sixty mesh, Aldrich Chemical XAD-2 was used in this evaluation.

(C) Procedure: Weigh 125 g of crude XAD-2 adsorbent into a 1-L Erlenmeyer flask. Add about 200 mL of water to the flask and then swirl the mixture to wash the adsorbent. Discard any adsorbent that floats to the top of the water and then filter the mixture using a fritted Buchner funnel. Air dry the adsorbent for two minutes. Transfer the adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent back to the Erlenmeyer flask and then add about 200 mL of methanol to the flask. Swirl and then filter the mixture as before. Transfer the washed adsorbent to a 1-L round-bottomed evaporative flask, add 13 g of 2-HMP and then 200 mL of methanol, swirl the mixture and then allow it to stand for one hour. Remove the methanol at about 40°C and reduced pressure using a rotary evaporation apparatus. Transfer the coated adsorbent to a suitable container and store it in a vacuum dessicator at room temperature.

overnight. Transfer the coated adsorbent to a Soxhlet extractor and then extract the material with toluene for about twenty-four hours. Discard the contaminated toluene, add methanol in its place and then continue the Soxhlet extraction for an additional four hours. Transfer the adsorbent to a weighted 1-L round-bottom evaporative flask and remove the methanol using the rotary evaporation apparatus. Determine the weight of the adsorbent and then add an amount of 2-HMP, which is ten percent by weight of the adsorbent. Add 200 mL of methanol and then swirl the mixture. Allow the mixture to stand for one hour. Remove the methanol by rotary evaporation. Transfer the coated adsorbent to a suitable container and store it in a vacuum desiccator until all traces of solvents are gone. Typically, this will take two to three days. The coated adsorbent should be protected from contamination. XAD-2 adsorbent treated in this manner will probably not contain residual acrolein derivative. However, this adsorbent will often contain residual formaldehyde derivative levels of about 0.1 ug per 150 mg of adsorbent. If the blank values for a batch of coated adsorbent are too high, then the batch should be returned to the Soxhlet extractor, extracted with toluene again and then recoated. This process can be repeated until the desired blank levels are attained.

The coated adsorbent is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number. A sufficient amount of each lot number of coated adsorbent should be retained to prepare analytical standards for use with air samples from that lot number.

(iii) A procedure to determine formaldehyde by acid titration: Standardize the 0.1 N HCl solution using sodium carbonate and methyl orange indicator.

Place 50 mL of 0.1 M sodium sulfite and three drops of thymolphthalein indicator into a 250-mL Erlenmeyer flask. Titrate the contents of the flask to a colorless endpoint with 0.1 N HCl (usually one or two drops is sufficient). Transfer 10 mL of the formaldehyde/methanol solution ((b)(iii)(A) of this subsection) into the same flask and titrate the mixture with 0.1 N HCl, again, to a colorless endpoint. The formaldehyde concentration of the standard may be calculated by the following equation:

$$\text{Formaldehyde, mg/mL} = \frac{\text{acid titer} \times \text{acid normality} \times 30.0}{\text{mL of Sample}}$$

This method is based on the quantitative liberation of sodium hydroxide when formaldehyde reacts with sodium sulfite to form the formaldehyde-bisulfite addition product. The volume of sample may be varied depending on the formaldehyde content but the solution to be titrated must contain excess sodium sulfite. Formaldehyde solutions containing substantial amounts of acid or base must be neutralized before analysis.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-015 APPLICATION. (1) WAC 296-99-010 through 296-99-070 apply to grain elevators, feed mills, flour mills, rice mills, dust pelletizing plants, dry corn mills, soybean flaking operations, and the dry grinding operations of soy cake.

(2) WAC 296-99-075, 296-99-080, and 296-99-085 apply only to grain elevators.

(3) Chapter 296-99 WAC shall not apply to alfalfa storage or processing operations providing that the processing operations do not utilize grain products, such as in feed mill operations.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-050 HOUSEKEEPING. (1) The employer shall develop and implement a written housekeeping program that establishes the frequency and method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

(2) In addition, the housekeeping program for grain elevators shall ((address fugitive grain dust accumulations at priority housekeeping areas)) require that a special emphasis be made with respect to keeping priority housekeeping areas free from accumulations of fugitive grain dust.

(a) Priority housekeeping areas shall include at least the following:
(i) Floor areas within thirty-five feet (10.7 m) of inside bucket elevators;

(ii) Floors of enclosed areas containing grinding equipment;
(iii) Floors of enclosed areas containing grain dryers located inside the facility.

(b) ~~((The employer shall immediately remove any fugitive grain dust accumulations whenever they exceed one-eighth inch (.32 cm) at priority housekeeping areas, pursuant to the housekeeping program, or shall demonstrate and assure, through the development and implementation of the housekeeping program, that equivalent protection is provided.))~~ Employers shall not permit fugitive grain dust to accumulate in priority housekeeping areas described in (2)(a)(i), (ii), and (iii) of this section.

(3) The use of compressed air to blow dust from ledges, walls, and other areas shall only be permitted when all machinery that presents an ignition source in the area is shut-down, and all other known potential ignition sources in the area are removed or controlled.

(4) Grain and product spills shall not be considered fugitive grain dust accumulations. However, the housekeeping program shall address the procedures for removing such spills from the work area.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-200 GENERAL REQUIREMENTS. (1) Application.

(a) Protective equipment, including personal protective equipment for eyes, face, head, hearing, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided at no cost to the employee, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) Employee owned equipment. Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance and sanitation of such equipment.

(c) Design. All personal protective equipment shall be of safe design and construction for the work to be performed.

(2) Construction personnel shall comply with plant or job safety practices and procedures, peculiar to particular industries and plants, relating to protective equipment and procedures when engaged in construction work in such plants or job sites.

(3) The employer is responsible for providing and requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions or where this part indicates a need for using such equipment to reduce the hazards to the employees.

(4) Where there is a danger of contact with moving parts of machinery, or the work process is such that a hazard exists:

(a) The clothing of employees shall fit closely about the body.

(b) Dangling neck wear, bracelets, wristwatches, rings, or similar articles shall not be worn by employees.

(5) Employees, whose duties are performed in areas and under circumstances where they are exposed to the danger of moving vehicles, shall wear work vests of highly visible materials, or equivalent distinguishing apparel.

(6) Employers shall ensure that employees wear no less than a short sleeved shirt, long pants, and shoes meeting the requirements of WAC 296-155-212. Employees shall wear no less than a short sleeved shirt, long pants, and shoes meeting the requirements of WAC 296-155-212.

Note: For additional personal protective and life saving equipment requirements, refer to the general safety and health standards, WAC 296-24-075 through 296-24-092.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-485 SCAFFOLDING. (1) General requirements. Scaffolds shall be furnished and erected in accordance with this standard for persons engaged in work that cannot be done safely from the ground or from solid construction, except that ladders used for such work shall conform to WAC 296-155-480 through 296-155-48090.

(a) All rules for design, construction, maintenance, operation, testing, and use of scaffolds contained in WAC 296-24-825 through 296-24-84013 apply within the construction industry.

(b) Scaffolds shall be erected in accordance with requirements of this section.

(c) The footing or anchorage for scaffolds shall be sound, rigid, and capable of carrying the maximum intended load without settling or displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks, shall not be used to support scaffolds or planks.

(d) No scaffold shall be erected, moved, dismantled, or altered except under the supervision of competent persons.

(e) Standard guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beam scaffolds and floats. Scaffolds 4 feet to 10 feet in height, having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails and toeboards installed on all open sides and ends of the scaffold platform.

(f) Where persons are required to work or pass under the scaffold, scaffolds shall be provided with a screen between the toeboard and the guardrail, extending along the entire opening, consisting of No. 18 gauge U.S. Standard wire 1/2-inch mesh, or the equivalent.

(g) Scaffolds and their components shall be capable of supporting without failure at least 4 times the maximum intended load.

(h) Any scaffold including accessories such as braces, brackets, trusses, screw legs, ladders, etc. damaged or weakened from any cause shall be immediately repaired or replaced.

(i) All load-carrying timber members of scaffold framing shall be a minimum of 1,500 fiber (stress grade) construction grade lumber. All dimensions are nominal sizes as provided in the American Lumber Standards, except that where rough sizes are noted, only rough or undressed lumber of the size specified will satisfy minimum requirements.

(j) All planking shall be scaffold grades, or equivalent, as recognized by approved grading rules for the species of wood used. The maximum permissible spans for 2- x 10-inch or wider planks shall be as shown in Table J-1.

(k) The maximum permissible span for 1 1/4- x 9-inch or wider plank of full thickness shall be 4 feet with medium duty loading of 50 p.s.f.

(l) Platforms shall be level. All planking or platforms shall be overlapped (minimum 12 inches), or secured from movement. The platform shall be a minimum of two 2-inch by 10-inch planks in width or a minimum of 18 inches.

(m) An access ladder or equivalent safe access shall be provided.

(n) Scaffold planks shall extend over their end supports not less than 6 inches nor more than 12 inches.

(o) The poles, legs, or uprights of scaffolds shall be plumb, and securely and rigidly braced to prevent swaying and displacement.

(p) Overhead protection shall be provided for persons on a scaffold exposed to overhead hazards.

(q) Slippery conditions on scaffolds shall be eliminated as soon as possible after they occur.

(r) No welding, burning, riveting, or open flame work shall be performed on any staging suspended by means of fiber or synthetic rope. Only treated or protected fiber or synthetic ropes shall be used for or near any work involving the use of corrosive substances or chemicals. Specific requirements for boatswain's chairs and float or ship scaffolds are contained in subsections (12) and (23) of this section.

(s) Wire, synthetic, or fiber rope used for scaffold suspension shall be capable of supporting at least 6 times the rated load.

(t) The use of shore or lean-to scaffolds is prohibited.

(u) The height of freestanding scaffold towers shall not exceed four times the minimum base dimension.

(v) Factory-built (laminated) scaffold planks meeting the requirements of wood scaffold planks may be substituted for wood scaffold planks.

(2) Wood pole scaffolds.

(a) Scaffold poles shall bear on a foundation of sufficient size and strength to spread the load from the pole over a sufficient area to prevent settlement. All poles shall be set plumb.

(b) Where wood poles are spliced, the ends shall be squared and the upper section shall rest squarely on the lower section. Wood splice plates shall be provided on at least two adjacent sides and shall be not less than 4 feet in length, overlapping the abutted ends equally, and have the same width and not less than the cross-sectional area of the pole. Splice plates or other materials of equivalent strength may be used.

(c) Independent pole scaffolds shall be set as near to the wall of the building as practicable.

(d) All pole scaffolds shall be securely guyed or tied to the building or structure. Where the height or length exceeds 25 feet, the scaffold shall be secured at intervals not greater than 25 feet vertically and horizontally.

(e) Putlogs or bearers shall be set with their greater dimension vertical, and long enough to project over the ledgers of the inner and outer rows of poles at least 3 inches for proper support.

(f) Every wooden putlog on single pole scaffolds shall be reinforced with a 3/16- x 2-inch steel strip, or equivalent, secured to its lower edge throughout its entire length.

(g) Ledgers shall be long enough to extend over two pole spaces. Ledgers shall not be spliced between the poles. Ledgers shall be reinforced by bearing blocks securely nailed to the side of the pole to form a support for the ledger.

(h) Diagonal bracing shall be provided to prevent the poles from moving in a direction parallel with the wall of the building, or from buckling.

(i) Cross bracing shall be provided between the inner and outer sets of poles in independent pole scaffolds. The free ends of pole scaffolds shall be cross braced.

(j) Full diagonal face bracing shall be erected across the entire face of pole scaffolds in both directions. The braces shall be spliced only at the poles. The inner row of poles on medium and heavy duty scaffolds shall be braced in a similar manner.

(k) Platform planks shall be laid with their edges close together so the platform will be tight with no spaces through which tools or fragments of material can fall.

(l) Where planking is lapped, each plank shall lap its end supports at least 12 inches. Where the ends of planks abut each other to form a flush floor, the butt joint shall be at the centerline of a pole. The abutted ends shall rest on separate bearers. Intermediate beams shall be provided where necessary to prevent dislodgment of planks due to deflection, and the ends shall be secured to prevent their dislodgment.

(m) When a scaffold materially changes its direction, the platform planks shall be laid to prevent tipping. The planks that meet the corner putlog at an angle shall be laid first, extending over the diagonally placed putlog far enough to have a good safe bearing, but not far enough to involve any danger from tipping. The planking running in the opposite direction at an angle shall be laid so as to extend over and rest on the first layer of planking.

(n) When moving platforms to the next level, the old platform shall be left undisturbed until the new putlogs or bearers have been set in place, ready to receive the platform planks.

(o) All wood pole scaffolds 60 feet or less in height shall be constructed and erected in accordance with Tables J-2 to J-8. If they are over 60 feet in height, they shall be designed by a qualified engineer competent in this field, and shall be constructed and erected in accordance with such design. Design drawings shall be available at the jobsite.

(3) Tube and coupler scaffolds.

(a) A light duty tube and coupler scaffold shall have all posts, bearers, runners, and bracing of nominal 2-inch O.D. steel tubing. The posts shall be spaced no more than 6 feet apart by 10 feet along the length of the scaffold. Other structural metals when used must be designed to carry an equivalent load. No dissimilar metals shall be used together.

(b) A medium duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing. Posts spaced not more than 6 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2 1/2-inch O.D. steel tubing. Posts spaced not more than 5 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2-inch O.D. steel tubing. Other structural metals, when used, must be designed to carry an equivalent load. No dissimilar metals shall be used together.

(c) A heavy duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing, with the posts spaced not more than 6 feet by 6 feet-6 inches. Other structural metals, when used, must be designed to carry an equivalent load. No dissimilar metals shall be used together.

(d) Tube and coupler scaffolds shall be limited in heights and working levels to those permitted in Tables J-8, J-9 and J-10. Drawings and specifications of all tube and coupler scaffolds above the limitations in Tables J-8, J-9 and J-10 shall be designed by a qualified engineer competent in this field. Design drawings shall be available at the jobsite.

(e) All tube and coupler scaffolds shall be constructed and erected to support four times the maximum intended loads, as set forth in Tables J-8, J-9 and J-10, or as set forth in the specifications by a licensed professional engineer competent in this field.

(f) Posts shall be accurately spaced, erected on suitable bases, and maintained plumb.

(g) Runners shall be erected along the length of the scaffold, located on both the inside and the outside posts at even height. Runners shall be interlocked to the inside and the outside posts at even heights. Runners shall be interlocked to form continuous lengths and coupled to each post. The bottom runners shall be located as close to the base as possible. Runners shall be placed not more than 6 feet-6 inches on centers. When tube and coupler guardrails and midrails are used on outside posts, they may be used in lieu of outside runners.

(h) Bearers shall be installed transversely between posts and shall be securely coupled to the posts with the inboard coupler bearing on the runner coupler. Where guardrails and midrails are required, no outboard runner is required.

(i) The length of the bearer shall exceed the post spacing of the width of the scaffold by the amount necessary to have full contact with the coupler. Bearers used to provide a cantilever support for use as brackets for light and medium-duty scaffolds shall not carry more than two ten-inch planks unless knee braced.

(j) Bracing across the width of the scaffold shall be installed at the ends of the scaffold at least at every fourth level. Such bracing shall extend diagonally from the outer post or runner at this level upward to the inner post or runner at the next level.

(k) Longitudinal diagonal bracing shall be installed on the outer rows of poles at approximately forty degrees to fifty degrees angle from near the base of the first and last outer post upward to the top center of the scaffold. If the scaffold is long, the above diagonal bracing shall be repeated. On short but high runs, the diagonal bracing shall be installed at forty degrees to fifty degrees from the base of the first outer post to the last outer post alternating directions to the top of the scaffold. When conditions preclude the attachment of this bracing to the posts, it may be attached to the runners.

(l) When a scaffold exceeds either 30 feet horizontally or 26 feet vertically, the entire scaffold shall be tied to and securely braced against the building at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(4) Fabricated tubular welded frame scaffolds.

(a) Metal tubular frame scaffolds, including accessories such as braces, brackets, trusses, screw legs, ladders, etc., shall safely support four times the maximum rated load. The maximum rated load shall not be exceeded.

(b) Spacing of panels or frames shall be consistent with the loads imposed.

(c) Scaffolds shall be properly braced by cross bracing or diagonal braces, or both, for securing vertical members together laterally, and the cross braces shall be of such length as will automatically square and aline vertical members so that the erected scaffold is always plumb, level, square, and rigid. All brace connections shall be made secure.

(d) Panel or frame legs shall be set on adjustable bases or plain bases placed on mud sills or other foundations adequate to support the maximum rated load.

(e) The panels or frames shall be placed one on top of the other with coupling or stacking pins to provide proper vertical alinement of the legs.

(f) Where uplift may occur, panels shall be locked together vertically by pins or equivalent method.

(g) To prevent movement, the scaffold shall be secured to the building or structure at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(h) Maximum permissible spans or planking shall be in conformity with (1)(j) of this section.

(i) Fabricated tubular frame scaffolds over 125 feet in height above the base plates shall be designed by a registered professional engineer. Copies of the drawings and specifications shall be available at the jobsite.

(j) Guardrails, midrails, and toeboards shall be installed as required by subsection (1)(e) of this section. Wire mesh shall be provided between the top rail and toeboard when persons are working below.

(k) All fabricated tubular frame scaffolds shall be erected by competent and experienced personnel.

(l) All brackets shall be seated correctly with side brackets parallel to the frames and end brackets at ninety degrees to the frames. Brackets shall not be bent or twisted from normal position. Brackets (except mobile brackets designed to carry materials) are to be used as work platforms only and shall not be used for storage of material or equipment.

(m) Scaffold frames and their components manufactured by different companies shall not be intermixed unless they are compatible and

the manufacturer has given written approval. The manufacturer's letter of approval shall be available at the jobsite.

(n) Periodic inspections by the employer shall be made of all fabricated tubular frames and accessories. Any maintenance required shall be made before further use.

(5) Outrigger scaffolds, general.

(a) Outrigger beams shall extend not more than 6 feet beyond the face of the building. The inboard end of outrigger beams, measured from the fulcrum point to the inboard point of support, shall be not less than 1 1/2 times the outboard end in length. The beams shall rest on edge, the sides shall be plumb, and the edges shall be horizontal. The fulcrum point of the beam shall rest on a secure bearing at least 6 inches in each horizontal dimension. The beam shall be secured in place against movement and shall be securely braced at the fulcrum point against tipping.

(b) The inboard ends of outrigger beams shall be positively secured either by means of struts bearing against sills in contact with the overhead beams or ceiling, or by means of tension members secured to the floor joists underfoot, or by both if necessary, or by a securely fastened solid body counterweight. (Water in an open container or loose material in bags shall not be permitted.) The inboard ends of outrigger beams shall be secured against tipping and the entire supporting structure shall be securely braced in both directions to prevent any horizontal movement.

(c) Unless outrigger scaffolds are designed by a registered professional engineer competent in this field, they shall be constructed and erected in accordance with Table J-11. Outrigger scaffolds, designed by a registered professional engineer, shall be constructed and erected in accordance with such design. A copy of the drawings and specifications shall be available at the jobsite.

(d) Planking shall be laid tight and shall extend to within 3 inches of the building wall. Planking shall be secured to the beams.

(6) Masons' adjustable multiple-point suspension scaffolds.

(a) The scaffold shall be capable of sustaining a working load of 50 pounds per square foot and shall not be loaded in excess of that figure.

(b) The scaffold shall be provided with hoisting machines that meet the requirements of Underwriters' Laboratories, Factory Mutual Engineering Corporation, or other agency or laboratory approved by the department of labor and industries.

(c) The platform shall be supported by wire ropes, capable of supporting at least 6 times the intended load, suspended from overhead outrigger beams.

(d) The scaffold outrigger beams shall consist of structural metal securely fastened or anchored to the frame or floor system of the building or structure.

(e) Each outrigger beam shall be equivalent in strength to at least a standard 7-inch, 15.3-pound steel I-beam, at least 15 feet long, and shall not project more than 6 feet 6 inches beyond the bearing point.

(f) Where the overhang exceeds 6 feet 6 inches, outrigger beams shall be composed of stronger beams or multiple beams and be installed under the supervision of a competent person.

(g) All outrigger beams shall be set and maintained with their webs in a vertical position.

(h) A stop bolt shall be placed at each end of every outrigger beam.

(i) The outrigger beam shall rest on suitable wood bearing blocks.

(j) The free end of the suspension wire ropes shall be equipped with proper size thimbles and secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum. At least four turns of wire rope shall remain on the drum when the platform is at ground level. The use of fiber rope is prohibited.

(k) Where a single outrigger beam is used, the steel shackles or clevises with which the wire ropes are attached to the outrigger beams shall be placed directly over the hoisting drums.

(l) The scaffold platform shall be equivalent in strength to at least 2-inch planking. (For maximum planking spans, see subsection (1)(j) of this section.)

(m) When employees are at work on the scaffold and an overhead hazard exists, overhead protection shall be provided on the scaffold, not more than 9 feet above the platform, consisting of 2-inch planking, or material of equivalent strength, laid tight, and extending not less than the width of the scaffold.

(n) Each scaffold shall be installed or relocated under the supervision of a competent person.

(o) When channel iron outrigger beams are used instead of I-beams, they shall be securely fastened together with the flanges turned out.

(p) All parts of the scaffold, such as bolts, nuts, fittings, clamps, wire rope, outrigger beams and their fastenings shall be maintained in

sound condition and shall be inspected before each installation and periodically thereafter. All parts shall be of the grade specified by the manufacturer.

(7) Two-point suspension scaffolds.

(a) Two-point suspension scaffold platforms shall be not less than 20 inches nor more than 36 inches wide overall. The platform shall be securely fastened to the hangers by U-bolts or by other equivalent means.

(b) The hangers of two-point suspension scaffolds shall be made of wrought iron, mild steel, or other equivalent material, having a cross-sectional area capable of sustaining 4 times the maximum rated load, and shall be designed with a support for guardrail, intermediate rail, and toeboard.

(c) When hoisting machines are used on two-point suspension scaffolds, such machines shall be of a design tested and approved by Underwriters' Laboratories, Factory Mutual Engineering Corporation, or by an agency or laboratory approved by the department of labor and industries.

(d) The roof irons or hooks shall be of mild steel, or other equivalent material, of proper size and design, securely installed and anchored. The roof irons or hooks and any other devices shall have tiebacks of 3/4-inch manila rope, or the equivalent, to serve as a secondary means of anchorage, installed at right angles to the face of the building, whenever possible, and secured to a structurally sound portion of the building.

(e) Two-point suspension scaffolds shall be suspended by wire, synthetic or fiber ropes capable of supporting at least 6 times the rated load. All other components shall be capable of supporting at least four times the rated load.

(f) The sheaves of all blocks, consisting of at least one double and one single block, shall fit the size and type of rope used and shall be a minimum of six inches in diameter.

(g) All wire ropes, fiber and synthetic ropes, slings, hangers, platforms, and other supporting parts shall be inspected before every installation. Periodic inspections shall be made while the scaffold is in use.

(h) On suspension scaffolds designed for a working load of 500 pounds, no more than two persons shall be permitted to work at one time. On suspension scaffolds with a working load of 750 pounds, no more than three persons shall be permitted to work at one time. On suspension scaffolds with a working load of 1,000 pounds, no more than four persons shall be permitted to work at one time. Each employee shall be protected by an approved safety life belt attached to a dropline. The droplines shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the employee in case of a fall. In order to keep the dropline continuously attached, with a minimum of slack, to a fixed structure, the attachment point of the dropline shall be appropriately changed as the work progresses.

(i) When a multi-tiered two-point suspension scaffold is used, it shall be provided with safety droplines that attach to each end of the scaffold through an approved quick acting safety device, in case either or both of the main suspension lines should break. The lanyard of the safety belt shall be tied off to a substantial member of the scaffold itself or to a horizontal lifeline attached to each end of the scaffold or a sliding device on the horizontal lifeline. The two additional safety droplines shall be individually suspended from roof irons, hooks, or other approved devices and shall be near the suspension droplines to prevent unnecessary side impact. The safety dropline shall have a 6 to 1 safety factor. Such scaffolds shall be designed by a licensed professional engineer and a copy of the drawings and specifications shall be available at the jobsite.

(j) Two-point suspension scaffolds shall be securely lashed to the building or structure to prevent the scaffolds from swaying. Window cleaners' anchors shall not be used for this purpose.

(k) The platform of every two-point suspension scaffold shall be one of the following types:

(i) Ladder-type platforms. The side stringer shall be of clear straight-grained spruce or materials of equivalent strength and durability. The rungs shall be of straight-grained oak, ash, or hickory, at least 1 1/8 inch in diameter, with 7/8-inch tenons mortised into the side stringers at least 7/8-inch. The stringers shall be tied together with the tie rods not less than one-quarter inch in diameter, passing through the stringers and riveted up tight against washers on both ends. The flooring strips shall be spaced not more than five-eighths inch apart except at the side rails where the space may be 1 inch.

Ladder-type platforms shall be constructed in accordance with Table J-12.

(ii) Plank-type platforms. Plank-type platforms shall be composed of not less than two nominal 2- x 10-inch unspliced planks, properly cleated together on the underside, starting 6 inches from each end; intervals in between shall not exceed 4 feet. The plank-type platform shall not extend beyond the hangers more than 12 inches. A bar or other effective means shall be securely fastened to the platform at each end to prevent its slipping off the hanger. The span between hangers for plank-type platforms shall not exceed 8 feet.

(iii) Beam-type platforms. Beam platforms shall have side stringers of lumber not less than 2 x 6 inches set on edge. The span between hangers shall not exceed 12 feet when beam platforms are used. The flooring shall be supported on 2- x 6-inch cross beams, laid flat and set into the upper edge of the stringers with a snug fit, at intervals of not more than 4 feet, securely nailed in place. The flooring shall be of 1- x 6-inch material properly nailed. Floor boards shall not be spaced more than one-half inch apart.

(iv) Light metal-type platforms, when used, shall be tested and listed according to Underwriters' Laboratories, Factory Mutual Engineering Corporation, or the department of labor and industries.

(l) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(m) When acid solutions are used, natural or synthetic fiber rope shall not be used.

(n) Every swinging scaffold shall be tested before using by raising the platform one foot from the ground and loading it with at least four times the maximum weight to be imposed when aloft.

(8) Stone setters' adjustable multiple-point suspension scaffolds.

(a) The scaffold shall be capable of sustaining a working load of 25 pounds per square foot and shall not be overloaded. Scaffolds shall not be used for storage of stone or other heavy materials.

(b) When used, the hoisting machine and its supports shall be of a type tested and listed by Underwriters' Laboratories, Factory Mutual Engineering Corporation or the department of labor and industries.

(c) The platform shall be securely fastened to the hangers by U-bolts or other equivalent means. (For materials and spans, see item (ii) of subsection (7)(k), Plank-type Platforms and Table J-12 of this section.)

(d) The scaffold unit shall be suspended from metal outriggers, iron brackets, wire rope slings, or iron hooks.

(e) Outriggers, when used, shall be set with their webs in a vertical position, securely anchored to the building or structure and provided with stop bolts at each end.

(f) The scaffold shall be supported by wire rope capable of supporting at least 6 times the rated load. All other components shall be capable of supporting at least 4 times the rated load.

(g) The free ends of the suspension wire ropes shall be equipped with proper size thimbles, secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum and at least four turns of wire rope shall remain on the drum at all times.

(h) When two or more scaffolds are used on a building or structure, they shall not be bridged one to the other; but shall be maintained at even height with platforms abutting closely.

(i) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(j) Each scaffold shall be installed or relocated in accordance with approved designs and instructions under the supervision of a competent designated person.

(k) Where additional working levels are required to be supported, the plans and specifications of the support and scaffold components shall be designed by a licensed professional engineer. These plans and specifications shall be available at the site.

(9) Single-point adjustable suspension scaffolds.

(a) The scaffolding, including power units or manually operated winches, shall be of a type tested and listed by Underwriters' Laboratories, Factory Mutual Engineering Corporation or the department of labor and industries.

(b) The power units may be either electrically or air motor driven.

(c) All power-operated gears and brakes shall be enclosed.

(d) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(e) The hoisting machines, cables, and equipment shall be regularly serviced and inspected.

(f) The units may be combined to form a two-point suspension scaffold. Such scaffold shall comply with subsection (7) of this section.

(g) When the supporting wire rope is not plumb for its entire length, supports shall be designed to sustain any additional load or stress upon the line.

(h) Suspension methods and employee safeguards shall conform to the provisions of subsections (6) and (7) of this section.

(i) For additional details not covered in this subsection applicable technical portions of American National Standards Institute, A120.1-1970, Power-Operated Devices for Exterior Building Maintenance Powered Platforms, shall be used.

(10) Boatswain's chairs.

(a) The chair seat shall not be less than 12 x 24 inches, and 1-inch thick. The seat shall be reinforced on the underside by cleats securely fastened to prevent the board from splitting. Specially designed seats having dimensions other than those specified in this subsection may be used provided they have been designed and tested (with a safety factor of four) to sustain a load of two hundred fifty pounds.

(b) The two fiber rope seat slings shall be of 5/8-inch diameter, reeved through the four seat holes so as to cross each other on the underside of the seat.

(c) Seat slings shall be of at least 3/8-inch wire rope when an employee is conducting a heat-producing process, such as gas welding.

(d) The employee shall be protected by a safety belt and lifeline in accordance with WAC 296-155-225. The attachment point of the lifeline to the structure shall be appropriately changed as the work progresses.

(e) The tackle shall consist of correct size ball bearing or bushed blocks and properly spliced 5/8-inch diameter first grade manila rope, or equivalent.

(f) The roof irons, hooks, or the object to which the tackle is anchored, shall be securely installed. Tiebacks, when used, shall be installed at right angles to the face of the building and securely fastened.

(g) The scaffolding, including power units shall be of tested design.

(h) All power operated gears and brakes shall be enclosed.

(i) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(11) Carpenters' bracket scaffolds.

(a) The brackets shall consist of a triangular wood frame not less than 2 x 3 inches in cross section, or of metal of equivalent strength. Each member shall be properly fitted and securely joined.

(b) Each bracket shall be attached to the structure by means of one of the following:

(i) A bolt, no less than 5/8-inch in diameter, which shall extend through to the inside of the building wall;

(ii) A metal stud attachment device;

(iii) Welding to steel tanks;

(iv) Hooking over a well-secured and adequately strong supporting member.

(c) The brackets shall be spaced no more than 8 feet apart.

(d) No more than two employees shall occupy any given 8 feet of a bracket scaffold at any one time. Tools and materials shall not exceed 75 pounds in addition to the occupancy.

(e) The platform shall consist of not less than two 2- x 10-inch planks extending not more than 12 inches or less than 6 inches beyond each end support. Fabricated planking may be used if properly engineered and tested.

(12) Bricklayers' square scaffolds.

(a) The squares shall not exceed 5 feet in width and 5 feet in height.

(b) Members shall be not less than those specified in Table J-13.

(c) The squares shall be reinforced on both sides of each corner with 1- x 6-inch gusset pieces. They shall also have diagonal braces 1 x 8 inches on both sides running from center to center of each member, or other means to secure equivalent strength and rigidity.

(d) The squares shall be set not more than 5 feet apart for medium duty scaffolds, and not more than 8 feet apart for light duty scaffolds. Bracing, 1 x 8 inches, extending from the bottom of each square to the top of the next square, shall be provided on both front and rear sides of the scaffold.

(e) Platform planks shall be at least 2 x 10-inch. The ends of the planks shall overlap the bearers of the squares and each plank shall be supported by not less than three squares. Fabricated planking may be used if properly engineered and tested.

(f) Bricklayers' square scaffolds shall not exceed three tiers in height and shall be so constructed and arranged that one square shall rest directly above the other. The upper tiers shall stand on a continuous row of planks laid across the next lower tier and be nailed down or otherwise secured to prevent displacement.

(g) Scaffolds shall be level and set upon a firm foundation.

(13) Horse scaffolds.

(a) Horse scaffolds shall not be constructed or arranged more than two tiers or 10 feet in height.

(b) The members of the horses shall be not less than those specified in Table J-14.

(c) Horses shall be spaced not more than 5 feet for medium duty and not more than 8 feet for light duty.

(d) When arranged in tiers, each horse shall be placed directly over the horse in the tier below.

(e) On all scaffolds arranged in tiers, the legs shall be nailed down or otherwise secured to the planks to prevent displacement or thrust and each tier shall be substantially cross braced.

(f) Horses or parts which have become weak or defective shall not be used.

(14) Needle beam scaffold.

(a) Wood needle beams shall be not less than 4 x 6 inches in size, with the greater dimension placed in a vertical direction. Metal beams or the equivalent, conforming to subsections (1)(h) and (j) of this section, may be used and shall not be altered or moved horizontally while they are in use.

(b) Ropes or hangers shall be provided for supports. The span between supports on the needle beam shall not exceed 10 feet for 4- x 6-inch timbers. Rope supports shall be equivalent in strength to 1-inch diameter first-grade manila rope.

(c) The ropes shall be attached to the needle beams by a scaffold hitch or a properly made eye splice. The loose end of the rope shall be tied by a bowline knot or by a round turn and a half hitch.

(d) The scaffold hitch shall be arranged so as to prevent the needle beam from rolling or becoming otherwise displaced.

(e) The platform span between the needle beams shall not exceed 8 feet when using 2-inch scaffold plank. For spans greater than 8 feet, platforms shall be designed based on design requirements for the special span. The overhang of each end of the platform planks shall be not less than 6 inches and not more than 12 inches.

(f) When needle beam scaffolds are used, the planks shall be secured against slipping.

(g) All unattached tools, bolts, and nuts used on needle beam scaffolds shall be kept in suitable containers, properly secured.

(h) One end of a needle beam scaffold may be supported by a permanent structural member conforming to subsections (1)(h) and (j) of this section.

(i) Each employee working on a needle beam scaffold shall be protected by a safety belt and lifeline in accordance with WAC 296-155-225.

(15) Plasterers', decorators', and large area scaffolds.

(a) Plasters', lathers', and ceiling workers' inside scaffolds shall be constructed in accordance with the general requirements set forth for independent wood pole scaffolds. (See subsection (2) of this section and Tables J-5, J-6 and J-7.)

(b) All platform planks shall be laid with the edges close together.

(c) When independent pole scaffold platforms are erected in sections, such sections shall be provided with connecting runways equipped with substantial guardrails.

(16) Interior hung scaffolds.

(a) An interior hung scaffold shall be hung or suspended from the roof structure or ceiling beams.

(b) The suspending wire or fiber rope shall be capable of supporting at least 6 times the rated load. The rope shall be wrapped at least twice around the supporting members and twice around the bearers of the scaffold, with each end of the wire rope secured by at least three standard wire-rope clips properly installed.

(c) For hanging wood scaffolds, the following minimum nominal size material shall be used:

(i) Supporting bearers 2 x 10 inches on edge;

(ii) Planking 2 x 10 inches, with maximum span 7 feet for heavy duty and 10 feet for light duty or medium duty.

(d) Steel tube and coupler members may be used for hanging scaffolds with both types of scaffold designed to sustain a uniform distributed working load up to heavy duty scaffold loads with a safety factor of four.

(e) All overhead supporting members shall be inspected and have required strength assured before the scaffold is erected.

(17) Ladder jack scaffolds.

(a) All ladder jack scaffolds shall be limited to light duty and shall not exceed a height of 20 feet above the floor or ground.

(b) All ladders used in connection with ladder jack scaffolds shall be Type I heavy-duty ladders and shall be designed and constructed in accordance with American National Standards Institute A14.1-1982, Safety Code for Portable Wood Ladders, and A14.2-1982, Safety Code for Portable Metal Ladders. Cleated ladders shall not be used for this purpose.

(c) The ladder jack shall be so designed and constructed that it will bear on the side rails in addition to the ladder rungs, or if bearing on rungs only, the bearing area shall be at least 10 inches on each rung.

(d) Ladders used in conjunction with ladder jacks shall be so placed, fastened, held, or equipped with devices so as to prevent slipping.

(e) The wood platform planks shall be not less than 2 inches in thickness. Both metal and wood platform planks shall overlap the bearing surface not less than 12 inches and shall be secured to prevent movement. The span between supports for wood shall not exceed 8 feet. Platform width shall be not less than 18 inches.

(f) No more than two persons shall be within any 8 feet section of any ladder jack scaffold at any one time. When the use of standard guardrails as required by subsection (1)(e) of this section is impractical, safety belts and lifelines shall be used in accordance with WAC 296-155-225.

(18) Window jack scaffolds.

(a) Window jack scaffolds shall be used only for the purpose of working at the window opening through which the jack is placed.

(b) Window jacks shall not be used to support planks placed between one window jack and another or for other elements of scaffolding.

(c) Window jack scaffolds shall be provided with guardrails unless safety belts with lifelines are attached and used by the employee.

(d) Not more than one employee shall occupy a window jack scaffold at any one time.

(e) Window jacks shall be designed and constructed so as to provide a secure anchorage on the window opening and be capable of supporting the design load.

(19) Roofing brackets.

All roofing brackets must be installed and used in accordance with the requirements of WAC 296-155-50503(1).

(20) Crawling boards or chicken ladders.

All crawling boards or chicken ladders shall be installed and used in accordance with the requirements of WAC 296-155-50503(2).

(21) Float or ship scaffolds.

(a) Float or ship scaffolds shall not be used to support more than three persons and a few light tools, such as those needed for riveting, bolting, and welding. They shall be constructed as designed in subdivisions (b) through (f) of this subsection, unless substitute designs and materials provide equivalent strength, stability, and safety.

(b) The platform shall be not less than 3 feet wide and 6 feet long, made of 3/4-inch plywood, equivalent to American Plywood Association Grade B-B, Group I, Exterior, or other similar material.

(c) Under the platform, there shall be two supporting bearers made from 2- x 4-inch, or 1- x 10-inch rough, "selected lumber," or better. They shall be free of knots or other flaws and project 6 inches beyond the platform on both sides. The ends of the platform shall extend 6 inches beyond the outer edges of the bearers. Each bearer shall be securely fastened to the platform.

(d) An edging of wood not less than 3/4 x 1 1/2 inches or equivalent shall be placed around all sides of the platform to prevent tools from rolling off.

(e) Supporting ropes shall be 1-inch diameter manila rope or equivalent, free from deterioration, chemical damage, flaws, or other imperfections. Rope connections shall be such that the platform cannot shift or slip. If two ropes are used with each float, they shall be arranged so as to provide four ends which are to be securely fastened to an overhead support. Each of the two supporting ropes shall be hitched around one end of bearer and pass under the platforms to the other end of the bearer where it is hitched again, leaving sufficient rope at each end for the supporting ties.

(f) Each employee shall be protected by an approved safety lifeline and lifeline, in accordance with WAC 296-155-225.

(22) Form scaffolds.

(a) Form scaffolds shall be constructed of wood or other suitable materials, such as steel or aluminum members of known strength

characteristics. All scaffolds shall be designed and erected with a minimum safety factor of 4, computed on the basis of the maximum rated load.

(b) All scaffold planking shall be a minimum of 2- x 10-inch nominal Scaffold Grade, as recognized by approved grading rules for the species of lumber used, or equivalent material. Maximum permissible spans shall not exceed 8 feet on centers for 2- x 10-inch nominal planking. Scaffold planks shall be either nailed or bolted to the ledgers or of such length that they overlap the ledgers at least 6 inches. Unsupported projecting ends of scaffolding planks shall be limited to a maximum overhang of 12 inches.

(c) Scaffolds shall not be loaded in excess of the working load for which they were designed.

(d) Figure-four form scaffolds:

(i) Figure-four scaffolds are intended for light duty and shall not be used to support loads exceeding 25 pounds per square foot unless specifically designed for heavier loading. For minimum design criteria, see Table J-15.

(ii) Figure-four form scaffold frames shall be spaced not more than 8 feet on centers and constructed from sound lumber, as follows: The outrigger ledger shall consist of two pieces of 1- x 6-inch or heavier material nailed on opposite sides of the vertical form support. Ledgers shall project not more than 3 feet 6 inches from the outside of the form support and shall be substantially braced and secured to prevent tipping or turning. The knee or angle brace shall intersect the ledger at least 3 feet from the form at an angle of approximately 45°, and the lower end shall be nailed to a vertical support. The platform shall consist of two or more 2- x 10-inch planks, which shall be of such length that they extend at least 6 inches beyond ledgers at each end unless secured to the ledgers. When planks are secured to the ledgers (nailed or bolted), a wood filler strip shall be used between the ledgers. Unsupported projecting ends of planks shall be limited to an overhang of 12 inches.

(e) Metal bracket form scaffolds:

(i) Metal brackets or scaffold jacks which are an integral part of the form shall be securely bolted or welded to the form. Folding type brackets shall be either bolted or secured with a locking-type pin when extended for use.

(ii) "Clip-on" or "hook-over" brackets may be used, provided the form walers are bolted to the form or secured by snap ties or shea-bolt extending through the form and securely anchored.

(iii) Metal brackets shall be spaced not more than 8 feet on centers.

(iv) Scaffold planks shall be either bolted to the metal brackets or of such length that they overlap the brackets at each end by at least 6 inches. Unsupported projecting ends of scaffold planks shall be limited to a maximum overhang of 12 inches.

(v) Metal bracket form scaffolds shall be equipped with wood guardrails, intermediate rails, toeboards, and scaffold planks meeting the minimum dimensions shown in Table J-16. (Metal may be substituted for wood, providing it affords equivalent or greater design strength.)

(f) Wooden bracket form scaffolds:

(i) Wooden bracket form scaffolds shall be an integral part of the form panel. The minimum design criteria set forth herein and in Table J-17 cover scaffolding intended for light duty and shall not be used to support loads exceeding 25 pounds per square foot, unless specifically designed for heavier loading.

(ii) Scaffold planks shall be either nailed or bolted to the ledgers or of such length that they overlap the ledgers at each end by at least 6 inches. Unsupported projecting ends of scaffold planks shall be limited to a maximum overhang of 12 inches.

(23) Pump jack scaffolds.

(a) Pump jack scaffolds shall:

(i) Not carry a working load exceeding 500 pounds;

(ii) Be capable of supporting without failure at least four times the maximum intended load; and

(iii) Shall not have components loaded in excess of the manufacturer's recommended limits.

(b) Pump jack brackets, braces, and accessories shall be fabricated from metal plates and angles. Each pump jack bracket shall have two positive gripping mechanisms to prevent any failure or slippage.

(c) The platform bracket shall be fully docked and the planking secured. Planking, or equivalent, shall conform with subsection (1) of this section.

(d)(i) When wood scaffold planks are used as platforms, poles used for pump jacks shall not be spaced more than 10 feet center to center. When fabricated platforms are used that fully comply with all other

provisions of this subsection, pole spacing may exceed 10 feet center to center.

(ii) Poles shall not exceed 30 feet in height.

(iii) Poles shall be secured to the work wall by rigid triangular bracing, or equivalent, at the bottom, top, and other points as necessary, to provide a maximum vertical spacing of not more than 10 feet between braces. Each brace shall be capable of supporting a minimum of 225 pounds tension or compression.

(iv) For the pump jack bracket to pass bracing already installed, an extra brace shall be used approximately 4 feet above the one to be passed until the original brace is reinstalled.

(e) All poles shall bear on mud sills or other adequate firm foundations.

(f) Pole lumber shall be two 2 x 4's, of Douglas fir or equivalent, straight-grained, clear, free of cross-grain, shakes, large loose or dead knots, and other defects which might impair strength.

(g) When poles are constructed of two continuous lengths, they shall be two by fours, spiked together with the seam parallel to the bracket, and with 10d common nails, no more than 12 inches center to center, staggered uniformly from opposite outside edges.

(h) If two by fours are spliced to make up the pole, the splices shall be so constructed as to develop the full strength of the member. Three-eighths inch or one-half inch exterior grade plywood shall be used for a spacer between the two by fours. The joints for the splices shall be staggered on opposite sides of the pole at least four feet apart. Joints shall be no less than four feet from either end of the pole.

(i) A ladder, in accordance with WAC 296-155-480, shall be provided for access to the platform during use.

(j) Not more than two persons shall be permitted at one time upon a pump jack scaffold between any two supports.

(k) Pump jack scaffolds shall be provided with standard guardrails, unless safety belts with lifelines are used by employees.

(l) When a work bench is used at an approximate height of 42 inches, the top guardrail may be eliminated, if the work bench is fully decked, the planking secured, and is capable of withstanding 200 pounds pressure in any direction.

(m) Employees shall not be permitted to use a work bench as a scaffold platform.

(24) Factory-built scaffold units. Factory-built or prefabricated scaffold units intended for assembly on the job, prefabricated plank, staging, etc., mechanical hoisting units, or other devices for use on or in connection with any type scaffolds, shall be approved by an agency or laboratory approved by the department before being used.

(25) Waler bracket scaffolds.

(a) Waler brackets shall be constructed of 1 5/8" x 1 1/2" x 3/16" angle iron minimum size, or material of equivalent strength.

(b) All steel connections shall be welded and riveted or bolted, except where detrimental to strength of materials.

(c) The maximum length of horizontal leg shall not be more than 36" between bracket hook and railing standard.

(d) A 4" x 4" x 3/16" gusset plate shall be securely welded at inside of leg angle.

(e) Nailing holes shall be provided in lower end of vertical leg for purpose of securing bracket against lifting or shifting.

(f) Waler hook or hooks shall be a minimum of 4-inch depth and be constructed of material of a strength to support a minimum of 400 pounds at extreme outer end of bracket.

(26) Chimney, stack and tank bracket scaffolds.

(a) General. A chimney, stack or tank bracket scaffold shall be composed of a platform supported by brackets which are hooked over a steel cable which surrounds the circumference of the chimney, stack or tank approximately in a horizontal plane. The platform shall be not less than two 2 x 10 inch planks. For a minimum width of eighteen inches wide and be designed with a safety factor of not less than 4.

(b) All brackets shall have a mild steel suspension hook 2 inches by 1/4-inch with at least 3 inches projecting beyond the throat of the hook. Hooks shall be integral with or securely attached to the bracket.

(c) Wood spacer blocks shall be provided to hold the suspending cable away from the structure at the points where brackets are hooked on. These spacer blocks shall be not less than 2 inches by 4 inches by 12 inches.

(d) All suspending cables shall be improved plow steel 6 x 19 wire rope or equivalent. In no case shall less than 1/2-inch diameter wire rope be used.

(e) The turnbuckle used to tighten suspending cables shall be not less than 1 inch drop forged steel. The cables shall be provided with

thimbles and not less than 3 U-bolt type clips at each end and be attached to the turnbuckles by means of shackles. Open hooks shall not be used.

(f) All chimney, stack and tank bracket scaffolds shall be provided with standard guard rails, intermediate rails and toeboards.

(g) For access to a chimney, stack or tank bracket scaffold, ladders or a boatswain's chair shall be used.

(h) All chimney, stack or tank brackets for scaffolds shall be welded and riveted or bolted.

(27) Scaffold platforms supported by catenary or stretch cables.

(a) When a scaffold platform is supported by cables at least 4 cables shall be used, two near each end of the scaffold.

(b) The cables shall be attached to the scaffold by means of U-bolts or the equivalent through which the cables pass.

(c) Cables shall not be tightened beyond their safe working load. A hanger or set of falls shall be used approximately every 50 feet to pick up the sag in the cable.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-505 GUARDRAILS, HANDRAILS, AND COVERS. (1) General provisions. This part applies to temporary or emergency conditions where there is danger of employees or materials falling through floor, roof, or wall openings, or from stairways, runways, ramps, open sided floors, open sides of structures, bridges, or other open sided walking or working surfaces. When guardrails or covers required by this section must be temporarily removed to perform a specific task, the area shall be constantly attended by a monitor to warn others of the hazard or shall be protected by a movable barrier.

(2) Guarding of floor openings and floor holes.

(a) Floor openings shall be guarded by a standard railing and toe boards or cover, as specified in subsections (2)(g) and (6) of this section. In general, the railing shall be provided on all exposed sides, except at entrances to stairways. All vehicle service pits shall have a cover or removable type standard guardrail. When not in use, pits shall be covered or guarded. Where vehicle service pits are to be used again immediately, and the service man is within a 50 foot distance of the unguarded pit and also within line of sight of the unguarded pit, the cover or guardrail need not be replaced between uses. Where vehicle service pits are used frequently, the perimeters of the pits shall be delineated by high visibility, luminescent, skid resistant paint. Such painted delineation shall be kept clean and free of extraneous materials.

(b) Ladderway floor openings or platforms shall be guarded by standard railings with standard toe boards on all exposed sides, except at entrance to opening, with the passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening.

(c) Hatchways and chute floor openings shall be guarded by one of the following:

(i) Hinged covers of standard strength and construction and a standard railing with only one exposed side. When the opening is not in use, the cover shall be closed or the exposed side shall be guarded at both top and intermediate positions by removable standard railings;

(ii) A removable standard railing with toe board on not more than two sides of the opening and fixed standard railings with toe boards on all other exposed sides. The removable railing shall be kept in place when the opening is not in use and shall be hinged or otherwise mounted so as to be conveniently replaceable.

(d) Wherever there is danger of falling through a skylight opening, and the skylight itself is not capable of sustaining the weight of a two hundred pound person with a safety factor of four, standard guardrails shall be provided on all exposed sides or the skylight shall be covered in accordance with (g) of this subsection.

(e) Pits and trap-door floor openings shall be guarded by floor opening covers of standard strength and construction. While the cover is not in place, the pit or trap openings shall be protected on all exposed sides by removable standard railings.

(f) Manhole floor openings shall be guarded by standard covers which need not be hinged in place. While the cover is not in place, the manhole opening shall be protected by standard railings.

(g) All floor opening covers shall be capable of supporting the maximum potential load but never less than two hundred pounds (with a safety factor of four).

(i) The cover shall be recessed to conform to the level of the surrounding floor or to be flush with the perimeter of the opening.

(ii) The cover shall be secured by fastening devices to prevent unintentional removal.

(iii) If it becomes necessary to remove the cover, a monitor shall remain at the opening until the cover is replaced. The monitor shall advise persons entering the area of the hazard, shall prevent exposure to the fall hazard and shall perform no other duties.

(h) Floor holes, into which persons can accidentally walk, shall be guarded by either a standard railing with standard toe board on all exposed sides, or a floor hole cover of standard strength and construction that is secured against accidental displacement. While the cover is not in place, the floor hole shall be protected by a standard railing.

(i) Where doors or gates open directly on a stairway, a platform shall be provided, and the swing of the door shall not reduce the effective width of the platform to less than 20 inches.

(3) Guarding of wall openings.

(a) Wall openings, from which there is a drop of more than 4 feet, and the bottom of the opening is less than 3 feet above the working surface, shall be guarded as follows:

(i) When the height and placement of the opening in relation to the working surface is such that either a standard rail or intermediate rail will effectively reduce the danger of falling, one or both shall be provided;

(ii) The bottom of a wall opening, which is less than 4 inches above the working surface, regardless of width, shall be protected by a standard toe board or an enclosing screen either of solid construction or as specified in (6)(g)(ii) of this section.

(b) An extension platform, outside a wall opening, onto which materials can be hoisted for handling shall have standard guardrails on all exposed sides or equivalent. One side of an extension platform may have removable railings in order to facilitate handling materials.

(c) When a chute is attached to an opening, the provisions of (a) of this subsection shall apply, except that a toe board is not required.

(4) Guarding of open-sided surfaces.

(a) Every open-sided floor, platform or surface four feet or more above adjacent floor or ground level shall be guarded by a standard railing, or the equivalent, as specified in subsection (6)(a) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a standard toe board wherever, beneath the open sides, persons can pass, or there is moving machinery, or there is equipment with which falling materials could create a hazard.

(b) Runways shall be guarded by a standard railing, or the equivalent, as specified in subsection (6) of this section, on all open sides, 4 feet or more above floor or ground level. Wherever tools, machine parts, or materials are likely to be used on the runway, a toe board shall also be provided on each exposed side.

(c) Runways used exclusively for special purposes may have the railing on one side omitted where operating conditions necessitate such omission, providing the falling hazard is minimized by using a runway not less than 18 inches wide.

(d) Where employees entering upon runways become thereby exposed to machinery, electrical equipment, or other danger not a falling hazard, additional guarding shall be provided.

(e) Regardless of height, open-sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, and similar hazards, shall be guarded with a standard railing and toe board.

(f) Open sides of gardens, patios, recreation areas and similar areas located on roofs of buildings or structures shall be guarded by permanent standard railings or the equivalent. Where a planting area has been constructed adjacent to the open sides of the roof and the planting area is raised above the normal walking surface of the roof area, the open side of the planting area shall also be protected with standard railings or the equivalent.

(5) Stairway railings and guards.

(a) Every flight of stairs having four or more risers shall be equipped with standard stair railings or standard handrails as specified below, the width of the stair to be measured clear of all obstructions except handrails:

(i) On stairways less than 44 inches wide having both sides enclosed, at least one handrail, preferably on the right side descending;

(ii) On stairways less than 44 inches wide having one side open, at least one stair railing on the open side;

(iii) On stairways less than 44 inches wide having both sides open, one stair railing on each side;

(iv) On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side;

(v) On stairways 88 or more inches wide, one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing located approximately midway of the width.

(b) Winding stairs shall be equipped with a handrail offset to prevent walking on all portions of the treads having width less than 6 inches.

(6) Standard specifications.

(a) A standard railing shall consist of top rail, intermediate rail, toe board, and posts, and shall have a vertical height of 36 inches to 42 inches from upper surface of top rail to floor, platform, runway, or ramp level. Each length of lumber shall be smooth-surfaced throughout the length of the railing. The intermediate rail shall be halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard. Minimum requirements for standard railings under various types of construction are specified in the following items:

(i) For wood railings, the posts shall be of at least 2-inch by 4-inch stock spaced not to exceed 8 feet; the top rail shall be of at least 2-inch by 4-inch stock; the intermediate rail shall be of at least 1-inch by 6-inch stock.

(ii) For pipe railings, posts and top and intermediate railings shall be at least 1 1/2 inches nominal OD diameter with posts spaced not more than 8 feet on centers.

(iii) For structural steel railings, posts and top and intermediate rails shall be of 2-inch by 2-inch by 3/8-inch angles or other metal shapes of equivalent bending strength, with posts spaced not more than 8 feet on centers.

(iv) For wire rope railings, the top and intermediate railings shall be at least 1/2-inch fibre core rope, or the equivalent ~~(with)~~ to meet strength factor and deflection of subsection (6)(a)(v). Posts shall be spaced not more than 8 feet on centers. The rope shall be stretched taut, so as to present a minimum deflection.

(v) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least 200 pounds applied in any direction at any point on the top rail, with a minimum of deflection.

(vi) Railings receiving heavy stresses from employees trucking or handling materials shall be provided additional strength by the use of heavier stock, closer spacing of posts, bracing, or by other means.

(vii) Other types, sizes, and arrangements of railing construction are acceptable, provided they meet the following conditions:

(A) A smooth-surfaced top rail at a height above floor, platform, runway, or ramp level of between 36 inches and 42 inches;

(B) A strength to withstand at least the minimum requirement of 200 pounds top rail pressure with a minimum of deflection;

(C) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(D) Elimination of overhang of rail ends unless such overhang does not constitute a hazard.

(b) A stair railing shall be of construction similar to a standard railing, but the vertical height shall be not more than 34 inches nor less than 30 inches from upper surface to top rail to surface of tread in line with face of riser at forward edge of tread.

(c)(i) A standard toe board shall be 4 inches minimum in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place and have not more than 1/4-inch clearance above floor level. It may be made of any substantial material, either solid, or with openings not over 1 inch in greatest dimension.

(ii) Where material is piled to such height that a standard toe board does not provide protection, paneling, or screening from floor to intermediate rail or to top rail shall be provided.

(d)(i) A standard handrail shall be of construction similar to a standard railing except that it is mounted on a wall or partition, and does not include an intermediate rail. It shall have a smooth surface along the top and both sides of the handrail. The handrail shall have an adequate handhold for any one grasping it to avoid falling. Ends of the handrail shall be constructed so as not to constitute a projection hazard.

(ii) The height of handrails shall be not more than 34 inches nor less than 30 inches from upper surface of handrail to surface of tread, in line with face of riser or to surface of ramp.

(iii) All handrails and railings shall be provided with a clearance of approximately 3 inches between the handrail or railing and any other object.

(e) Floor opening covers shall be of any material that meets the following strength requirements:

(i) Conduits, trenches, and manhole covers and their supports, when located in roadways, and vehicular aisles shall be designed to carry a truck rear-axle load of at least 2 times the maximum intended load;

(ii) All floor opening covers shall be capable of supporting the maximum potential load but never less than two hundred pounds (with a safety factor of four).

(A) The cover shall be recessed to conform to the level of the surrounding floor or to be flush with the perimeter of the opening.

(B) The cover shall be secured by fastening devices to prevent unintentional removal.

(C) If it becomes necessary to remove the cover, a monitor shall remain at the opening until the cover is replaced. The monitor shall advise persons entering the area of the hazard, shall prevent exposure to the fall hazard and shall perform no other duties.

(f) Skylight openings that create a falling hazard shall be guarded with a standard railing, or covered in accordance with (e)(ii) of this subsection.

(g) Wall opening protection shall meet the following requirements:

(i) Barriers shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward), with a minimum of deflection at any point on the top rail or corresponding member.

(ii) Screens shall be of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied horizontally at any point on the near side of the screen. They may be of solid construction, of grill work with openings not more than 8 inches long, or of slat work with openings not more than 4 inches wide with length unrestricted.

(7) Guarding of low-pitched roof perimeters during the performance of built-up roofing work.

(a) General provisions. During the performance of built-up roofing work on low-pitched roofs with a ground to eave height greater than 16 feet (4.9 meters), employees engaged in such work shall be protected from falling from all unprotected sides and edges of the roof as follows:

(i) By the use of a motion-stopping-safety system (MSS system); or

(ii) By the use of a warning line system erected and maintained as provided in subdivision (7)(c) of this section and supplemented for employees working between the warning line and the roof edge by the use of either an MSS system or, where mechanical equipment is not being used or stored, by the use of a safety monitoring system; or

(iii) By the use of a safety monitoring system on roofs 50 feet (15.25 meters) or less in width (see WAC 296-155-50501 Appendix—Roofs), where mechanical equipment is not being used or stored.

(b) Exception. The provisions of (7)(a) of this section do not apply at points of access such as stairways, ladders, and ramps, or when employees are on the roof only to inspect, investigate, or estimate roof level conditions. Roof edge materials handling areas and materials storage areas shall be guarded as provided in subdivision (7)(e) of this section.

(c) Warning lines.

(i) Warning lines shall be erected around all sides of the work area.

(A) When mechanical equipment is not being used, the warning line shall be erected not less than six feet (1.8 meters) from the roof edge;

(B) When mechanical equipment is being used, the warning line shall be erected not less than six feet (1.8 meters) from the roof edge which is parallel to the direction of mechanical equipment operation, and not less than 10 feet (3.1 meters) from the roof edge which is perpendicular to the direction of mechanical equipment operation.

(ii) The warning line shall consist of a rope, wire, or chain, and supporting stanchions erected as follows:

(A) The rope, wire, or chain shall be flagged at not more than six foot (1.8 meters) intervals with high-visibility material;

(B) The rope, wire, or chain shall be rigged and supported in such a way that its lowest point (including sag) is no less than 34 inches (.86 meters) from the roof surface and its highest point is no more than 39 inches (1 meter) from the roof surface;

(C) After being erected, with the rope, wire, or chain attached, stanchions shall be capable of resisting, without tipping over, a force of

at least 16 pounds (71 Newtons) applied horizontally against the stanchion, 30 inches (0.76 meters) above the roof surface, perpendicular to the warning line, and in the direction of the roof edge;

(D) The rope, wire, or chain shall have a minimum tensile strength of 500 pounds (227 Kilograms), and after being attached to the stanchions, shall be capable of supporting, without breaking, the loads applied to the stanchions as prescribed in subitem (7)(c)(ii)(C) of this section; and

(E) The line shall be attached at each stanchion in such a way that pulling on one section of the line between stanchions will not result in slack being taken up in adjacent sections before the stanchion tips over.

(iii) Access paths shall be erected as follows:

(A) Points of access, materials handling areas and storage areas shall be connected to the work area by a clear access path formed by two warning lines.

(B) When the path to a point of access is not in use, a rope, wire, or chain, equal in strength and height to the warning line, shall be placed across the path at the point where the path intersects the warning line erected around the work area.

(d) Mechanical equipment. Mechanical equipment may be used or stored only in areas where employees are being protected by either a warning line or an MSS system. Mechanical equipment may not be used or stored between the warning line and the roof edge unless the employees are being protected by an MSS system. Mechanical equipment may not be used or stored where the only protection provided is by a safety monitoring system.

(e) Roof edge materials handling areas and materials storage. Employees working in a roof edge materials handling or materials storage area located on a low-pitched roof with a ground to eave height greater than 16 feet (4.9 meters) shall be protected from falling by the use of an MSS system along all unprotected roof sides and edges of the area.

(i) When guardrails are used at hoisting areas, a minimum of four feet of guardrail shall be erected on each side of the access point through which materials are hoisted.

(ii) A chain or gate shall be placed across the opening between the guardrail sections when hoisting operations are not taking place.

(iii) When guardrails are used at bitumen pipe outlets, a minimum of four feet of guardrail shall be erected on each side of the pipe.

(iv) When safety belt systems are used, they shall not be attached to the hoist.

(v) When safety belt systems are used, they shall be rigged to allow the movement of employees only as far as the roof edge.

(vi) Materials may not be stored within six feet of the roof edge unless guardrails are erected at the roof edge.

(vii) Materials which are piled, grouped, or stacked shall be stable and self-supporting.

(f) Training.

(i) The employer shall provide a training program for all employees engaged in built-up roofing work so that they are able to recognize and deal with the hazards of falling associated with working near a roof perimeter. The employees shall also be trained in the safety procedures to be followed in order to prevent such falls.

(ii) The employer shall assure that employees engaged in built-up roofing work have been trained and instructed in the following areas:

(A) The nature of fall hazards in the work area near a roof edge;

(B) The function, use, and operation of the MSS system, warning line, and safety monitoring systems to be used;

(C) The correct procedures for erecting, maintaining, and disassembling the systems to be used;

(D) The role of each employee in the safety monitoring system when this system is used;

(E) The limitations on the use of mechanical equipment; and

(F) The correct procedures for the handling and storage of equipment and materials.

(iii) Training shall be provided for each newly hired employee, and for all other employees as necessary, to assure that employees maintain proficiency in the areas listed in item (7)(f)(ii) of this section.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-680 GENERAL PROVISIONS. (1) General. All equipment, material and construction techniques used in concrete construction and masonry work shall meet the applicable requirements for design, construction, inspection, testing, maintenance and operations as

prescribed in ANSI A10.9-1970, Safety Requirements for Concrete Construction and Masonry Work.

(2) Construction loads. No construction loads shall be placed on a concrete structure or portion of a concrete structure unless the employer determines, based on information received from a person who is qualified in structural design, that the structure or portion of the structure is capable of supporting the loads.

(3) Vertical loads. Vertical loads consist of a dead load plus an allowance for live load. The weight of formwork together with the weight of freshly placed concrete is dead load. The live load consists of the weight of workmen, equipment, runways and impact, and shall be computed in pounds per square foot (psf) of horizontal projection.

(4) Lateral loads. Braces and shores shall be designed to resist all foreseeable lateral loads such as wind, cable tensions, inclined supports, impact of placement, and starting and stopping of equipment. The assumed value of load due to wind, impact of concrete, and equipment acting in any direction at each floor line shall not be less than one hundred pounds per lineal foot of floor edge or two percent of total dead load of the floor, whichever is greater. Wall forms shall be designed for a minimum wind load of ten psf, and bracing for wall forms should be designed for a lateral load of at least one hundred pounds per lineal foot of wall, applied at the top. Walls of unusual height require special consideration.

(5) Special loads. Formwork shall be designed for all special conditions of construction likely to occur, such as unsymmetrical placement of concrete, impact of machine-delivered concrete, uplift, and concentrated loads.

(6) Construction loads. Imposition of any construction loads on the partially completed structure shall not be permitted unless such loading has been considered in the design and approved by the engineer-architect.

(7) Form supports and wedges shall be checked during concrete placement to prevent distortion or failure.

(8) Reinforcing steel.

(a) Employees shall not be permitted to work above vertically protruding reinforcing steel unless it has been protected to eliminate the hazard of impalement.

Note: Acceptable methods to meet this requirement to prevent impalement will be to secure a plank or platform over the vertical ends of the reinforcing steel bars or to bend bars over to the extent they would be horizontal instead of vertical.

(b) Wire mesh rolls: Wire mesh rolls shall be secured at each end to prevent dangerous recoiling action.

(c) Guying: Reinforcing steel for walls, piers, columns, and similar vertical structures shall be guyed and supported to prevent overturning and to prevent collapse.

(9) Post-tensioning operations.

(a) No employee (except those essential to the post-tensioning operations) shall be permitted to be behind the jack during tensioning operations.

(b) Signs and barriers shall be erected to limit employee access to the post-tensioning area during tensioning operations.

(10) Working under loads.

(a) No employee shall be permitted to work under concrete buckets while buckets are being elevated or lowered into position.

(b) To the extent practical, elevated concrete buckets shall be routed so that no employee, or the fewest number of employees, are exposed to the hazards associated with falling concrete buckets.

(11) Personal protective equipment.

(a) No employee shall be permitted to apply a cement, sand, and water mixture through a pneumatic hose unless the employee is wearing protective head and face equipment.

(b) No employee shall be permitted to place or tie reinforcing steel more than six feet (1.8 m) above any adjacent working surface unless the employee is protected by the use of a safety belt or equivalent fall protection meeting the criteria of WAC 296-155-225.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-48533 CRANE OR DERRICK SUSPENDED PERSONNEL PLATFORMS. (1) Scope, application, and definitions.

(a) Scope and application. This standard applies to the design, construction, testing, use and maintenance of personnel platforms, and the hoisting of personnel platforms on the load lines of cranes or derricks.

(b) Definitions. For the purposes of this section, the following definitions apply:

(i) "Failure" means load refusal, breakage, or separation of components.

(ii) "Hoist" (or hoisting) means all crane or derrick functions such as lowering, lifting, swinging, booming in and out or up and down, or suspending a personnel platform.

(iii) "Load refusal" means the point where the ultimate strength is exceeded.

(iv) "Maximum intended load" means the total load of all employees, tools, materials, and other loads reasonably anticipated to be applied to a personnel platform or personnel platform component at any one time.

(v) "Runway" means a firm, level surface designed, prepared, and designated as a path of travel for the weight and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.

(2) General requirements. The use of a crane or derrick to hoist employees on a personnel platform is prohibited, except when the erection, use, and dismantling of conventional means of reaching the worksite, such as a personnel hoist, ladder, stairway, aerial lift, elevating work platform or scaffold, would be more hazardous, or is not possible because of structural design or worksite conditions.

(3) Cranes and derricks.

(a) Operational criteria.

(b) Hoisting of the personnel platform shall be performed in a slow, controlled, cautious manner with no sudden movements of the crane or derrick, or the platform.

(c) Load lines shall be capable of supporting, without failure, at least seven times the maximum intended load, except that where rotation resistant rope is used, the lines shall be capable of supporting without failure, at least ten times the maximum intended load. The required design factor is achieved by taking the current safety factor of 3.5 (required under WAC 296-155-525 (3)(b)) and applying the fifty percent derating of the crane capacity which is required by ~~((f))~~ (f) of this subsection.

(d) Load and boom hoist drum brakes, swing brakes, and locking devices such as pawls or dogs shall be engaged when the occupied personnel platform is in a stationary working position.

~~(e) ((The load line hoist drum shall have a system or device on the power train, other than the load hoist brake, which regulates the lowering rate of speed of the hoist mechanism (controlled load lowering). Free fall is prohibited.~~

~~(f))~~ (f) The crane shall be uniformly level within one percent of level grade and located on firm footing. Cranes equipped with outriggers shall have them all fully deployed following manufacturer's specifications, insofar as applicable, when hoisting employees.

~~((g))~~ (g) The total weight of the loaded personnel platform and related rigging shall not exceed fifty percent of the rated capacity for the radius and configuration of the crane or derrick.

~~((h))~~ (h) The use of machines having live booms (booms in which lowering is controlled by a brake without aid from other devices which slow the lowering speeds) is prohibited.

~~((i))~~ (i) Multiple-part line block: When a multiple-part line block is in use, a substantial strap shall be used between the crane hook and common ring, shackle, or other equivalent device, to eliminate employee exposure to the lines running through the block, and to the block itself.

(4) Instruments and components.

(a) Cranes and derricks with variable angle booms shall be equipped with a boom angle indicator, readily visible to the operator.

(b) Cranes with telescoping booms shall be equipped with a device to indicate clearly to the operator, at all times, the boom's extended length, or an accurate determination of the load radius to be used during the lift shall be made prior to hoisting personnel.

(c) A positive acting device shall be used which prevents contact between the load block or overhaul ball and the boom tip (anti-two-blocking device), or a system shall be used which deactivates the hoisting action before damage occurs in the event of a two-blocking situation (two block damage prevention feature).

(d) The load line hoist drum shall have a system or device on the power train, other than the load hoist brake, which regulates the lowering rate of speed of the hoist mechanism (controlled load lowering). Free fall is prohibited.

(5) Rigging.

(a) Lifting bridles on box-type platforms shall consist of four legs of equal length, with one end securely shackled to each corner of the platform and the other end securely attached to a common ring,

shackle, or other equivalent device to accommodate the crane hook, or a strap to the crane hook.

(b) Shackle bolts used for rigging of personnel platforms shall be secured against displacement.

(c) A substantial safety line shall pass through the eye of each leg of the bridle adjacent to the common ring, shackle, or equivalent device.

(d) Securely fastened with a minimum amount of slack to the lift line above the headache ball or to the crane hook itself.

(e) All eyes in wire rope slings shall be fabricated with thimbles.

(f) Wire rope, shackles, rings, master links, and other rigging hardware must be capable of supporting, without failure, at least five times the maximum intended load applied or transmitted to that component. Where rotation resistant wire rope is used for slings, they shall be capable of supporting without failure at least ten times the maximum intended load.

(g) Hooks on headache ball assemblies, lower load blocks, or other attachment assemblies shall be of a type that can be closed and locked, eliminating the hook throat opening. Alternatively, an alloy anchor type shackle with a bolt, nut and retaining pin may be used, or the hook shall be moused.

(h) Bridles and associated rigging for attaching the personnel platform to the hoist line shall be used only for the platform and the necessary employees, their tools and the materials necessary to do their work, and shall not be used for any other purpose when not hoisting personnel.

(6) Personnel platforms – design criteria.

(a) The personnel platform and suspension system shall be designed by a qualified engineer or a qualified person competent in structural design.

(b) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.

(c) The personnel platform itself, except the guardrail system and body belt/harness anchorages, shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load based on a minimum allowance of five hundred pounds for the first person with light tools, and an additional two hundred fifty pounds for each additional person.

(d) Criteria for guardrail systems and body belt/harness anchorages are contained in WAC 296-155-225(4) and 296-155-505(6) respectively.

(e) The personnel platform shall be conspicuously posted with a plate or other permanent marking which indicates the weight of the platform and its rated load capacity or maximum intended load.

(7) Platform specifications.

(a) Each personnel platform shall be equipped with a guardrail system which meets the requirements of WAC 296-155-505(6) and, shall be enclosed at least from the toeboard to mid-rail with either solid construction or expanded metal having openings no greater than one-half inch (1.27 cm).

(b) A grab rail shall be installed inside the entire perimeter of the personnel platform.

(c) Access gates, if installed, shall not swing outward during hoisting.

(d) Access gates, including sliding or folding gates, shall be equipped with a restraining device to prevent accidental opening.

(e) Headroom shall be provided which allows employees to stand upright in the platform.

(f) In addition to the use of hard hats, employees shall be protected by overhead protection on the personnel platform when employees are exposed to falling objects.

(g) All rough edges exposed to contact by employees shall be surfaced or smoothed in order to prevent injury to employees from punctures or lacerations.

(h) All welding of the personnel platform and its components shall be performed by a qualified welder familiar with the weld grades, types, and material specified in the platform design.

(i) Occupants of all personnel platforms shall wear a safety belt or harness and lanyard which meets the requirements of WAC 296-155-225 (3) through (8).

(j) Box-type platform: The workers lanyard shall be secured to an anchorage within the platform meeting the requirements of WAC 296-155-225(4).

(k) Rescue platform:

(i) If the platform is used as a rescue vehicle, the injured worker shall be strapped into the stretcher or basket.

(ii) The basket shall then be secured by lanyard to an anchorage within the platform meeting the requirements of WAC 296-155-225(4).

(l) Boatswains chair: The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(m) Barrel-type platform:

(i) The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(ii) A solid bar or rod shall be substantially attached in a rigid position to the bottom or side of the platform.

(iii) The bottom of the barrel-type platform shall be of a convex shape to cause the platform to lay on its side when lowered to the ground or floor.

(iv) The bar or rod shall extend a minimum of eight feet above the floor of the platform.

(8) Personnel platform loading.

(a) The personnel platform shall not be loaded in excess of its rated load capacity.

(b) The number of employees occupying the personnel platform shall not exceed the number required for the work being performed.

(c) Personnel platforms shall be used only for employees, their tools, and the materials necessary to do their work, and shall not be used to hoist only materials or tools when not hoisting personnel.

(d) Materials and tools for use during a personnel lift shall be secured to prevent displacement.

(e) Materials and tools for use during a personnel lift shall be evenly distributed within the confines of the platform while the platform is suspended.

(9) Trial lift, inspection, and proof testing.

(a) A trial lift with the unoccupied personnel platform loaded at least to the anticipated liftweight shall be made from ground level, or any other location where employees will enter the platform, to each location at which the personnel platform is to be hoisted and positioned. This trial lift shall be performed immediately prior to placing personnel on the platform. The operator shall determine that all systems, controls, and safety devices are activated and functioning properly; that no interferences exist; and that all configurations necessary to reach those work locations will allow the operator to remain under the fifty percent limit of the hoist's rated capacity. Materials and tools to be used during the actual lift can be loaded in the platform, as provided in subsection (8)(d) and (e) of this section for the trial lift. A single trial lift may be performed at one time for all locations that are to be reached from a single set-up position.

(b) The trial lift shall be repeated prior to hoisting employees whenever the crane or derrick is moved and set up in a new location or returned to a previously used location. Additionally, the trial lift shall be repeated when the lift route is changed unless the operator determines that the route change is not significant (i.e., the route change would not affect the safety of hoisted employees).

(c) After the trial lift, and just prior to hoisting personnel, the platform shall be hoisted a few inches and inspected to ensure that it is secure and properly balanced. Employees shall not be hoisted unless the following conditions are determined to exist:

- (i) Hoist ropes shall be free of kinks;
- (ii) Multiple part lines shall not be twisted around each other;
- (iii) The primary attachment shall be centered over the platform; and

(iv) The hoisting system shall be inspected if the load rope is slack to ensure all ropes are properly stowed on drums and in sheaves.

(d) A visual inspection of the crane or derrick, rigging, personnel platform, and the crane or derrick base support or ground shall be conducted by a competent person immediately after the trial lift to determine whether the testing has exposed any defect or produced any adverse effect upon any component or structure.

(e) Any defects found during inspections which create a safety hazard shall be corrected before hoisting personnel.

(f) At each job site, prior to hoisting employees on the personnel platform, and after any repair or modification, the platform and rigging shall be proof tested to one hundred twenty-five percent of the platform's rated capacity by holding it in a suspended position for five minutes with the test load evenly distributed on the platform (this may be done concurrently with the trial lift). After proof testing, a competent person shall inspect the platform and rigging. Any deficiencies found shall be corrected and another proof test shall be conducted. Personnel hoisting shall not be conducted until the proof testing requirements are satisfied.

(10) Work practices.

(a) Employees shall keep all parts of the body inside the platform during raising, lowering, and positioning. This provision does not apply to an occupant of the platform performing the duties of a signal person.

(b) Before employees exit or enter a hoisted personnel platform that is not landed, the platform shall be secured to the structure where the work is to be performed, unless securing to the structure creates an unsafe situation.

(c) Tag lines shall be used unless their use creates an unsafe condition.

(d) The crane or derrick operator shall remain at the controls at all times when the crane engine is running and the platform is occupied.

(e) Hoisting of employees shall be promptly discontinued upon indication of any dangerous weather conditions or other impending danger.

(f) Employees being hoisted shall remain in continuous sight of and in direct communication with the operator or signal person. In those situations where direct visual contact with the operator is not possible, and the use of a signal person would create a greater hazard for that person, direct communication alone such as by radio may be used.

(g) Hand signals to the operator shall be in accordance with WAC 296-155-525 (1)(c).

(h) Except over water, employees occupying the personnel platform shall use a body belt/harness system with lanyard appropriately attached to the lower load block or overhaul ball, or to a structural member within the personnel platform capable of supporting a fall impact for employees using the anchorage. When working over water, the requirements of WAC 296-155-235 shall apply.

(i) No lifts shall be made on another of the crane's or derrick's load lines while personnel are suspended on a platform.

(11) Traveling.

(a) Hoisting of employees while the crane is traveling is prohibited, except for portal, tower and locomotive cranes, or where the employer demonstrates that there is no less hazardous way to perform the work.

(b) Under any circumstances where a crane would travel while hoisting personnel, the employer shall implement the following procedures to safeguard employees:

(i) Crane travel shall be restricted to a fixed track or runway;

(ii) Travel shall be limited to the load radius of the boom used during the lift; and

(iii) The boom must be parallel to the direction of travel.

(c) A complete trial run shall be performed to test the route of travel before employees are allowed to occupy the platform. This trial run can be performed at the same time as the trial lift required by subsection (9)(a) of this section which tests the route of the lift.

(d) If travel is done with a rubber tired-carrier, the condition and air pressure of the tires shall be checked. The chart capacity for lifts on rubber shall be used for application of the fifty percent reduction of rated capacity. Notwithstanding subsection (3)((ff)) (e) of this section, outriggers may be partially retracted as necessary for travel.

(12) Prelift meeting.

(a) A meeting attended by the crane or derrick operator, signal person(s) (if necessary for the lift), employee(s) to be lifted, and the person responsible for the task to be performed shall be held to review the appropriate requirements of this section and the procedures to be followed.

(b) This meeting shall be held prior to the trial lift at each new work location, and shall be repeated for any employees newly assigned to the operation.

**SUBCHAPTER Part O WAC
CONCRETE, CONCRETE FORMS ((AND)), SHORING, AND
MASONRY CONSTRUCTION**

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-675 SCOPE, APPLICATION, AND DEFINITIONS APPLICABLE TO THIS PART. (1) Scope and application. This subpart sets forth requirements to protect all construction employees from the hazards associated with concrete and masonry construction operations performed in workplaces covered under chapter 296-155 WAC.

(2) Definitions applicable to this part.

(a) "Bull float" means a tool used to spread out and smooth the concrete.

(b) "Formwork" means the total system of support for freshly placed or partially cured concrete, including the mold or sheeting (form) that is in contact with the concrete as well as all supporting

members including shores, reshores, hardware, braces, and related hardware.

(c) "Lift slab" means a method of concrete construction in which floor and roof slabs are cast on or at ground level and, using jacks, lifted into position.

(d) "Limited access zone" means an area alongside a masonry wall, which is under construction, and which is clearly demarcated to limit access by employees.

((d)) (e) "Precast concrete" means concrete members (such as walls, panels, slabs, columns, and beams) which have been formed, cast, and cured prior to final placement in a structure.

((e)) (f) "Reshoring" means the construction operation in which shoring equipment (also called reshores or reshoring equipment) is placed, as the original forms and shores are removed, in order to support partially cured concrete and construction loads.

((f)) (g) "Shore" means a supporting member that resists a compressive force imposed by a load.

((g)) (h) "Vertical slip forms" means forms which are jacked vertically during the placement of concrete.

((h)) (i) "Guy" means a line that steadies a high piece or structure by pulling against an off-center load.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-690 APPENDIX TO WAC 296-155-684 CAST IN PLACE CONCRETE. General requirements for formwork.

(This Appendix is nonmandatory.)

This Appendix serves as a nonmandatory guideline to assist employers in complying with the formwork requirements in ((§1926-703 (a)(+))) WAC 296-155-684 (1)(a). Formwork which has been designed, fabricated, erected, braced, supported, and maintained in accordance with Sections 6 and 7 of the American National Standard for Construction and Demolition Operations—Concrete and Masonry Work, ANSI A10.9-1983, shall be deemed to be in compliance with the provision of ((§1926-703 (a)(+))) WAC 296-155-684 (1)(a).

((Information collection requirements contained in paragraph (a)(2) were approved by the Office of Management and Budget under control number 1218-0095.)

(1) It shall be the responsibility of the contractor to use accessories which are designed to be compatible.

(2) The design capacity of all lifting devices and accessories shall be known. The devices and accessories with the appropriate capacity shall be used.

(3) Prior to pouring the panels of a tilt-up type construction job, a set of plans or job specifications, including lifting procedures, shall be drawn up.

(a) These plans shall be at the job site and made available upon request.

(b) Any changes made in the rigging procedure of a tilt-up panel or slab shall provide the same degree of safety as required by the original plans.

(c) The plans or specifications shall contain the following information:

(i) The type, size, and location of all lifting inserts:

(ii) The type, size, and location of all brace inserts or fittings for guy wires in each panel and floor or support:

(iii) The size of braces or guys to be used:

(iv) The compression strength which concrete panels must attain prior to being lifted.

(4) The following conditions shall be included in the erection process and shall be incorporated in the design plan:

(a) Braces and all associated components of the bracing system shall be designed to incorporate a safety factor of one and one-half to resist any normal stresses to which they may be subjected, including normal high wind velocity pressures for the area:

(b) Precast concrete wall units, structural framing, and tilt-up wall panels shall be adequately supported to prevent overturning and to prevent collapse until permanent connections are completed:

(c) Floor braces used to secure panel sections shall be placed at an angle of not less than forty-five degrees or more than sixty degrees from horizontal when physically possible to install in this manner:

(d) The bracing on all panel sections shall be installed in such a manner as to prevent the panel from accidentally rotating:

(e) Each panel section not secured by other means shall have a minimum of two braces. The braces shall be installed in such a manner as to evenly distribute the load or guy wires, when properly installed, may be used in lieu of stiff leg braces:

(f) If braces are attached to a panel or slab by bolts tightened into inserts installed in holes drilled in concrete, the type of inserts used and method of installation shall be such as to develop the required strength to be maintained for the bracing system.

(g) Inserts to be installed for lifting sections of a panel shall be designed mechanically to maintain a safety factor of three.

(h) Lifting inserts which are embedded or otherwise attached to precast concrete members, other than the tilt-up members, shall be capable of supporting at least four times the maximum intended load applied or transmitted to them.

(i) The compression strength of the concrete shall be such that when the proper type, size, and amount of inserts are installed a minimum safety factor of two will be maintained.

(j) Lifting hardware such as spreader bars, slings, shackles, etc., shall be designed for a safety factor of not less than five and shall not be used whenever the safety factor is reduced below four.

(k) Lifting bolts or other lifting devices which have been bent, worn, or are defective shall be discarded.

(l) The upper and lower sections of telescoping type braces shall be secured by high tensile steel pins or bolts which provide adequate shear strength and which will positively secure against accidental removal.

(m) Manufactured products shall not be altered in a manner which would reduce the safe working load to less than its original value.

(n) Inserts shall be positioned so that bolts, or lifting devices, when inserted, will be perpendicular to the face on which they are placed.

(5) Design of the panels and layout of the pour shall be made in such a manner so that when picking, the top of the panel will be away from the crane. If this is not possible, the contractor shall consult with a representative of the department and the crane company involved to determine the procedure to be followed in lifting and placing in its permanent position safely. Panels shall be lifted and handled in such a manner that they will not strike the hoisting equipment, in case of failure.

(a) Physical stops shall be provided which will prevent the bottom edge of a panel being set from slipping off the edge of its supporting structure.

(b) Tilt-up panels shall not be set when there is a possibility that wind velocity would create a hazardous condition.

(c) A qualified signalman shall be designated and shall consult with the crane operator on lifting procedures prior to making the pick. The signalman shall be located in such a position during the pick of the panel that he can observe both the crane operator and the employees working in the immediate area.

(d) During the lifting process, workers shall keep clear of the under side of the panel.

(e) Persons not involved in the lifting process shall be kept clear of the hazardous area near where panels are being raised, moved, or placed.

(f) If braces must be removed temporarily during construction, other effective means shall be provided to safely support the panel during the interim period.

(g) Each panel shall be properly braced or otherwise secured prior to removal of the hoisting equipment.

(h) Short panels or sections not otherwise supported by floor, footings, columns or other structure, shall be properly shored.)

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-694 ((APPENDIX TO WAC 296-155-692))
LIFT-SLAB OPERATIONS. ((Reprinted from ANSI A10.9-1970-))

(This Appendix is mandatory.)
Section 11. Lift-Slab Operations.

11.1) (1) General. The safety requirements and recommendations in this section (11) apply specifically to lift-slab construction operations.

11.2) (2) Design and Planning. Lift-slab operations shall be designed and planned by a qualified professional engineer or architect. Such plans and designs shall include detailed instructions and sketches indicating the prescribed method of erection.

11.3) (3) Jacking Equipment.

11.3.1) (a) Jacking equipment shall not be loaded beyond its safe working capacity, and then threaded rods and other members that transmit loads to the jacks shall have a minimum safety factor of 2.5. Jacking equipment used in lift-slab operations shall meet the criteria in 11.3.1) (a) through 11.3.4) (d) of this subsection. (Note: ANSI has interpreted this provision to mean that the safety factor of 2.5 must be met for all jacking components such as jacks, threaded

rods, lifting nuts, lifting angles, as well as shearheads, columns and footings.)

11.3.2) (b) Jacks shall be so designed and installed so that they will not continue to lift when overloaded.

11.3.3) (c) Jacks shall be installed with a safety device which will enable them to continue to support the load in any position should the jack malfunction and lose its lifting ability.

11.3.4) (d) The maximum number of manually-controlled jacks on one slab shall be limited to 14, and in no event should the number be too great to permit the operator to maintain the slab level within specified tolerances.

11.4) (4) Uniform Lifting. Jacking operations shall be synchronized in such a manner as to insure even and uniform lifting of the slab. During lifting, all points of the slab support shall be kept within one-half inch of that needed to maintain the slab in a level position. If leveling is automatically controlled, a device shall be installed which will stop the operation when the one-half-inch tolerance is exceeded or when there is a malfunction in the jacking system. If level is maintained by manual controls, such controls shall be located in a central location and attended by a trained operator while lifting is in progress.

11.5) (5) Falling Hazard. No one shall be permitted under the slab during jacking operations. (Note: ANSI has interpreted this provision as follows: "No one is permitted in the building during jacking operations except those employees required for the jacking operation and to secure slabs.")

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-155-692 REQUIREMENTS FOR LIFT-SLAB OPERATIONS.

AMENDATORY SECTION (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

WAC 296-155-697 REQUIREMENTS FOR MASONRY CONSTRUCTION. (1) A limited access zone shall be established whenever a masonry wall is being constructed. The limited access zone shall conform to the following:

(2) The limited access zone shall be established prior to the start of construction of the wall.

(3) The limited access zone shall be equal to the height of the wall to be constructed plus four feet, and shall run the entire length of the wall.

(4) The limited access zone shall be established on the side of the wall which will be unscaffolded.

(5) The limited access zone shall be restricted to entry by employees actively engaged in constructing the wall. No other employees shall be permitted to enter the zone.

(6) The limited access zone shall remain in place until the wall is adequately supported to prevent overturning and to prevent collapse unless the height of wall is over eight feet, in which case, the limited access zone shall remain in place until the requirements of subsection 11.5) (7) of this section have been met.

(7) All masonry walls over eight feet in height shall be adequately braced to prevent overturning and to prevent collapse unless the wall is adequately supported so that it will not overturn or collapse. The bracing shall remain in place until permanent supporting elements of the structure are in place.

(8) Employees engaged in cutting or chipping shall wear suitable eye protection in accordance with WAC 296-155-215.

(9) Masonry saws shall be constructed, guarded and operated in accordance with ANSI A10.9-1983. Safety requirements for concrete construction and masonry work and in accordance with WAC 296-155-367.

(10) Persons charged with operation of derricks used for stone setting shall be qualified in that type of work.

(11) Stone shall be set directly on the wall by the derrick.

(12) Breast derricks when used in setting stone shall be secured against a slip or kick back and guyed with wire cables. Provide hold down line to prevent derrick from falling back.

(13) Stone cutters shall wear goggles while trimming stone or cutting holes.

(14) Pins shall be tested for security before stone is hoisted.

(15) Hoisting cables shall be protected from chafing and wearing over corners.

(16) Mason's mortar mixers shall have a bar-type grill installed over the mixer opening. The guard shall be installed with an automatic disconnect switch to stop the mixer tub rotation and prevent the mixer from starting whenever the guard is not in place.

Part Q

~~((Funnels and shafts, caissons, cofferdams, and compressed air))~~
Underground construction

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-725 DEFINITIONS APPLICABLE TO THIS PART. (1) "Acceptable" means any device, equipment, or appliance that is either approved by MSHA and maintained in permissible condition, or is listed or labeled for the class and location under Part I of this chapter.

(2) "Bulkhead" means an airtight structure separating the working chamber from free air or from another chamber under a lesser pressure than the working pressure.

~~((2))~~ (3) "Caisson" means a wood, steel, concrete or reinforced concrete, air- and water-tight chamber in which it is possible for persons to work under air pressure greater than atmospheric pressure to excavate material below water level.

~~((3))~~ (4) "Cofferdam" means a watertight barricade or enclosure erected, sunk, driven or otherwise fabricated to permit the performance of work where hydrostatic pressure exists.

~~((4))~~ (5) "Decanting" means a method used for decompressing under emergency circumstances. In this procedure, the employees are brought to atmospheric pressure with a very high gas tension in the tissues and then immediately recompressed in a second and separate chamber or lock.

~~((5))~~ (6) "Emergency locks" means a lock designed to hold and permit the quick passage of an entire shift of employees.

~~((6))~~ (7) "High air" means air pressure used to supply power to pneumatic tools and devices.

~~((7))~~ (8) "Low air" means air supplied to pressurize working chambers and locks.

~~((8))~~ (9) "Man lock" means a chamber through which persons pass from one air pressure environment into another.

~~((9))~~ (10) "Materials lock" means a chamber through which materials and equipment pass from one air pressure environment into another.

~~((10))~~ (11) "Medical lock" means a special chamber in which employees are treated for decompression illness. It may also be used in pre-employment physical examinations to determine the adaptability of the prospective employee to changes in pressure.

~~((11))~~ (12) "Rapid excavation machine" means tunnel boring machines, shields, roadheaders, or any other similar excavation machine.

(13) "Normal condition" means one during which exposure to compressed air is limited to a single continuous working period followed by a single decompression in any given 24-hour period; the total time of exposure to compressed air during the single continuous working period is not interrupted by exposure to normal atmospheric pressure, and a second exposure to compressed air does not occur until at least 12 consecutive hours of exposure to normal atmospheric pressure has elapsed since the employee has been under pressure.

~~((12))~~ (14) "Pressure" means a force acting on a unit area. Usually shown as pounds per square inch. (p.s.i.)

~~((13))~~ (15) "Absolute pressure" (p.s.i.a.) means the sum of the atmospheric pressure and gauge pressure (p.s.i.g.)

~~((14))~~ (16) "Atmospheric pressure" means the pressure of air at sea level, usually 14.7 p.s.i.a. (1 atmosphere), or 0 p.s.i.g.

~~((15))~~ (17) "Gauge pressure" (p.s.i.g.) means pressure measured by a gauge and indicating the pressure exceeding atmospheric.

~~((16))~~ (18) "Safety screen" means an air- and water-tight diaphragm placed across the upper part of a compressed air tunnel between the face and bulkhead, in order to prevent flooding the crown of the tunnel between the safety screen and the bulkhead, thus providing a safe means of refuge and exit from a flooding or flooded tunnel.

~~((17))~~ (19) "Special decompression chamber" means a chamber to provide greater comfort for employees when the total decompression time exceeds 75 minutes.

~~((18))~~ (20) "Working chamber" means the space or compartment under air pressure in which the work is being done.

~~((19))~~ (21) "C.F.R." means Code of Federal Regulations.

~~((20))~~ (22) "MSHA" means Mine Safety and Health Administration.

~~((21))~~ (23) "NIOSH" means National Institute for Occupational Safety and Health.

AMENDATORY SECTION (Amending Order 86-14, filed 1/21/86)

WAC 296-155-730 TUNNELS AND SHAFTS. ~~((1))~~ General: (a) The specific requirements of this Part Q, Tunnels, shafts, caissons, cofferdams, and compressed air, shall be met as well as the applicable provisions of all other parts of this chapter and chapter 296-36 WAC "Safety standards for compressed air work."

(b) Safe means of access shall be provided and maintained to all working places.

(c) When ladders and stairways are provided in shafts and steep inclines, they shall meet the requirements of Parts J and K of this chapter.

(d) Access to unattended underground openings shall be restricted by gates or doors. Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and posted. Conduits, trenches, and manholes shall meet the requirements of Parts K and N of this chapter.

(e) Subsidence areas that present hazards shall be fenced and posted.

(f) Each operation shall have a check-in and check-out system that will provide positive identification of every employee underground. An accurate record and location of the employees shall be kept on the surface.

(g) In tunnels (other than hard rock) timber sets, steel rings, steel frames, concrete liners or other engineered tunnel support systems shall be used. Every tunnel support system shall be designed by a licensed professional engineer. Design specifications shall be available at the worksite.

(2) Emergency provisions:

(a) Evacuation plans and procedures shall be developed and made known to the employees.

(b) Emergency hoisting facilities shall be readily available at shafts more than 50 feet in depth, unless hoisting facilities are provided that are independent of electrical power failures. A boatswain's chair shall meet the requirements of Part J of this chapter.

(c) MSHA-NIOSH approved self-rescuers shall be available near the advancing face to equip each face employee. Such equipment shall be on the haulage equipment and in other areas where employees might be trapped by smoke or gas, and shall be maintained in good condition.

(d) Telephone or other signal communication shall be provided between the work face and the tunnel portal, and such systems shall be independent of the tunnel power supply.

(3) Air quality and ventilation:

(a) Air quality and quantity shall be as established by chapter 296-62 WAC:

(i) Instruments shall be provided to test the atmosphere quantitatively for carbon monoxide, nitrogen dioxide, flammable or toxic gases, dusts, mists, and fumes that occur in the tunnel or shaft. Tests shall be conducted as frequently as necessary to assure that the required quality and quantity of air is maintained. A record of all tests shall be maintained and be kept available.

(ii) Field-type oxygen analyzers, or other suitable devices, shall be used to test for oxygen deficiency.

(iii) Respirators shall not be substituted for environmental control measures. However, where environmental controls have not yet been developed, or when necessary by the nature of the work involved (for example, welding, sand blasting, lead burning), an employee may work for short periods of time in concentrations of airborne contaminants which exceed the limit of permissible excursions referred to in items (iv) and (v) of this subdivision, if such employee wears a respiratory protective device approved by MSHA-NIOSH as protection against the particular hazards involved.

(iv) Exposure to airborne contaminants shall not exceed the levels established by chapter 296-62 WAC.

(v) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant which exceeds the threshold limit value listed for that contaminant.

(vi) Atmospheres in all active areas shall contain at least 20 percent oxygen.

(b) Ventilation:

(i) Tunnels shall be provided with mechanically induced primary ventilation in all work areas. The direction of airflow shall be reversible.

(ii) Ventilation doors, not operated mechanically, shall be designed and installed so that they are self-closing and will remain closed regardless of the direction of the air movement.

(iii) When there has been a failure of ventilation, and ventilation has been restored in a reasonable time, all places where flammable gas may have accumulated shall be examined by a competent person and determined to be free of flammable gas before power is restored and work resumed.

(iv) When the main fan or fans have been shut down with all employees out of the adit, tunnel or shaft, no employee, other than those qualified to examine the adit, tunnel or shaft, or other authorized employee, shall go underground until the fans have been started, the work areas examined for gas and other hazards, and declared safe.

(v) The supply of fresh air shall not be less than 200 cubic feet per minute for each employee underground. The linear velocity of the air flow in the tunnel bore shall not be less than 30 feet per minute in those tunnels where blasting or rock drilling is conducted or where there are other conditions that are likely to produce dusts, fumes, vapors, or gases in harmful quantities.

(vi) If 1.5 percent or higher concentration of flammable gas is detected in air returning from an underground working place or places, the employees shall be withdrawn and the power cut off to the portion of the area endangered by such flammable gas until the concentration of such gas is reduced to 1 percent or less.

(vii) Internal combustion engines other than mobile diesel shall not be used underground. Mobile diesel-powered equipment used underground shall be certified by the Bureau of Mines, U.S. Department of the Interior or the Mine Safety and Health Administration, United States Department of Labor according to their publications "Mechanical Equipment for Mines—Tests for Permissibility and Suitability," 30 C.F.R. Part 32, Mobile Diesel Power Equipment for Non-Coal Mines, July 1, 1983.²

(viii) Application shall be made to the mining section, division of industrial safety and health, Department of Labor and Industries, for permission to use specified diesel equipment in a specified underground area and shall include the following:

(A) The type of construction and complete identification data and specifications including analysis of the undiluted exhaust gases of the diesel equipment:

(B) The location where the diesel equipment is to be used:

(C) Before the diesel equipment is taken underground, written permission shall be obtained from the division of industrial safety and health or its duly authorized representative. A satisfactory test on surface, to show that the exhaust gases do not exceed the maximum percentage of carbon monoxide permitted, shall be required:

(D) Diesel equipment shall only be used underground where the ventilation is controlled by mechanical means and shall not be operated if the ventilating current is less than 75 CFM per horsepower based on the maximum brake horsepower of the engines:

(E) Air measurements shall be made at least once daily in the diesel engine working area and the measurements entered in the Underground Diesel Engine Record Book. Permissible maximum amounts of noxious gases are as follows:

At engine exhaust			
ports	Carbon Monoxide	.10%	1,000 ppm ^a
Next to equipment	Carbon Monoxide	.005%	50 ppm
General atmosphere	Carbon Monoxide	.005%	50 ppm
General atmosphere	Nitrogen Dioxide	.0003%	3 ppm
General atmosphere	Aldehydes	.0002%	2 ppm

^a Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm Hg. pressure.

(4) Illumination:

(a) Sufficient lighting shall be provided, in accordance with the requirements of Table B-3 of part B of this chapter, to permit safe operations at the face as well as in the general tunnel or shaft area and at the employees' workplace.

(5) Fire prevention and control:

(a) General:

(i) The requirements for fire prevention and protection specified in part B of this chapter shall be complied with in all tunnel and shaft operations:

(ii) Signs warning against smoking and open flames shall be posted so that they can be readily seen in areas or places where fire or explosion hazards exist:

(iii) The carrying of matches, lighters, or other flame-producing smoking materials shall be prohibited in all underground operations where fire or explosion hazards exist:

(iv) Not more than a 1 day's supply of diesel fuel shall be stored underground:

(v) Gasoline shall not be taken, stored, or used underground. Where oxygen and petroleum gases are used underground in tunnels and shafts for welding, cutting and heat-treating operations, all applicable ventilation standards shall be enforced to prevent the accumulation of flammable or hazardous gases. These ventilation standards are found in WAC 296-155-730(3) "Air quality and ventilation" and ANSI Z49.1-1967 "Safety in Welding and Cutting."

(vi) Oil, grease, or fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas, at safe distances from explosives magazines, electrical installations, and shaft stations:

(vii) Air that has passed through underground oil or fuel storage areas shall not be used to ventilate working areas:

(viii) Approved fire-resistant hydraulic fluids shall be used in powered hydraulically actuated underground machinery and equipment unless such equipment is protected by multipurpose fire extinguisher(s) at least 4A:40B:C, or by a fire suppression system, either of which shall be suitable for the type and size of hydraulic equipment involved:

(ix) Fires shall not be built underground:

(x) Noncombustible barriers shall be installed below welding or burning operations in or over a shaft or raise:

(xi) Fire extinguishers or equivalent protection shall be provided at the head and tail pulleys or underground belt conveyors and at 300-foot intervals along the belt line:

(xii) At tunnel operations, employing 25 or more employees at one time underground at least two rescue crews (10 employees divided between shifts) shall be trained annually in rescue procedures, in the use, care, and limitations of oxygen breathing apparatus, and the use and maintenance of firefighting equipment. Not less than one rescue crew (5 employees) shall be trained in smaller operations:

(6) Personal protective equipment. Protective clothing or equipment shall be worn as specified in parts B and C of this chapter:

(7) Noise:

(a) Permissible noise exposures shall conform to those specified in part B of this chapter:

(8) Ground support:

(a) Tunnel portal area. Portals shall be protected and supported where loose soil or rock or fractured material is encountered:

(b) Tunnel area:

(i) The employer shall examine and test the roof, face, and walls of the work area at the start of each shift and frequently thereafter:

(ii) Loose ground shall be taken down or supported. Ground conditions along haulage ways and travelways shall be examined periodically and sealed or supported as necessary:

(iii) Torque meters and torque wrenches shall be available at tunnels where rock bolts are used for ground support. Frequent tests shall be made to determine if bolts meet the required torque. The test frequency shall be determined by rock conditions and distance from vibration sources:

(iv) Damaged or dislodged tunnel supports, whether steel sets or timber, shall be repaired and replaced. New supports shall be installed whenever possible before removing the damaged supports:

(v) All sets, including horseshoe-shaped or arched rib steel sets, shall be designed and installed so that the bottoms will have required anchorage to prevent pressures from pushing them inward into the excavation. Lateral bracing shall be provided between sets to further stabilize the support:

(c) Shafts:

(i) Small diameter shafts, which employees are required to enter, shall be provided with a steel casing, concrete pipe, timber, or other material of required strength to support the surrounding earth:

(ii) The casing and bracing shall be provided the full depth of the shaft, or at least 5 feet into solid rock if possible, and shall extend at least 1 foot above ground level:

(iii) All wells or shafts over four feet in depth shall be retained with lagging, spiling, or casing:

(iv) In shafts, the employer shall inspect the walls, ladders, timbers, blocking, and wedges of the last set to determine if they have loosened following blasting operations. Where found unsafe, corrections shall be made before shift operations are started:

(v) Safety belts shall be worn on skips and platforms used in shafts by crews when the skip or cage does not occlude the opening to within 1 foot of the sides of the shaft, unless guardrails or cages are provided:

(9) Drilling:

(a) Equipment that is to be used during a shift shall be inspected each shift by a competent person. Equipment defects affecting safety shall be corrected before the equipment is used.

(b) The drilling area shall be inspected for hazards before starting the drilling operations.

(c) Employees shall not be allowed on a drill mast while the drill bit is in operation.

(d) When a drill is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured, and the mast placed in a safe position.

(e) Receptacles or racks shall be provided for drill steel stored on jumbos.

(f) Before drilling cycle is started, warning shall be given to persons working below jumbo decks.

(g) Drills on columns shall be anchored firmly before drilling is started and shall be retightened frequently thereafter.

(h) The employer shall provide mechanical means for lifting drills, roof bolts, mine straps, and other unwieldy heavy material to the top decks of jumbos over 10 feet in height.

(i) The employer shall provide stair access to jumbo decks wide enough to accommodate two persons if the deck is over 10 feet in height.

(j) On jumbo decks over 10 feet in height, guardrails which are removable (pipe in sockets with chain handrail), or equal, shall be provided on all sides and back platforms.

(k) Sealing bars shall be in good condition at all times, and blunted and severely worn bars shall not be used.

(l) When jumbos are being moved, riders will not be allowed on the jumbo unless they are assisting the driver.

(m) Before commencing the drill cycle, the face and lifters shall be examined for misfires (residual explosives) and, if found, they shall be removed before drilling commences at the face. Lifters shall not be drilled through blasted rock (muck) or water.

(n) Air lines that are buried in the invert shall be identified by signs, posted nearby, warning all personnel.

(10) Blasting. All blasting and explosives handling operations shall be conducted in compliance with chapter 296-52 WAC.

(11) Haulage:

(a) Equipment that is to be used during a shift shall be inspected by a competent person each shift. Equipment defects affecting safety shall be corrected before the equipment is used.

(b) Powered mobile equipment shall be provided with adequate brakes.

(c) Powered mobile haulage equipment shall be provided with audible warning devices. Lights shall be provided at both ends.

(d) Cab windows shall be of safety glass, or equivalent, in good condition, and shall be kept clean.

(e) Adequate backstops or brakes shall be installed on inclined conveyor drive units to prevent conveyors from running in reverse and creating a hazard to employees.

(f) No employee shall be permitted to ride a power-driven chain, belt, or bucket conveyor, unless the conveyor is specifically designed for transportation of employees.

(g) The employer shall not permit employees to ride in dippers, shovel buckets, forks, clamshells, or in the beds of dump trucks, or on haulage equipment not specifically designed or adapted for the transportation of employees.

(h) Electrically powered mobile equipment shall not be left unattended unless the master switch is in the off position, all operating controls are in the neutral position, and the brakes are set, or other equivalent precautions are taken against rolling.

(i) When dumping cars by hand, the car dumps shall be provided with tie-down or bumper blocks to prevent cars from over-turning.

(j) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices.

(k) Equipment which is to be hauled shall be so loaded and protected as to prevent sliding or spillage.

(l) Parked railcars shall be blocked securely.

(m) Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel and overturning at dumping locations.

(n) Where necessary, bumper blocks, or the equivalent, shall be provided at all track dead ends.

(o) Supplies, materials, and tools, other than small handtools, shall not be transported with employees in mantrip cars.

(12) Electrical equipment:

(a) Electrical equipment shall conform to the requirements of part 1 of this chapter.

(b) Powerlines shall be well separated or insulated from waterlines, telephone lines, and airlines.

(c) Oil-filled transformers shall not be used underground unless they are located in a fire-resistant enclosure and surrounded by a dike to contain the contents of the transformers in event of a rupture.

(13) Hoisting:

(a) Hoisting machines, either powered or hand operated, shall be worm-gear or powered both ways. The design must be such that when the power is stopped, the load cannot move.

(b) Controls for powered hoists shall be of the deadman type with a nonlocking switch or control.

(c) A device to shut off the power shall be installed ahead of the operating control.

(d) Hand-operated release mechanisms, which can permit the load to descend faster than the speed rating, shall not be used.

(e) Hoist machines with cast metal parts shall not be used.

(f) Every hoist shall be tested with twice the maximum load before being put into operation, and annually thereafter.

(g) All anchorages of hoists shall be inspected at the beginning of each shift.

(h) An enclosed covered metal cage shall be used to raise and lower persons in the shaft. The cage shall be designed with a safety factor of 4 and shall be load-tested prior to use. The exterior of the cage shall be free of projections or sharp corners. Only closed shackles shall be used in the cage rigging.

(i) If the cage is equipped with a door, a positive locking device shall be installed to prevent the door from opening accidentally while the cage is being lowered or raised while hoisting or lowering employees.)

(1) Scope and application.

(a) This section applies to the construction of underground tunnels, shafts, chambers, and passageways. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section, and covered in such a manner as to create conditions characteristic of underground construction.

(b) This section does not apply to excavation and trenching operations covered by part N of this chapter, such as foundation operations for above-ground structures that are not physically connected to underground construction operations, and surface excavation.

(c) The employer shall comply with the requirements of this part and chapter in addition to applicable requirements of chapter 296-36 WAC, Safety standards—Compressed air work.

(2) Access and egress.

(a) Each operation shall have a check-in/check-out system that will provide positive identification of every employee underground. An accurate record of identification and location of the employees shall be kept on the surface. This procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard, or structural failure within the facilities.

(b) The employer shall provide and maintain safe means of access and egress to all work stations.

(c) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains, and other mobile equipment.

(d) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and shall be posted with warning signs indicating "keep out" or similar language. Completed or unused sections of the underground facility shall be barricaded.

(3) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with underground construction activities including, where appropriate, the following subjects:

(a) Air monitoring;

(b) Ventilation;

(c) Confined space entry procedures;

(d) Illumination;

(e) Communications;

(f) Flood control;

(g) Mechanical equipment;

(h) Personal protective equipment;

(i) Explosives;

(j) Fire prevention and protection; and

(k) Emergency procedures, including evacuation plans and check-in/check-out systems.

(4) Notification.

(a) Oncoming shifts shall be informed of any hazardous occurrences or conditions that have affected, or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fire(s), or explosions.

(b) Information specified in (a) of this subsection shall be recorded in a shift journal which shall be current prior to the end of each shift, and shall be located above ground.

(c) Oncoming supervisory personnel shall read the notification prior to going underground, and shall signify their understanding of the contents by affixing their respective initials to the log.

(d) The hazard notification log shall be retained on the site until the completion of the project.

(e) The employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees underground.

(5) Communications.

(a) When natural unassisted voice communication is ineffective, a power-assisted means of voice communication shall be used to provide communication between the work face, the bottom of the shaft, and the surface.

(b) Two effective means of communication, at least one of which shall be voice communication, shall be provided in all shafts which are being developed or used either for personnel access or for hoisting. Additional requirements for hoist operator communication are contained in subsection (22)(c)(xv) of this section.

(c) Powered communication systems shall operate on an independent power supply, and shall be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(d) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary at later times, to ensure that they are in working order.

(e) Any employee working alone underground in a hazardous location, who is both out of the range of natural unassisted voice communication and not under observation by other persons, shall be provided with an effective means of obtaining assistance in an emergency.

(6) Emergency provisions. Hoisting capability. When a shaft is used as a means of egress, the employer shall make advance arrangements for power-assisted hoisting capability to be readily available in an emergency, unless the regular hoisting means can continue to function in the event of an electrical power failure at the jobsite. Such hoisting means shall be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.

(7) Self-rescuers. The employer shall provide self-rescuers having current approval from the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration to be immediately available to all employees at work stations in underground areas where employees might be trapped by smoke or gas. The selection, issuance, use, and care of respirators shall be in accordance with the requirements of WAC 296-62-071 through 296-62-07121.

(8) Designated person. At least one designated person shall be on duty above ground whenever any employee is working underground. This designated person shall be responsible for securing immediate aid and keeping an accurate record of the number, identification, and location of employees who are underground in case of emergency. The designated person must not be so busy with other responsibilities that the personnel counting and identification function is encumbered.

(9) Emergency lighting. Each employee underground shall have an acceptable portable hand lamp or cap lamp in his or her work area for emergency use, unless natural light or an emergency lighting system provides adequate illumination for escape.

(10) Rescue teams.

(a) On jobsites where 25 or more employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least two 5-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within 2 hours travel time.

(b) On jobsites where less than 25 employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least one 5-person rescue team to be either on the jobsite or within one-half hour travel time from the entry point.

(c) Rescue team members shall be qualified in rescue procedures, the use and limitations of breathing apparatus, and the use of fire-fighting equipment. Qualifications shall be reviewed not less than annually.

(d) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using pressure demand mode, self-contained breathing apparatuses monthly.

(e) The employer shall ensure that rescue teams are familiar with conditions at the jobsite.

(11) Hazardous classifications.

(a) Potentially gassy operations. Underground construction operations shall be classified as potentially gassy if either:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/-0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for more than a 24-hour period; or

(ii) The history of the geographical area or geological formation indicates that 10 percent or more of the lower explosive limit for methane or other flammable gases is likely to be encountered in such underground operations.

(b) Gassy operations. Underground construction operations shall be classified as gassy if:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/-0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for three consecutive days; or

(ii) There has been an ignition of methane or of other flammable gases emanating from the strata that indicates the presence of such gases; or

(iii) The underground construction operation is both connected to an underground work area which is currently classified as gassy and is also subject to a continuous course of air containing the flammable gas concentration.

(c) Declassification to potentially gassy operations. Underground construction gassy operations may be declassified to potentially gassy when air monitoring results remain under 10 percent of the lower explosive limit for methane or other flammable gases for three consecutive days.

(12) Gassy operations—Additional requirements. Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(a) Mobile diesel-powered equipment used in gassy operations shall be either approved in accordance with the requirements of 30 CFR Part 36 (formerly Schedule 31) by MSHA, or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that part.

(b) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(c) Smoking shall be prohibited in all gassy operations and the employer shall be responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons entering a gassy operation.

(d) A fire watch as described in WAC 296-155-410(5) shall be maintained when hot work is performed.

(e) Once an operation has met the criteria in subsection (11)(a)(i) of this section, warranting classification as gassy, all operations in the affected area, except the following, shall be discontinued until the operation either is in compliance with all of the gassy operation requirements or has been declassified in accordance with (c) of this subsection:

(i) Operations related to the control of the gas concentration;

(ii) Installation of new equipment, or conversion of existing equipment, to comply with this subsection; and

(iii) Installation of above-ground controls for reversing the air flow.

(13) Air quality and monitoring.

(a) General. Air quality limits and control requirements specified in chapter 296-62 WAC shall apply except as modified by this subsection.

(b) The employer shall assign a competent person who shall perform all air monitoring required by this section.

(c) Where this paragraph requires monitoring of airborne contaminants "as often as necessary," the competent person shall make a reasonable determination as to which substances to monitor and how frequently to monitor, considering at least the following factors:

(i) Location of jobsite: Proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;

(ii) Geology: Geological studies of the jobsite, particularly involving the soil type and its permeability;

(iii) History: Presence of air contaminants in nearby jobsites, changes in levels of substances monitored on the prior shift; and

(iv) Work practices and jobsite conditions: The use of diesel engines, use of explosives, use of fuel gas, volume and flow of ventilation, visible atmospheric conditions, decompression of the atmosphere, welding, cutting and hot work, and employees' physical reactions to working underground.

(d) The employer shall provide testing and monitoring instruments which are capable of achieving compliance with the provisions of this subsection, and:

(i) Shall maintain the testing and monitoring instruments in good condition;

(ii) Shall calibrate the instruments on a frequency not to exceed 6 months.

(e) Exposure to airborne contaminants shall not exceed the levels established by chapter 296-62 WAC.

(f) Respirators shall not be substituted for environmental control measures. However, where environmental controls have not yet been developed, or when necessary by the nature of the work involved (for example, welding, sand blasting, lead burning), an employee may work for short periods of time in concentrations of airborne contaminants which exceed the limit of permissible exposure referred to in (d) of this subsection, if the employee wears a respiratory protective device approved by MSHA-NIOSH as protection against the particular hazards involved, and the selection and use of respirators complies with the provisions of WAC 296-62-071 through 296-62-07121.

(g) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant which exceeds the permissible exposure limit listed for that contaminant, except as modified in (s)(i) of this subsection.

(h) The atmosphere in all underground work areas shall be tested as often as necessary to assure that the atmosphere at normal atmospheric pressure contains at least 19.5 percent oxygen and no more than 22 percent oxygen.

(i) Tests for oxygen content shall be made before tests for air contaminants.

(j) Field-type oxygen analyzers, or other suitable devices, shall be used to test for oxygen deficiency.

(k) The atmosphere in all underground work areas shall be tested quantitatively for carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dust, vapors, mists, and fumes as often as necessary to ensure that the permissible exposure limits prescribed in chapter 296-62 WAC, are not exceeded.

(l) The atmosphere in all underground work areas shall be tested quantitatively for methane and other flammable gases as often as necessary to determine:

(i) Whether action is to be taken under (q), (r), and (s) of this subsection; and

(ii) Whether an operation is to be classified potentially gassy or gassy under subsection (11) of this section.

(m) If diesel-engine or gasoline-engine driven ventilating fans or compressors are used, an initial test shall be made of the inlet air of the fan or compressor, with the engines operating, to ensure that the air supply is not contaminated by engine exhaust.

(n) Testing shall be performed as often as necessary to ensure that the ventilation requirements of subsection (15) of this section are met.

(o) When rapid excavation machines are used, a continuous flammable gas monitor shall be operated at the face with the sensor(s) placed as high and close to the front of the machine's cutter head as practicable.

(p) Whenever air monitoring indicates the presence of 5 ppm or more of hydrogen sulfide, a test shall be conducted in the affected underground work area(s), at least at the beginning and midpoint of each shift, until the concentration of hydrogen sulfide has been less than 5 ppm for 3 consecutive days.

(i) Whenever hydrogen sulfide is detected in an amount exceeding 10 ppm, a continuous sampling and indicating hydrogen sulfide monitor shall be used to monitor the affected work area.

(ii) Employees shall be informed when a concentration of 10 ppm hydrogen sulfide is exceeded.

(iii) The continuous sampling and indicating hydrogen sulfide monitor shall be designed, installed, and maintained to provide a visual and aural alarm when the hydrogen sulfide concentration reaches 20 ppm

to signal that additional measures, such as respirator use, increased ventilation, or evacuation, might be necessary to maintain hydrogen sulfide exposure below the permissible exposure limit.

(q) When the competent person determines, on the basis of air monitoring results or other information, that air contaminants may be present in sufficient quantity to be dangerous to life, the employer shall:

(i) Prominently post a notice at all entrances to the underground jobsite to inform all entrants of the hazardous condition; and

(ii) Immediately increase sampling frequency levels to insure workers are not exposed to identified contaminants in excess of the permissible exposure limit(s); and

(iii) Ensure that all necessary precautions are taken to comply with pertinent requirements of this section, and chapter 296-62 WAC.

(r) Whenever five percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return, steps shall be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below five percent of the lower explosive limit, but shall be reinstated whenever the five percent level is exceeded.

(s) Whenever 10 percent or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work shall be suspended until the concentration of such flammable gas is reduced to less than 10 percent of the lower explosive limit.

(t) Whenever 20 percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return:

(i) All employees, except those necessary to eliminate the hazard, shall be immediately withdrawn to a safe location above ground; and

(ii) Employees who remain underground to correct or eliminate the hazard described in (t) above shall be equipped with approved, pressure demand mode, self-contained breathing apparatus, and shall have received adequate training in the proper use of that equipment.

(iii) Electrical power, except for acceptable pumping and ventilation equipment, shall be cut off to the area endangered by the flammable gas until the concentration of such gas is reduced to less than 20 percent of the lower explosive limit.

(14) Additional monitoring for potentially gassy and gassy operations. Operations which meet the criteria for potentially gassy and gassy operations set forth in subsection (13) of this section shall be subject to the additional monitoring requirements of this subsection.

(a) A test for oxygen content shall be conducted in the affected underground work areas and work areas immediately adjacent to such areas at least at the beginning and midpoint of each shift.

(b) When using rapid excavation machines, continuous automatic flammable gas monitoring equipment shall be used to monitor the air at the heading, on the rib, and in the return air duct. The continuous monitor shall signal the heading, and shut down electric power in the affected underground work area, except for acceptable pumping and ventilation equipment, when 20 percent or more of the lower explosive limit for methane or other flammable gases is encountered.

(i) A manual flammable gas monitor shall be used as needed, but at least at the beginning and midpoint of each shift, to ensure that the limits prescribed in subsections (11) and (13) of this section are not exceeded. In addition, a manual electrical shut down control shall be provided near the heading.

(ii) Local gas tests shall be made prior to and continuously during any welding, cutting, or other hot work.

(iii) In underground operations driven by drill-and-blast methods, the air in the affected area shall be tested for flammable gas prior to re-entry after blasting, and continuously when employees are working underground.

(c) Recordkeeping. A record of all air quality tests shall be maintained above ground at the worksite and be made available to the director or his representatives upon request. The record shall include the location, date, time, substance and amount monitored. Records of exposures to toxic substances shall be retained in accordance with Part B, chapter 296-62 WAC. All other air quality test records shall be retained until completion of the project.

(15) Ventilation.

(a)(i) Fresh air shall be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors, or gases.

(ii) Mechanical ventilation shall be provided in all underground work areas except when the employer can demonstrate that natural ventilation provides the necessary air quality through sufficient air volume and air flow.

(b) A minimum of 200 cubic feet (5.7 m³) of fresh air per minute shall be supplied for each employee underground.

(c) The linear velocity of air flow in the tunnel bore, in shafts, and in all other underground work areas shall be at least 30 feet (9.15 m) per minute where blasting or rock drilling is conducted, or where other conditions likely to produce dust, fumes, mists, vapors, or gases in harmful or explosive quantities are present.

(d) The direction of mechanical air flow shall be reversible.

(e) Air that has passed through underground oil or fuel-storage areas shall not be used to ventilate working areas.

(f) Following blasting, ventilation systems shall exhaust smoke and fumes to the outside atmosphere before work is resumed in affected areas.

(g) Ventilation doors shall be designed and installed so that they remain closed when in use, regardless of the direction of the air flow.

(h) When ventilation has been reduced to the extent that hazardous levels of methane or flammable gas may have accumulated, a competent person shall test all affected areas after ventilation has been restored and shall determine whether the atmosphere is within flammable limits before any power, other than for acceptable equipment, is restored or work is resumed.

(i) Whenever the ventilation system has been shut down with all employees out of the underground area, only competent persons authorized to test for air contaminants shall be allowed underground until the ventilation has been restored and all affected areas have been tested for air contaminants and declared safe.

(j) When drilling rock or concrete, appropriate dust control measures shall be taken to maintain dust levels within limits set in WAC 296-155-160. Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors, and water mix spray systems.

(k)(i) Internal combustion engines, except diesel-powered engines on mobile equipment, are prohibited underground.

(ii) Mobile diesel-powered equipment used underground in atmospheres other than gassy operations shall be either approved by MSHA in accordance with the provisions of 30 CFR Part 32 (formerly Schedule 24), or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that Part. (Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m³) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air to ensure that the allowable levels of carbon monoxide, nitric oxide, and nitrogen dioxide are not exceeded.)

(iii) Application shall be made to the mining section, division of industrial safety and health, department of labor and industries, for permission to use specified diesel equipment in a specified underground area and shall include the following:

(A) The type of construction and complete identification data and specifications including analysis of the undiluted exhaust gases of the diesel equipment.

(B) The location where the diesel equipment is to be used.

(C) Before the diesel equipment is taken underground, written permission shall be obtained from the division of industrial safety and health or its duly authorized representative. A satisfactory test on surface, to show that the exhaust gases do not exceed the maximum percentage of carbon monoxide permitted, shall be required.

(D) Diesel equipment shall only be used underground where the ventilation is controlled by mechanical means and shall not be operated if the ventilating current is less than 100 CFM per horsepower based on the maximum brake horsepower of the engines.

(E) Air measurements shall be made at least once daily in the diesel engine working area and the measurements entered in the Underground Diesel Engine Record Book. Permissible maximum amounts of noxious gases are as follows:

At engine exhaust			
ports	Carbon Monoxide	.10%	1,000 ppm ³
Next to equipment	Carbon Monoxide	.005%	50 ppm
General atmosphere	Carbon Monoxide	.005%	50 ppm
General atmosphere	Nitrogen Dioxide	.0003%	3 ppm
General atmosphere	Aldehydes	.0002%	2 ppm

³Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm Hg. pressure.

(l) Potentially gassy or gassy operations shall have ventilation systems installed which shall:

(i) Be constructed of fire-resistant materials; and

(ii) Have acceptable electrical systems, including fan motors.

(m) Gassy operations shall be provided with controls located above ground for reversing the air flow of ventilation systems.

(n) In potentially gassy or gassy operations, wherever mine-type ventilation systems using an offset main fan installed on the surface are used, they shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway.

(16) Illumination.

(a) Sufficient lighting shall be provided, in accordance with the requirements of Table B-3 of Part B of this chapter, to permit safe operations at the face as well as in the general tunnel or shaft area and at the employees' workplace.

(b) Only acceptable portable lighting as defined in WAC 296-155-462(1) shall be used within 50 feet (15.24 m) of any underground heading during explosive handling.

(17) Fire prevention and control. Fire prevention and protection requirements applicable to underground construction operations are found in Part D of this chapter except as modified by the following additional standards.

(a) Open flames and fires are prohibited in all underground construction operations except as permitted for welding, cutting, and other hot work operations.

(i) Smoking may be allowed only in areas free of fire and explosion hazards.

(ii) Readily visible signs prohibiting smoking and open flames shall be posted in areas having fire or explosion hazards.

(iii) The carrying of matches, lighters, or other flame-producing smoking materials shall be prohibited in all underground operations where fire or explosion hazards exist.

(b) The employer may store underground no more than a 24-hour supply of diesel fuel for the underground equipment used at the worksite.

(c) The piping of diesel fuel from the surface to an underground location is permitted only if:

(i) Diesel fuel is contained at the surface in a tank whose maximum capacity is no more than the amount of fuel required to supply for a 24-hour period the equipment serviced by the underground fueling station; and

(ii) The surface tank is connected to the underground fueling station by an acceptable pipe or hose system that is controlled at the surface by a valve, and at the shaft bottom by a hose nozzle; and

(iii) The pipe is empty at all times except when transferring diesel fuel from the surface tank to a piece of equipment in use underground; and

(iv) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(d)(i) Gasoline shall not be carried, stored, or used underground.

(ii) Acetylene, liquefied petroleum gas, and Methylacetylene Propadiene Stabilized gas may be used underground only for welding, cutting and other hot work, and only in accordance with Part H of this chapter and subsections (13), (15), (17), and (18) of this section.

(e) Oil, grease, and diesel fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from underground explosive magazines, and at least 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas shall be positioned or diked so that the contents of ruptured or overturned containers will not flow from the storage area.

(f) Flammable or combustible materials shall not be stored above ground within 100 feet (30.48 m) of any access opening to any underground operation. Where this is not feasible because of space limitations at the jobsite, such materials may be located within the 100-foot limit, provided that:

(i) They are located as far as practicable from the opening; and

(ii) Either a fire-resistant barrier of not less than one-hour rating is placed between the stored material and the opening, or additional precautions are taken which will protect the materials from ignition sources.

(g) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multipurpose fire extinguisher(s) rated at a sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:40B:C.

(h)(i) Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.

(ii) Lighting fixtures in storage areas, or within 25 feet (7.62 m) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for Class I, Division 2 locations, in accordance with Part I of this chapter.

(i) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(j) A fire extinguisher of at least 4A:4OB:C rating or other equivalent extinguishing means shall be provided at the head pulley and at the tail pulley of underground belt conveyors, and at 300-foot intervals along the belt.

(k) Any structure located underground or within 100 feet (30.48 m) of an opening to the underground shall be constructed of material having a fire-resistance rating of at least one hour.

(18) Welding, cutting, and other hot work. In addition to the requirements of Part H of this chapter, the following requirements shall apply to underground welding, cutting, and other hot work.

(a) No more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(b) Noncombustible barriers shall be installed below welding, cutting, or other hot work being done in or over a shaft or raise.

(19) Ground support.

(a) In tunnels (other than hard rock) timber sets, steel rings, steel frames, concrete liners, or other engineered tunnel support systems shall be used. Every tunnel support system shall be designed by a licensed professional engineer. Design specifications shall be available at the worksite.

(b) Portal areas. Portal openings and access areas shall be guarded by shoring, fencing, head walls, shotcreting, or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas shall be scaled or otherwise secured to prevent loose soil, rock, or fractured materials from endangering the portal and access area.

(c) Subsidence areas. The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.

(d) Underground areas.

(i)(A) A competent person shall inspect the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Competent persons conducting such inspections shall be protected from loose ground by location, ground support, or equivalent means.

(ii) Ground conditions along haulageways and travelways shall be inspected as frequently as necessary to ensure safe passage.

(iii) Loose ground that might be hazardous to employees shall be taken down, scaled, or supported.

(iv) Torque meters and torque wrenches shall be available at tunnels where rock bolts are used for ground support. Frequent tests shall be made to determine if bolts meet the required torque. The test frequency shall be determined by rock conditions and distance from vibration sources.

(v)(A) Torque wrenches shall be used wherever bolts that depend on torsionally applied force are used for ground support.

(B) A competent person shall determine whether rock bolts meet the necessary torque, and shall determine the testing frequency in light of the bolt system, ground conditions, and the distance from vibration sources.

(vi) Suitable protection shall be provided for employees exposed to the hazard of loose ground while installing ground support systems.

(vii) Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) shall be provided between immediately adjacent sets to ensure added stability.

(viii) Damaged or dislodged ground supports that create a hazardous condition shall be promptly repaired or replaced. When replacing supports, the new supports shall be installed before the damaged supports are removed.

(ix) A shield or other type of support shall be used to maintain a safe travelway for employees working in dead-end areas ahead of any support replacement operation.

(e) Shafts.

(i) Shafts and wells over 4 feet (1.219 m) in depth that employees must enter shall be supported by a steel casing, concrete pipe, timber, solid rock, or other suitable material.

(ii)(A) The full depth of the shaft shall be supported by casing or bracing except where the shaft penetrates into solid rock having characteristics that will not change as a result of exposure. Where the shaft passes through earth into solid rock, or through solid rock into earth, and where there is potential for shear, the casing or bracing shall extend at least 5 feet (1.53 m) into the solid rock. When the shaft terminates in solid rock, the casing or bracing shall extend to the end of the shaft or 5 feet (1.53 m) into the solid rock, whichever is less.

(B) The casing or bracing shall extend 42 inches (1.07 m) plus or minus 3 inches (8 cm) above ground level, except that the minimum casing height may be reduced to 12 inches (0.3 m), provided that a standard railing is installed; that the ground adjacent to the top of the shaft is sloped away from the shaft collar to prevent entry of liquids; and that effective barriers are used to prevent mobile equipment operating near the shaft from jumping over the 12-inch (0.3 m) barrier.

(iii) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs shall be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

(f) Blasting. This subsection applies in addition to the requirements for blasting and explosives operations, including handling of misfires, which are found in chapter 296-52 WAC.

(i) Blasting wires shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(ii) Following blasting, an employee shall not enter a work area until the air quality meets the requirements of subsection (13) of this section.

(g) Drilling.

(i) A competent person shall inspect all drilling and associated equipment prior to each use. Equipment defects affecting safety shall be corrected before the equipment is used.

(ii) The drilling area shall be inspected for hazards before the drilling operation is started.

(iii) Employees shall not be allowed on a drill mast while the drill bit is in operation or the drill machine is being moved.

(iv) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast shall be placed in a safe position.

(v) Receptacles or racks shall be provided for storing drill steel located on jumbos.

(vi) Employees working below jumbo decks shall be warned whenever drilling is about to begin.

(vii) Drills on columns shall be anchored firmly before starting drilling, and shall be retightened as necessary thereafter.

(viii) The employer shall provide mechanical means on the top deck of a jumbo for lifting unwieldy or heavy material.

(ix) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall install stairs wide enough for two persons.

(x) Jumbo decks more than 10 feet (3.05 m) in height shall be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(xi) Only employees assisting the operator shall be allowed to ride on jumbos, unless the jumbo meets the requirements of subsection (20)(e) of this section.

(xii) Jumbos shall be chocked to prevent movement while employees are working on them.

(xiii) Walking and working surfaces of jumbos shall be maintained to prevent the hazards of slipping, tripping, and falling.

(xiv) Jumbo decks and stair treads shall be designed to be slip-resistant and secured to prevent accidental displacement.

(xv) Scaling bars shall be available at scaling operations and shall be maintained in good condition at all times. Blunted or severely worn bars shall not be used.

(xvi) Before commencing the drill cycle, the face and lifters shall be examined for misfires (residual explosives) and, if found, they shall be removed before drilling commences at the face. Lifters shall not be drilled through blasted rock (muck) or water.

(xvii) Employees in a shaft shall be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(xviii) A caution sign reading "buried line," or similar wording shall be posted where air lines are buried or otherwise hidden by water or debris.

(20) Haulage.

(a) A competent person shall inspect haulage equipment before each shift.

(i) Equipment defects affecting safety and health shall be corrected before the equipment is used.

(ii) Powered mobile haulage equipment shall be provided with adequate brakes.

(iii) Power mobile haulage equipment, including trains, shall have audible warning devices to warn employees to stay clear. The operator shall sound the warning device before moving the equipment and whenever necessary during travel.

(iv) The operator shall assure that lights which are visible to employees at both ends of any mobile equipment, including a train, are turned on whenever the equipment is operating.

(v) In those cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(b) Antirollback devices or brakes shall be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse. Employees shall not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the transportation of persons.

(c) Endless belt-type manlifts are prohibited in underground construction.

(d) General requirements also applicable to underground construction for use of conveyors in construction are found in WAC 296-155-545 (1) through (17).

(e) No employee shall ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces. Members of train crews may ride on a locomotive if it is equipped with handholds and nonslip steps or footboards. Requirements applicable to underground construction for motor vehicle transportation of employees are found in WAC 296-155-610.

(f) Conveyor lockout.

(i) Conveyors shall be deenergized and locked out with a padlock, at any time repair, maintenance, or clean-up work is being performed on the conveyor.

(ii) Tags or push button stops are not acceptable.

(iii) Persons shall not be allowed to walk on conveyors except for emergency purposes and then only after the conveyor has been deenergized and locked out in accordance with (f) above, and persons can do so safely.

(g) Powered mobile haulage equipment, including trains, shall not be left unattended unless the master switch or motor is turned off; operating controls are in neutral or park position; and the brakes are set, or equivalent precautions are taken to prevent rolling.

(h) Whenever rails serve as a return for a trolley circuit, both rails shall be bonded at every joint and crossbonded every 200 feet (60.96 m).

(i) When dumping cars by hand, the car dumps shall have tiedown chains, bumper blocks, or other locking or holding devices to prevent the cars from overturning.

(j) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices to prevent unintended dumping.

(k) Equipment to be hauled shall be loaded and secured to prevent sliding or dislodgement.

(l)(i) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work, and;

(ii) Employees shall not reach between moving cars during coupling operations.

(iii) Couplings shall not be aligned, shifted, or cleaned on moving cars or locomotives.

(iv) Safety chains or other connections shall be used in addition to couplers to connect man cars or powder cars whenever the locomotive is uphill of the cars.

(v) When the grade exceeds one percent and there is a potential for runaway cars, safety chains or other connections shall be used in addition to couplers to connect haulage cars or, as an alternative, the locomotive must be downhill of the train.

(vi) Such safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure or breakage.

(m) Parked rail equipment shall be chocked, blocked, or have brakes set to prevent inadvertent movement.

(n) Berms, bumper blocks, safety hooks, or equivalent means shall be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(o) Bumper blocks or equivalent stopping devices shall be provided at all track dead ends.

(p)(i) Only small handtools, lunch pails, or similar small items may be transported with employees in man cars, or on top of a locomotive.

(ii) When small hand tools or other small items are carried on top of a locomotive, the top shall be designed or modified to retain them while traveling.

(q)(i) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If personnel cars must be pushed and visibility of the track ahead is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

(ii) Crew trips shall consist of personnel loads only.

(21) Electrical safety. This paragraph applies in addition to the general requirements for electrical safety which are found in Part I of this chapter.

(a) Electric power lines shall be insulated or located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(b) Lighting circuits shall be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(c) Oil-filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in the event of rupture.

(22) Hoisting unique to underground construction except as modified by this section, the following provisions of chapter 296-155 WAC, Part L apply: Requirements for cranes are found in WAC 296-155-525. WAC 296-155-48533 contains rules applicable to crane hoisting of personnel, except, that the limitations imposed by WAC 296-155-48533(2) do not apply to the routine access of employees to the underground via a shaft. Requirements for personnel hoists, material hoists, and elevators are found in WAC 296-155-530 and in this subsection.

(a) General requirements for cranes and hoists.

(i) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

(ii) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances shall flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This paragraph does not apply to fully enclosed hoistways.

(iii) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held there until the signalman at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalman who is in constant voice communication with the operator.

(iv)(A) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(B) A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(v) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(vi) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(vii) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Only closed shackles shall be used for cage and skip rigging.

(viii) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(b) Additional requirements for cranes. Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(c) Additional requirements for hoists.

(i) Hoists shall be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Control levers shall be of the "deadman type" which return automatically to their center (neutral) position upon release.

(iii) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials shall be assigned to the equipment.

(iv) Hoist machines with cast metal parts shall not be used.

(v) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(vi) Employees shall not ride on top of any cage, skip, or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness system to prevent falling.

(vii) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(viii) Line speed shall not exceed the design limitations of the systems.

(ix) Hoists shall be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not satisfy this requirement.

(x) Whenever glazing is used in the hoist house, it shall be safety glass, or its equivalent, and be free of distortions and obstructions.

(xi) A fire extinguisher that is rated at least 2A:10B:C (multipurpose, dry chemical) shall be mounted in each hoist house.

(xii) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cut-off without having to reach beyond the operator's normal operating position.

(xiii) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(xiv) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(xv) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station, with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(xvi) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(xvii) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail-guided to within a rail length from the sinking operation.

(xviii) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(xix) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to WAC 296-155-530(3)(r)(i), (ii), and (iii) for design factors for wire rope used in personnel hoists. The design factors shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(xx) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(xxi) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(xxii) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity: At the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(xxiii) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(xiv) Unsafe conditions shall be corrected before using the equipment.

(d) Additional requirements for personnel hoists.

(i) Hoist drum systems shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this subsection.

(ii) The operator shall remain within sight and sound of the signals at the operator's station.

(iii) All sides of personnel cages shall be enclosed by one-half inch (12.70 mm) wire mesh (not less than No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(iv) All personnel cages shall be provided with a positive locking door that does not open outward.

(v) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 3/16 -inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(vi) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches, or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(vii) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(viii) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(ix) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in complete shafts.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-306-060 PERSONAL PROTECTIVE EQUIPMENT. (1) Employers shall make certain that employees are protected from injury or impairment of any bodily function that might occur through absorption, inhalation or physical contact of any substance, vapor, radiation or mechanical irritant. Adequate protective equipment for eyes, face, head and extremities, protective clothing, respiratory devices, shields and barriers shall be provided by the employer at no cost to the employee and used wherever appropriate. Such equipment shall be maintained in sanitary and reliable condition.

(2) If employees provide their own protective equipment, the employer shall ((require)) be responsible that such equipment be adequate, and properly maintained and sanitary.

(3) Every item of personal protective equipment shall be designed and constructed in such a way that it will be safe to use for the work being done, and reasonably comfortable to wear.

(4) Eye protectors shall be required wherever workers are exposed to flying objects, welding or cutting glare, injurious liquids, injurious radiation or any combination of these. Eye protectors shall meet the criteria of the American National Standard for Occupational and Educational Eye and Face Protection.

(5) The respiratory protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

(6) Employers shall instruct each employee in the proper use of any item of personal protective equipment used. Such instruction shall include, but not be limited to, any special limitations or precautions indicated by the manufacturer.

(7) At least five gallons of water shall be supplied for emergency while using pesticides or herbicides.

NEW SECTION

WAC 296-24-102 SCOPE AND APPLICATION. Application of this section is limited to retail establishments operating between the hours of 11:00 p.m. and 6:00 a.m. with the exception of restaurants, hotels, taverns, or any lodging facility.

NEW SECTION

WAC 296-24-10203 GENERAL REQUIREMENTS. (1) All employers operating late night retail establishments shall provide crime prevention training to their employees.

(2) Crime prevention training shall be a part of the accident prevention program requirements imposed pursuant to WAC 296-24-040.

(3) The employer shall provide training to ensure that the purpose and function of robbery and violence prevention are understood by employees and that the knowledge and skills required for their safety have been provided. The employer shall:

(a) Provide training and training materials that outline security policies, safety and security procedures, and personal safety and crime avoidance techniques.

(b) Provide formal instruction through a training seminar or training video presentation and upon completion require the employee to sign off on the date, time, and place of training. The training documentation will be placed in the employee's personnel file. The following elements shall be included in the crime prevention training program:

(i) An explanation of the importance of keeping the store clean, neat, and uncluttered thereby making it as unattractive as possible to robbers.

(ii) Provide explanation of the purpose of maintaining an unobstructed view of the cash register from outside the store, provided the cash register is located in a position visible from the street.

(iii) Provide instruction on reasons for operating only minimum number of cash registers at night.

(iv) Keeping the cash register fund to a minimum.

(v) Taking extra precautions after dark, i.e., keep alert, observe lighting and dark corners, spot possible hiding places.

(vi) Violence prevention procedures in case of robbery.

(vii) Effective use of posters, signs, and symbols to designate specific hazard to be avoided that failure to recognize may lead to an accidental injury or additional danger to workers.

(viii) Provide a refresher course on crime prevention on or near the employee's anniversary date. Videotape and crime prevention material shall be available for employee's review at their request.

(4) In addition to providing crime prevention training as defined in this section, all employers operating late night retail establishments shall:

(a) Post a conspicuous sign in the window or door which states that there is a safe on the premises and it is not accessible to the employees on the premises and that the cash register contains only the minimal amount of cash needed to conduct business: No employer shall be subject to citation and penalty for having moneys in the cash register in excess of the minimal amount needed to conduct business.

(b) All displays, and any other material posted in window(s) or door(s) should be arranged so as to provide a clear and unobstructed view of the cash register; provided the cash register is located in such a position so as to be visible from the street.

(c) Have a drop-safe, limited access safe, or comparable device on the premises.

(d) Operate the outside lights for that portion of the approach and parking area that is necessary to accommodate customers during all night hours the late night retail establishment is open. This may be accomplished through:

(i) Surveillance lighting - to detect and observe pedestrian and vehicular entrances.

(ii) Providing adequate illuminances - adequate illuminance throughout the pedestrian and vehicular entrance areas should be a minimum of one foot candle to comply with ANSI/IES RP7-1983.

Purpose: To implement 1989 amendments to RCW 49.46.130.

Statutory Authority for Adoption: RCW 43.22.270, 49.46.130 and chapter 104, Laws of 1989.

Pursuant to notice filed as WSR 89-15-060 on July 19, 1989; and WSR 89-20-040 on October 2, 1989.

Changes Other than Editing from Proposed to Adopted Version: Instead of requiring that the employer and employee agree upon a compensation scheme other than pay on an hourly basis, the permanent rule requires only that the base rate of pay, upon which overtime is calculated, be established in advance of the work performed. The permanent rule clarifies that the department may require an employer to substantiate its use of a compensation scheme other than payment on an hourly basis. The permanent rule also clarifies that the formula contained in rule is recommended, not mandated. The permanent rule increases the flexibility and accountability required of an alternative compensation scheme. A formula should reflect the actual work done over a representative time period within the past two years.

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Joseph A. Dear

Director

NEW SECTION

WAC 296-128-011 SPECIAL RECORDKEEPING REQUIREMENTS. (1) In addition to the records required by WAC 296-128-010, employers who employ individuals as truck or bus drivers subject to the provisions of the Federal Motor Carrier Act shall maintain records indicating the base rate of pay, the overtime rate of pay, the hours worked by each employee for each type of work, and the formulas and projected work hours used to substantiate any deviation from payment on an hourly basis pursuant to WAC 296-128-012. The records shall indicate the period of time for which the base rate of pay and the overtime rate of pay are in effect.

For the purposes of this section and WAC 296-128-012, "base rate of pay" means the amount of compensation paid per hour or per unit of work in a workweek of forty hours or less. A base rate of pay shall be established in advance of the work performed and may be based on hours or work units such as mileage, performance of specified duties, or a specified percentage of the gross proceeds charged for specified work. A base rate of pay shall not be established that will result in compensation at less than the minimum wage prescribed in RCW 49.46.020. "Overtime rate of pay" means the amount of compensation paid for hours worked within the state of Washington in excess of forty hours per week and shall be at least one and one-half times the base rate of pay.

(2) The records required by this section shall be made available by the employer at the request of the department. Any current or past employee may obtain copies of the formula, the base rate of pay, the overtime rate of pay, and that employee's records. Job applicants seeking employment by the employer as truck or bus drivers subject to the provisions of the Federal Motor Carrier

WSR 89-22-120

PERMANENT RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed November 1, 1989, 2:48 p.m.]

Date of Adoption: November 1, 1989.

Act, may obtain copies of the formula, the base rate of pay, and the overtime rate of pay.

NEW SECTION

WAC 296-128-012 OVERTIME FOR TRUCK AND BUS DRIVERS. (1)(a) The compensation system under which a truck or bus driver subject to the provisions of the Federal Motor Carrier Act is paid shall include overtime pay at least reasonably equivalent to that required by RCW 49.46.130 for working within the state of Washington in excess of forty hours a week. To meet this requirement, an employer may, with notice to a truck or bus driver subject to the provisions of the Federal Motor Carrier Act, establish a rate of pay that is not on an hourly basis and that includes in the rate of pay compensation for overtime. An employer shall substantiate any deviation from payment on an hourly basis to the satisfaction of the department by using the following formula or an alternative formula that, at a minimum, compensates hours worked within the state of Washington in excess of forty hours per week at an overtime rate of pay and distributes the projected overtime pay over the average number of hours projected to be worked. The following formula is recommended for establishing a uniform rate of pay to compensate work that is not paid on an hourly basis and for which compensation for overtime is included:

1. Define work unit first. E.g., miles, loading, unloading, other.
2. Average number of work units = Average number of work units accomplished per week

 per hour Average number of hours projected to be worked per week
3. Weekly Base Rate = Number of units per hour x 40 hours x base rate of pay
4. Weekly Overtime rate = Number of units per hour x number of hours over 40 x overtime rate of pay
5. Total weekly pay = Weekly base rate plus weekly overtime rate
6. Uniform rate of pay = Total weekly pay

 Total work units

Example: A truck driver is paid on a mileage basis for a two hundred thirty mile trip performed about ten times a week. The base rate of pay is twenty cents a mile. The overtime rate of pay is thirty cents a mile. The average length of the trip is four and one-half hours.

1. 2300 mi. divided by 45 hours = 51.1 miles
 per week per week per hour
2. (a) 51.1 miles/hour times 40 hours times .20/ mile = \$408.80
 (b) 51.1 miles/hour times 5 hours = 255.5 miles
 (c) 255.5 miles times .30/mile = \$76.65
 (d) \$408.80 plus \$76.65 = \$485.45 divided by 2300 miles = 21.1 cents mile

(b) In using a formula to determine a rate of pay, the average number of hours projected to be worked and the average number of work units accomplished per week shall reflect the actual number of hours worked and work units projected to be accomplished by persons performing the same type of work over a representative

time period within the past two years consisting of at least twenty-six consecutive weeks.

(c) The department may evaluate alternative rates of pay and formulas used by employers in order to determine whether the rates of pay established under this section result in the driver receiving compensation reasonably equivalent to one and one-half times the base rate of pay for actual hours worked within the state of Washington in excess of forty hours per week.

(2) Where an employee receives a different base rate of pay depending on the type of work performed, the rate that is paid or used for hours worked within the state of Washington in excess of forty hours per week shall be at least the overtime rate of pay for the type of work in which most hours were worked.

WSR 89-22-121

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed November 1, 1989, 2:50 p.m.]

Original Notice.

Title of Rule: WAC 251-06-070 Allocation appeal—Higher Education Personnel Board.

Purpose: To specify when an employee may file a written allocation appeal with the board.

Statutory Authority for Adoption: RCW 28B.16.100.
 Statute Being Implemented: Chapter 28B.16 RCW.

Summary: The modification will correct an erroneous rule cross reference.

Reasons Supporting Proposal: To make the rule correct.

Name of Agency Personnel Responsible for Drafting: Pam Andersen, 1202 Black Lake Boulevard, FT-11, Olympia, 98504, 753-3731; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, 98504, 753-3730.

Name of Proponent: Higher Education Personnel Board staff, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 251-06-070 addresses allocation appeals which may be filed by an employee. In subsection (a), a reference is made to another section of Title 251 WAC; however, a typographical error years ago caused the reference to be to Title 250 WAC. This modification will correct the error so that the rule reference is correct and will not cause confusion.

Proposal Changes the Following Existing Rules: It makes the rule reference in WAC 251-06-070 [(1)](a) to correct.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Board Room, South Seattle Community College, Seattle, Washington, on December 7, 1989, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by December 7, 1989.

Date of Intended Adoption: December 7, 1989.

October 27, 1989

John A. Spitz
Director

AMENDATORY SECTION (Amending Order 93, filed 2/3/82)

WAC 251-06-070 ALLOCATION APPEAL—HIGHER EDUCATION PERSONNEL BOARD. (1) The employee or employee representative may file a written appeal with the board under provisions of WAC 251-06-050 or 251-06-060 when:

(a) The response required in WAC ((250-06-060(2))) 251-06-060(2) is not issued to the employee or employee representative within the required sixty calendar day period following receipt of the employee request; or

(b) The response fails to address the specific reason(s) that the request was not approved; or

(c) The employee disagrees with the results of a position review conducted by the personnel officer. The written appeal should include information which will assist the board in determining the proper allocation of the position.

(2) Allocation appeals will be processed under the procedure provided in WAC 251-12-075 (1) or (2).

WSR 89-22-122

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed November 1, 1989, 2:52 p.m.]

Original Notice.

Title of Rule: WAC 251-08-130 Salary—Part time; 251-09-010 Hours of work—General; 251-09-040 Shift differential; 251-09-085 Pro rata pay; 251-09-090 Special pay—Purpose; 251-09-092 Special pay—Categories; and 251-09-094 Special pay—Requirements.

Purpose: To specify the use and implementation of special pay and pro rata pay.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: Chapter 28B.16 RCW.

Summary: Proposed modifications specify the requirements for implementation of pro rata pay and use of special pay for employees in the HEPB system.

Reasons Supporting Proposal: The HEPB board requested modifications to clarify when these two separate pay categories may be used.

Name of Agency Personnel Responsible for Drafting: Jamie McNamara, 1202 Black Lake Boulevard, FT-11, Olympia, WA, 753-5881; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, WA, 753-3730.

Name of Proponent: Higher Education Personnel Board staff, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Establish special pay and pro rata pay and set forth categories and requirements. The purpose of pro rata pay is to ensure that employees are fully compensated for the work they perform. The purpose of special pay is to alleviate recruitment and retention problems. Reference to WAC 251-09-090 is added to other rules in the package.

Proposal Changes the Following Existing Rules: WAC 251-08-130, 251-09-010 and 251-09-040,

change allows special pay to supersede the rule; WAC 251-09-085, new; and WAC 251-09-090, 251-09-092 and 251-09-094, expands existing rule, includes more information about categories of special pay and identifies requirements.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Board Room, South Seattle Community College, Seattle, Washington, on December 7, 1989, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by December 7, 1989.

Date of Intended Adoption: December 7, 1989.

October 30, 1989

John A. Spitz
Director

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

WAC 251-08-130 SALARY—PART TIME. Part-time employment shall be compensated on the same pro rata basis as the appointment bears to a full-time appointment unless otherwise adjusted per WAC 251-09-090.

AMENDATORY SECTION (Amending Order 62, filed 8/30/77, effective 10/1/77)

WAC 251-09-010 HOURS OF WORK—GENERAL. (1) Hours of work for classified employees of the higher education institutions are to be established by the employing official.

(2) Nothing in these rules shall preclude the assignment of overtime outside of normally scheduled shifts. Overtime worked is compensated per WAC 251-09-030 unless otherwise adjusted per WAC 251-09-090.

AMENDATORY SECTION (Amending Order 129, filed 6/28/85, effective 7/28/85)

WAC 251-09-040 SHIFT DIFFERENTIAL. (1) Shift differential for employees assigned to a shift in which a majority of time worked daily or weekly is between 5:00 p.m. and 7:00 a.m. shall be \$.50 per hour or \$87.00 per month unless otherwise adjusted per WAC 251-09-090.

(2) Shift differential shall be paid for the entire daily or weekly shift which qualifies under subsection (1) of this section. Shift differential may also be computed and paid at the above monthly rate for employees permanently assigned to a qualifying afternoon or night shift.

(3) An employee assigned to a shift that qualifies for shift differential pay shall receive the same shift differential for authorized periods of paid leave.

(4) When an employee is regularly assigned to an afternoon or evening shift that qualifies for shift differential, he/she shall continue to receive the same shift differential during temporary assignment, not to exceed five working days, to a shift that does not qualify for shift differential.

(5) Shift differential shall not apply to police and fire officers where salaries are correlated with a rotating shift in accordance with local prevailing rate practice.

NEW SECTION

WAC 251-09-085 PRO RATA PAY. (1) The personnel officer shall compensate a position on a pro rata basis when a significant portion of an employee's time is spent performing work in two separate classes, provided:

- (a) The classes involved are unrelated and at different salary ranges;
- (b) More than twenty percent and less than fifty percent of the employee's time is spent performing duties in the higher-level class;
- (c) The work configuration is required on a continuing basis;
- (d) Duties from both classes have been formally assigned or have been performed for a period longer than six months;

(2) The personnel officer shall provide the employee with written notification of pro rata compensation. Information to be provided the employee shall include:

- (a) Effective date;
 - (b) Institution pro rata position number;
 - (c) Class code and title of the class to which the position is allocated;
 - (d) Class code and title of the class from which the higher-level duties are being performed;
 - (e) Percentage of time performing duties outside of the allocated class;
 - (f) Dollar amount of the pro rata compensation including explanation of how the amount was calculated.
- (3) The director shall receive a copy of documentation informing employees of pro rata compensation.
- (4) Pro rata pay shall remain in effect as long as the work configuration remains unchanged and shall be adjusted if the work configuration changes.
- (5) For purposes of layoff, positions receiving pro rata pay will be considered to occupy the lower-level class on a full-time basis.

AMENDATORY SECTION (Amending Order 108, filed 9/23/83, effective 10/24/83)

WAC 251-09-090 SPECIAL PAY—PURPOSE. ~~((The board or the director may approve special pay due to unique working conditions, employment problems such as recruitment and/or retention, or when special use requirements are necessary to maintain effective operation of the institution.))~~

(1) The board or the director may adopt special pay salaries and/or compensation practices which are locally competitive to alleviate or prevent recruitment and/or retention problems, to maintain effective operations of an institution, or to address other unique working conditions.

(2) Actions approved by the director are subject to confirmation by the board.

(3) Requests may be initiated by institutions, employees or employee representatives.

(4) Except when the Board specifies otherwise, special pay ranges will remain in effect until the system-wide pay range for the class equals or exceeds the special pay range.

NEW SECTION

WAC 251-09-092 SPECIAL PAY—CATEGORIES. Special pay requests may be made under one or more of the following categories:

- (1) When a unique configuration of work requires skills, duties or working conditions beyond those typically required of comparable positions;
- (2) To alleviate employment problems such as recruitment and/or retention;
- (3) When failure to grant special pay could result in retention problems which would seriously jeopardize the effective operation of the institution; or
- (4) To prevent salary inversion or compression problems with other classes which have been granted special pay.

NEW SECTION

WAC 251-09-094 SPECIAL PAY—REQUIREMENTS. (1) It is the responsibility of the requesting party to provide board staff with information necessary to make recommendation to the board. Information to be provided shall include:

- (a) Data supporting the pay practice in the locality of the institution for which the request is being made; and
 - (b) Rationale supporting the request; and
 - (c) When applicable, data showing recruitment/retention difficulty.
- (2) Adoption of special pay shall be subject to approval as to availability of funds by the director of the office of financial management after consultation with the chief financial officer of the involved institution.

WSR 89-22-123

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed November 1, 1989, 2:54 p.m.]

Original Notice.

Title of Rule: WAC 251-23-020 Affirmative action plans—Requirements—Approval.

Purpose: To specify development and implementation of affirmative action plans and stipulate compliance with state and federal laws and requirement for approval.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: RCW 28B.16.100(22).

Summary: Modification deletes requirement for approval of affirmative action plans by the executive secretary of the Human Rights Commission.

Reasons Supporting Proposal: This requirement is not a statutory requirement. The modification is being proposed at the request of the Human Rights Commission chairman.

Name of Agency Personnel Responsible for Drafting: Carlton Peak, 1202 Black Lake Boulevard, FT-11, Olympia, 98504, 753-3923; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, 98504, 753-3730.

Name of Proponent: Higher Education Personnel Board staff, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Rule currently specifies that the Human Rights Commission will review all affirmative action plans prepared by institutions of higher education. The Human Rights Commission has determined their staff will no longer be able to routinely accomplish this role and requested that our rules be amended to reflect this change. This change in practice will not affect enforcement activities as provided by chapter 49.74 RCW; also, the authority to develop rules regarding the development and implementation of affirmative action plans prepared by such institutions rests with our agency. Human Rights Commission's participation in the review process is not a statutory requirement.

Proposal Changes the Following Existing Rules: Yes.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Board Room, South Seattle Community College, Seattle, Washington, on December 7, 1989, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by December 7, 1989.

Date of Intended Adoption: December 7, 1989.

October 30, 1989

John A. Spitz

Director

AMENDATORY SECTION (Amending Order 145, filed 2/28/86, effective 4/1/86)

WAC 251-23-020 AFFIRMATIVE ACTION PLANS—REQUIREMENTS—APPROVAL. (1) Each higher education institution/related board shall be required to develop and implement both an

equal employment opportunity/affirmative action policy statement and an affirmative action plan.

(2) Equal employment opportunity/affirmative action policy statements and affirmative action plans shall comply with applicable state and federal laws, regulations, and guidelines, and shall require the approval of the director of the higher education personnel board (~~and the executive secretary of the human rights commission~~) or ~~((their))~~ designee(s).

WSR 89-22-124
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—November 1, 1989]

There is a revision in the time of the special commission meeting to be held on November 15, 1989, at the Evergreen Plaza Building, Second Floor Conference Room, 711 South Capitol Way, Olympia. The meeting will begin at 2:00 p.m. instead of 1:00 p.m. and will still be held in executive session to interview finalists for the position of executive secretary of the Washington State Human Rights Commission.

WSR 89-22-125
PROPOSED RULES
MARINE EMPLOYEES' COMMISSION
[Filed November 1, 1989, 3:08 p.m.]

Original Notice.

Title of Rule: Chapter 316-65 WAC, Marine employees' grievance arbitration rules. Chapter 316-65 WAC governs proceedings before the Marine Employees' Commission relating to arbitration of grievance disputes arising out of alleged violation of rights granted by rule, statute, or collective bargaining agreement.

Purpose: RCW 47.64.120 and 47.64.150 provide for grievance procedures in general terms. Chapter 316-65 WAC provides the specific procedures, including adjudication of disputes for investigation and correction of said grievances.

Statutory Authority for Adoption: RCW 47.64.280.

Statute Being Implemented: RCW 34.05.250, 47.64.120 and [47.64].150.

Summary: Chapter 316-65 WAC is being readopted and/or amended to comply with RCW 34.05.250. Each section is harmonious with the model rules of procedure except those sections specifically listed in WAC 316-65-001 as being excepted or supplanted.

Reasons Supporting Proposal: RCW 34.05.010 exempts labor relations type agencies from the adjudicatory parts of the APA. However, most of the rules are harmonious with the APA and model rules.

Name of Agency Personnel Responsible for Drafting: Louis O. Stewart, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 586-6354. Implementation and Enforcement: Janis Lien, Evergreen Plaza Building, Mailstop FJ-11, Olympia, 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above; no fiscal impact.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal is basically a readoption of chapter 316-65 WAC in accordance with RCW 34.05.250. The rule provides a procedure, including adjudication of disputes, for investigating allegations of injury, injustice or violation of rights granted by collective bargaining agreements between Washington state ferry system management and the various organizations representing ferry employees.

Proposal Changes the Following Existing Rules: As stated above, this proposal is basically a readoption of rules filed in 1984, but some clarification and "house-keeping" amendments are included. Although WAC 316-65-001 lists several model rules of procedure, chapter 10-08 WAC, as being supplanted, the indicated rules in chapter 316-65 WAC are simply more specific and apply more directly to employees' grievance arbitration cases. We believe there is no conflict with the model rules in this chapter.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: "Spike" Eikum Conference Room, Washington State Ferries Building, Colman Dock, Pier 52, Seattle, Washington, on December 5, 1989, at 9:00 a.m.

Submit Written Comments to: Louis O. Stewart, Marine Employees' Commission, Mailstop FJ-11, Olympia, Washington 98504, by December 1, 1989.

Date of Intended Adoption: December 5, 1989.

October 1, 1989
Louis O. Stewart
Commissioner
Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-45 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 316-65-050;

(b) WAC 10-08-211, which is supplanted by WAC 316-65-550 and 316-65-555; and

(c) WAC 10-08-230, which is supplanted by WAC 316-65-515.

(2) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

((2)) (3) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

((3)) (4) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

((4)) (5) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

~~((5))~~ (6) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining.

~~((6))~~ (7) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(8) Chapter 316-85 WAC, which contains rules relating to surveys of compensation, benefits, and conditions of employment required by chapter 47.64 RCW.

NEW SECTION

WAC 316-65-005 GRIEVANCE DEFINED. "Grievance" means a formal statement alleging injury, injustice, or violation of rights granted by rule, statute, or collective bargaining agreement: PROVIDED, That any alleged violations enumerated in RCW 47.64.130 shall be termed "unfair labor practices" and shall be processed under chapter 316-45 WAC.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-010 GRIEVANCE (~~ARBITRATION~~)—WHO MAY FILE. (~~Where there is an agreement to arbitrate, a request for appointment of an arbitrator to hear and determine issues arising out of the interpretation or application of a collective bargaining agreement~~) A statement of grievance may be filed by the department of transportation, an exclusive representative of employees or their agents, an employee, or by the parties jointly (~~PROVIDED, That invoking arbitration shall be only with the approval of the employee or organization~~), in accordance with chapter 47.64 RCW.

NEW SECTION

WAC 316-65-020 GRIEVANCES—ARBITRATION REQUEST—LIMITATIONS. Unless another purpose is stated by the party filing a statement of grievance, it shall be construed as a request for grievance arbitration by the commission in accordance with RCW 47.64.150. The commission shall consider such a request for arbitration valid only after any applicable dispute remedies in the pertinent collective bargaining agreement have been exhausted, and within the time limits specified in such agreement. If the collective bargaining agreement does not contain a remedial procedure for disputes, or upon showing good cause for not exhausting prearbitration remedies, a party may file the original request for arbitration directly with the commission. Unless otherwise specified in the agreement, a request for grievance arbitration must be filed not more than ninety days after the party filing such grievance knew or should have known of the alleged injury, injustice, or violation.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-030 GRIEVANCE ARBITRATION—FILING—SERVICE. Each grievance arbitration request (~~for appointment of a grievance arbitrator~~) shall be on a form furnished by the commission or shall be prepared by the party or parties filing the request in conformance with WAC 316-65-050. The original request shall be filed with the commission at its Olympia office. If the request is not filed jointly, the party filing the request shall serve a copy on the other party (respondent) to the collective bargaining agreement under which the dispute arises in accordance with WAC 316-02-150.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-050 GRIEVANCE ARBITRATION—CONTENTS OF REQUEST. Each grievance arbitration request (~~for appointment of a grievance arbitrator~~) shall contain:

(1) The name, address and telephone number of the department and the name, address and telephone number of the department's principal representative for the purposes of collective bargaining.

(2) The name, address and telephone number of the exclusive employee representative and the name, address and telephone number of its principal representative.

(3) Identification of the request as: (a) A request for appointment of an arbitrator; (b) a request for arbitration of a grievance dispute arising under chapter 47.64 RCW; or (c) a request for the submission of a

list of names from the dispute resolution panel created by WAC 316-55-110.

(4) A (~~description of the grievances or issues to be submitted to arbitration~~) clear and concise statement of the facts constituting the alleged injury, injustice or violation, including names, dates, places and participants in the occurrence(s), and the number of employees affected thereby.

(5) A statement that the remedial processes of the pertinent collective bargaining agreement have been utilized and exhausted, or a statement of cause as to the reason(s) why such processes were not utilized.

(6) The agreement of the requesting party, or the parties jointly, that the arbitrator's decision on the grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement.

~~((6))~~ (7) The agreement of the requesting party, or the parties jointly, that the arbitration award shall be final and binding upon the parties.

~~((7))~~ (8) The signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties).

NEW SECTION

WAC 316-65-060 AMENDMENT OF GRIEVANCE. A grievance may be amended by the grievant(s) at any time prior to or during any prehearing conference.

NEW SECTION

WAC 316-65-070 GRIEVANCE ARBITRATION—DESIGNATION OF ARBITRATOR. Upon the filing of an arbitration request, the commission shall acknowledge receipt of such request, with a copy to respondent(s), notifying him or her of the case number assigned to the grievance and the designation of the arbitrator, who may be the commission or one of the commissioners.

NEW SECTION

WAC 316-65-080 GRIEVANCE ARBITRATION—NOTICE OF HEARING. Not later than thirty days after receipt of an arbitration request and not less than seven days before the hearing, the arbitrator shall serve written notice of hearing to the grievant with a copy to the respondent(s) and to the representative(s) and/or counsel of each. The notice of hearing shall contain:

(1) The name(s) and address(es) of the person(s) who filed the grievance, and his/her/their representative(s) or counsel and their title(s), if known, addresses and telephone numbers;

(2) The name(s) and address(es), of the respondent(s) named in the grievance, and his/her/their representative(s) or counsel and their title(s), if known, and their address(es) and telephone number(s);

(3) The name(s) and address(es) of any other person(s) to whom notice is being given and, if known, the names and addresses of their representatives;

(4) The official commission case number for the proceeding;

(5) The name, title, mailing address, and telephone number of the arbitrator who shall be the presiding officer;

(6) A statement of the time, place, and nature of the hearing;

(7) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(8) A reference to the particular sections of the statutes and rules involved;

(9) A short and plain statement of the matter asserted by the commission;

(10) A statement that the arbitrator will take official notice of the collective bargaining agreement, if any, in effect at the time of the alleged injury, injustice, or violation;

(11) Notice of other specific evidence known by the arbitrator to be required, and which party will be required to submit such evidence; and

(12) A statement that a party who fails to attend or participate in the hearing or other stage of the arbitration may be held in default.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-150 GRIEVANCE ARBITRATION—EXPENSES. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The expenses of witnesses shall be paid by the party producing

them. The fees and traveling expenses of an arbitrator selected by the parties from a panel designated by the commission and any costs for recording and/or transcription of proceedings to be used by the parties shall be paid by the parties under the terms of their collective bargaining agreement or such other arrangements as they may agree upon. The commission shall pay the salary and traveling expenses of a commissioner (~~or other designee~~) assigned as a grievance arbitrator(; ~~but shall pay no other expenses of the proceedings~~).

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-510 INTERVENTION AND CONSOLIDATION OF ~~((PROCEEDINGS))~~ GRIEVANCES. (1) Motion for intervention: Any person, not a party, who desires to appear and participate in any proceeding before the commission (~~under this subchapter~~) may make a written motion for intervention prior to the hearing or make an oral motion for intervention at the outset of the hearing. No such motion shall be filed or made after the hearing of evidence has commenced, except for good cause shown. The motion for intervention must state the name and address of the moving party; the name, address and telephone number of its principal representative, if any; the party's interest in the proceedings; and the party's position in regard to the labor dispute.

(2) Disposition of motion for intervention: Motions for intervention shall be considered first at all hearings, or may be set for prior hearing. An opportunity shall be afforded the original parties to be heard thereon. If it appears that the motion discloses an interest in the labor dispute or that participation by the moving party is in the public interest, the commission shall grant the motion. Thereafter, the moving party shall be a party to the proceedings with the same right to produce and cross-examine witnesses as the other parties. If it appears during the course of proceedings that an intervenor has no substantial interest therein, the commission may dismiss such intervenor.

(3) On its own motion or at the motion of any party, the commission may consolidate proceedings on two or more notices where the facts or principles of law are related.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-515 CONDUCT OF GRIEVANCE ARBITRATION PROCEEDINGS. (1) Prehearing conferences and hearings may be conducted by the commission(~~;~~) or by a member of the commission(~~;~~ or by any other person designated by the commission as examiner) assigned as arbitrator. At any time, an (~~examiner~~) arbitrator may be substituted for the (~~examiner~~) arbitrator previously presiding.

(2) The arbitrator shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises. All such arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service in effect on December 1, 1977: PROVIDED, HOWEVER, That arbitration matters processed under this chapter shall be filed in the public files of the commission and shall not be accorded the privacy required by such code; and PROVIDED FURTHER that if any statute or commission rule conflicts with aforesaid "Code," the statute or rule shall prevail.

(3) (~~An examiner~~) The arbitrator shall have the authority:
 ((~~+~~)) (a) To administer oaths and affirmations;
 ((~~+~~)) (b) To issue subpoenas (~~in the name of the commission~~);
 ((~~+~~)) (c) To rule on objections to evidence and offers of proof, receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;
 ((~~+~~)) (d) To question witnesses;
 ((~~+~~)) (e) To regulate the time, place and course of the hearing;
 ((~~+~~)) (f) To dispose of procedural requests or other similar matters;
 ((~~+~~)) (g) To hold conferences for the settlement, simplification or adjustment of issues in accordance with WAC 316-02-210 and 316-02-220;
 ((~~+~~)) (h) To make and issue an arbitration award on the matters in dispute, subject to the right of any party to petition for review of such award by the commission in accordance with WAC 316-65-550; and
 ((~~+~~)) (i) To take any other action authorized by these rules.

(4) Any party who proceeds with arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-525 GRIEVANCE HEARING WAIVER. (~~The commission or its designated examiner shall establish a date, time and place for a hearing and shall provide reasonable notice thereof to the parties. Where it appears to the commission or examiner that an emergency exists warranting consideration of interim relief, a hearing may be scheduled for that purpose on less notice than that provided by WAC 316-02-170. For good cause shown, the commission or examiner may adjourn the hearing upon the request of a party or upon its own initiative.~~) The parties may waive oral hearing by written agreement.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-530 ORDER OF PROCEEDINGS AND EVIDENCE. The order of presentation at the hearing shall be as agreed by the parties or as determined by the (~~agency~~) arbitrator. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. The (~~commission or examiner~~) arbitrator may make, and take official notice of the results of, its own inspection of the conditions involved. Two copies of each documentary exhibit shall be filed with the (~~commission~~) arbitrator and copies shall be provided to the other parties.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-535 ARBITRATION IN THE ABSENCE OF A PARTY. The (~~commission or examiner~~) arbitrator may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Except for good cause shown, the failure of a party to appear shall constitute grounds for dismissal of its claim or granting of relief against it, as may be appropriate.

NEW SECTION

WAC 316-65-538 WITHDRAWAL OF GRIEVANCE. A grievance may be withdrawn by the grievant(s) at any time prior to the close of hearing under WAC 316-65-540 under such conditions as the commission or assigned commissioner may impose.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-540 CLOSING OF HEARING. The hearing shall be deemed closed after the parties have completed presenting their testimony and/or exhibits and have filed briefs within agreed time limits. The (~~commission or examiner~~) arbitrator may direct the filing of briefs when it deems such filing warranted by the nature of the proceedings or of particular issues therein.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-545 (~~EXAMINER~~) GRIEVANCE ARBITRATION DECISION. After the close of the hearing and the filing of all briefs, the (~~examiner~~) arbitrator shall issue an arbitration award on the matters in dispute(~~The examiner shall file the original decision with the commission~~) and shall cause a copy thereof to be served on each of the parties. If the arbitrator is a single commissioner, he/she may issue a proposed award, subject to commission review under WAC 316-65-550; or he/she may transfer the entire record to the commission for a final decision under WAC 316-65-555.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-550 PETITION FOR REVIEW OF ((EXAMINER)) COMMISSIONER DECISION. The ((~~examiner's~~)) commissioner's proposed award shall be subject to review by the commission on its own motion, or ((~~at the request~~)) on the petition of any party, made within twenty days following the date of the proposed award issued by the ((~~examiner~~)) commissioner. The ((~~original and three copies of the~~)) petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have ((~~fourteen~~)) ten days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission may, for good cause, grant any party an extension of the time for filing of its brief or written argument. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the ((~~examiner's final~~)) commissioner's proposed order, the arbitration award of the ((~~examiner~~)) arbitrator shall automatically become final and binding.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-555 COMMISSION ACTION. On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the entire record and any briefs or arguments submitted to it on review, issue the final and binding arbitration award on the matter.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-65-560 GRIEVANCE ARBITRATION REMEDIES. If ((~~a violation of a collective bargaining agreement is found to have been committed, the commission or its examiner shall issue a remedial order~~)) upon the preponderance of evidence the arbitrator or commission shall conclude that any person named in the complaint has committed acts or is committing acts which have resulted in injury, injustice, or violation of rights granted by rule, statute or collective bargaining agreement, then the arbitrator or commission shall state its findings of fact and conclusions of law and cause to be served on such person a remedial order requiring him or her to cease and desist from such acts and to take such affirmative and corrective action as necessary to restore grievant's rights and to effectuate the policies of RCW 47.64.005 and 47.64.006, including but not limited to reinstatement of employees with or without back pay. In calculating back pay orders, the following shall apply:

(1) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee(s) may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Employee(s) reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee(s) may have received during the period of the violation, and the department shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as a credit to the benefit record of the employee.

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

NEW SECTION

WAC 316-65-600 OTHER LAW. Nothing in chapter 316-65 WAC is intended to diminish the constitutional rights of any person or

to limit or modify additional requirements imposed by statute, including the Administrative Procedure Act.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 316-65-090 GRIEVANCE ARBITRATION—DESIGNATION OF PANEL OF ARBITRATORS.

WAC 316-65-110 GRIEVANCE ARBITRATION—CONDUCT OF PROCEEDINGS.

WAC 316-65-130 GRIEVANCE ARBITRATION—AWARD.

WAC 316-65-500 GRIEVANCE ARBITRATION—EXCLUSIVE PROCEDURES.

WSR 89-22-126

PROPOSED RULES

MARINE EMPLOYEES' COMMISSION

[Filed November 1, 1989, 3:19 p.m.]

Original Notice.

Title of Rule: Chapter 316-02 WAC, Rules of practice and procedure—Marine Employees' Commission.

Purpose: Chapter 316-02 WAC sets forth general rules applicable to all types of proceedings before the Marine Employees' Commission.

Statutory Authority for Adoption: RCW 47.64.280.

Statute Being Implemented: RCW 34.05.250.

Summary: Chapter 316-02 WAC is being amended and/or readopted to comply with RCW 34.05.250. Each section is harmonious with the model rules of procedure, except those sections which supplant sections of said model rules, chapter 10-08 WAC, listed in WAC 316-02-001.

Reasons Supporting Proposal: RCW 34.05.010 allows labor relations type agencies to be exempted from chapter 34.05 RCW. However, the Marine Employees' Commission is attempting to include the essence of the APA and the model rules.

Name of Agency Personnel Responsible for Drafting: Louis O. Stewart, Evergreen Plaza Building, Mailstop FJ-11, Olympia, Washington 98504, 586-6354; Implementation and Enforcement: Janis Lien, Evergreen Plaza Building, Mailstop FJ-11, Olympia, Washington 98504, 586-6354.

Name of Proponent: Marine Employees' Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above; no fiscal impact.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 316-02 WAC provides the general framework for all kinds of adjudicative proceedings processed by the Marine Employees' Commission. All chapters in Title 316 WAC deal with labor-management relations in the Washington state ferry system. They include questions concerning representation of ferry system employees, clarification of collective bargaining units in the ferry system, complaints of unfair labor

practices, resolution of impasses, arbitration of grievances, union security disputes, and a forthcoming new section implementing chapter 327, Laws of 1989. Readoption, amendment and repeal of various sections of chapter 316-02 WAC will comply with the revisions of the Administrative Procedure Act.

Proposal Changes the Following Existing Rules: The Marine Employees' Commission is using the readoption requirement as an opportunity for many "housekeeping" amendments found to be necessary since the first rules of the present commission were adopted in 1982 and properly filed in 1984. WAC 316-02-001 makes it clear that all of the Marine Employees' Commission rules, Title 316 WAC, are to be read in conjunction with the model rules of procedure promulgated by the Chief Administrative Law Judge. Only one rule from said model rules is actually contradicted. WAC 10-08-110 pertaining to service of papers, is contradicted by WAC 316-02-120 through 316-02-180, because RCW 47.64.260 specifies that service is complete only "if mailed by restricted certified mail, return receipt requested," or in person. Several other model rules are indicated as being supplanted. In fact, they are all in harmony with the model rules, but made more specific.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: "Spike" Eikum Conference Room, Washington State Ferries Building, Colman Dock, Pier 52, Seattle, Washington, on December 5, 1989, at 9:00 a.m.

Submit Written Comments to: Louis O. Stewart, Mailstop FJ-11, Olympia, Washington 98504, by December 1, 1989.

Date of Intended Adoption: December 5, 1989.

October 31, 1989
Louis O. Stewart
Commissioner
Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-001 APPLICATION AND SCOPE OF CHAPTER 316-02 WAC. Chapter 316-02 WAC has been added to the Washington Administrative Code by the marine employees' commission pursuant to the authority of ~~((section 19, chapter 15, Laws of 1983 (RCW 47.64...)))~~ RCW 47.64.280 and chapter ~~((34.04))~~ 34.05 RCW, to promulgate comprehensive and uniform rules for practice and procedure before the ~~((agency))~~ commission. The provisions of chapter 1-08 WAC shall not be applicable to the proceedings before the commission. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapters 316-25, 316-35, 316-45, 316-55, 316-65, and 316-75, except;

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 316-25-070, 316-25-090, 316-35-050, 316-45-050, 316-65-050, and 316-75-110;

(b) WAC 10-08-110, which is supplanted by WAC 316-08-120 through 316-08-180;

(c) WAC 10-08-120, to the extent that it is further limited by WAC 316-02-040 and 316-02-310;

(d) WAC 10-08-140, to the extent that it is further limited by WAC 316-02-040 and 316-02-310;

(e) WAC 10-08-211, which is supplanted by WAC 316-25-390, 316-25-590, 316-25-630, 316-25-670, 316-35-210, 316-35-230,

316-45-350, 316-45-370, 316-65-550, 316-65-555, 316-75-270, and 316-75-290; and

(f) WAC 10-08-230, which is supplanted by WAC 316-02-005, 316-25-150, 316-25-230, 316-25-250, 316-25-270, 316-25-310, 316-35-070, 316-35-150, 316-45-070, 316-45-090, 316-45-230, 316-65-505, 316-65-507, 316-65-515, and 316-75-210.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

((2)) (3) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

((3)) (4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

((4)) (5) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining.

((5)) (6) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

((6)) (7) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(8) Chapter 316-85 WAC, which contains rules relating to surveys of compensation, benefits, and conditions of employment required by chapter 47.64 RCW.

In the event of a conflict between general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-003 POLICY—CONSTRUCTION—WAIVER. The policy of the state being primarily to promote peace in labor relations in the Washington state ferry system, these rules and all other rules adopted by the agency shall be liberally construed to effectuate the purposes and provisions of the statutes administered by the marine employees' commission and nothing in any rule shall be construed to prevent the commission and its authorized agents from using their best efforts to adjust any labor dispute. The commission and its authorized agents may waive any requirement of the rules not specified by statute unless a party shows that it would be prejudiced by such a waiver.

NEW SECTION

WAC 316-02-005 COMMISSION POLICY—LABOR RELATIONS. It is the policy of the commission to promote bilateral collective bargaining negotiations between and among the Washington state ferry system management, ferry employees, and their exclusive representatives in accordance with chapter 47.64 RCW. These parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into dispute between them. To the extent that the commission and its representatives can assist in fair and harmonious informal settlements of differences, the need for more elaborate and costly adjudicative procedures under all chapters of Title 316 WAC will be diminished.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-007 DEFINITIONS. As used in Title 316 WAC, unless the context otherwise requires, the definitions in this section shall apply.

(1) ~~((¹"Arbitration"~~ means the procedure whereby the parties involved in an impasse submit their differences to a third party for a final and binding decision or as provided in this chapter.

(2) ~~"Arbitrator"~~ means either a single arbitrator or a panel of three arbitrators.

(3) ~~"Adjudicative proceeding"~~ means a proceeding before the commission or its designee in which an opportunity for hearing before the commission is required in the resolution of petitions for investigation of questions concerning representation of ferry system employees, resolution of petitions for clarification of an existing ferry system employee bargaining unit, complaints charging unfair labor practices in

the Washington state ferry system, impasses occurring in the Washington state ferry system of collective bargaining, grievance disputes arising out of interpretation or application of a collective bargaining agreement in the Washington state ferry system, determination of union security disputes arising between Washington state ferry system employees and employee organization certified or recognized as their bargaining representatives. "Adjudicative proceeding" shall not include the process or decision making in salary surveys or other fact-finding surveys by the commission.

(2) "Collective bargaining representative" means the persons designated by the secretary of transportation and employee organizations to be the exclusive representatives during collective bargaining negotiations.

((4)) (3) "Commission" means the marine employees' commission created by ~~(chapter 15, Laws of 1983)~~ RCW 47.64.280 or a majority thereof.

((5)) (4) "Department of transportation" or "department" means the department as defined in RCW 47.01.021.

((6)) (5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

((7)) (6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

((8)) (7) "Ferry system management" means those management personnel of the marine transportation division of the department of transportation who have been vested with the day-to-day management responsibilities of the Washington state ferry system by the transportation commission and who are not members of a collective bargaining unit represented by a ferry employee organization.

(8) "Filing" of a petition concerning representation of employees or for clarification of a bargaining unit, a complaint charging an unfair labor practice, an impasse resolution, a request for fact-finding, a grievance and/or request for appointment of an arbitrator, assertion of a right of nonassociation, or other similar papers in matters governed by chapter 47.64 RCW, means delivery of such document to the marine employees' commission at its Olympia office.

(9) "Lockout" means the refusal of ferry system management to furnish work to ferry employees in an effort to get ferry employ organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage, as defined in subsection (10) of this section, shall not be considered a lockout.

(10) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her ((willful)) willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike.

(11) "Transportation commission" means the commission as defined in RCW 47.01.021.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-010 APPEARANCE AND PRACTICE BEFORE COMMISSION—WHO MAY APPEAR. No person may appear in a representative capacity before the marine employees' commission or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, employee or other authorized representative of: (a) The department of transportation, or (b) any labor or employee

organization recognized, or seeking recognition, in accordance with chapter 316-25 WAC;

(4) Other persons, including but not limited to bona fide representatives of ferry users, may make presentations to the marine employees' commission following written request approved by a majority of the commission: PROVIDED, That only persons qualified under subsections (1), (2), and (3) of this section may take part in representation cases, unit clarifications, unfair labor practice cases, impasse resolutions, grievance handling, union security disputes, or any other technical matters involving labor relations.

Nothing in this chapter may be construed as prohibiting a ferry employee from representing himself or herself before the commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-020 APPEARANCE AND PRACTICE BEFORE COMMISSION—STANDARDS OF CONDUCT. Misconduct at any hearing conducted by the commission or its designee shall be ground for summary exclusion from the hearing. Misconduct of an aggravated character, when engaged in by an attorney or other person acting in a representative capacity pursuant to WAC 316-02-010, shall be ground for suspension or disbarment by the commission after due notice and hearing.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-030 APPEARANCE AND PRACTICE BEFORE COMMISSION—APPEARANCE BY FORMER EMPLOYEE OF COMMISSION OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No former member of the marine employees' commission, former employee of the commission or former member of the attorney general's staff shall, at any time after severing his employment with the commission or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding which was pending before the commission during the time of his employment with the commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-040 APPEARANCE AND PRACTICE BEFORE COMMISSION—FORMER EMPLOYEE AS WITNESS. Except upon the express written consent of the marine employees' commission, no former member of the commission, or former member of the attorney general's staff shall, at any time after severing his employment with the commission or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding which was pending before the commission during the time of his employment with the commission.

READOPTED SECTION (Readopting Order 85-2, filed 10/16/85)

WAC 316-02-100 SERVICE OF PROCESS—COMPUTATION OF TIME. Unless otherwise provided in chapter 47.64 RCW, in computing any period of time prescribed by notice, the prescribed period of time shall commence on the date of receipt of such notice. In computing any other period of time allowed by chapter 47.64 RCW or other applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

READOPTED SECTION (Readopting Order 85-2, filed 10/16/85)

WAC 316-02-103 SERVICE OF PROCESS—ADDITIONAL TIME AFTER SERVICE BY MAIL. Unless a party is required to do some act upon a date specified in a notice or other paper served upon him, whenever a party has the right or is required to do some act within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served on him by mail, 3 days shall be added to the prescribed period.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-105 SERVICE OF PROCESS—EXTENSION OF TIME. The commission or its authorized agent may, by agreement of the parties or for good cause shown, extend any time limit prescribed or allowed by the rules of the commission. Any motion to extend any time limit shall, except for good cause shown, be made before the expiration of such time limit.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-110 SERVICE OF PROCESS—BY WHOM SERVED. The commission shall cause to be served all orders, notices and other formal papers issued by it, together with any other papers which it is required by law or rule to serve. Every other paper shall be served by the party filing it.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-120 SERVICE OF PROCESS—UPON WHOM SERVED. All formal papers served by the commission or by any party shall be served upon all counsel then of record and upon all parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact. Except as specifically provided elsewhere in these rules, copies of all correspondence directed to the commission or by the commission in connection with any matter pending before the commission shall be furnished to all counsel of record and to all parties not represented by counsel.

AMENDATORY SECTION (Amending Order 85-2, filed 10/16/85)

WAC 316-02-135 SERVICE OF PROCESS—METHOD AND COMPLETION OF SERVICE ON PARTIES. Unless otherwise provided in chapter 47.64 RCW, any notice or other paper (required) served under this chapter shall be in writing. Service thereof is sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last known addresses of the parties. Refusal of restricted certified mail by any party shall be considered service. Any party may at any time execute and deliver an acceptance of service in lieu of mailed notice.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-150 SERVICE OF PROCESS—FILING WITH COMMISSION. Papers (required) intended to be filed with the commission shall be deemed filed upon actual receipt by the commission during its regular office hours at (the place specified for such filing) its Olympia office: PROVIDED, HOWEVER, That such service shall be deemed to be incomplete if the party making the filing should subsequently fail, when requested to do so by the commission, to provide proof of service upon other parties required to be served.

Filing a copy of the paper(s), together with one of the following shall constitute proof of service:

(1) An acknowledgement of service; or
(2) A certificate that the person signing the certificate did on the date of the certificate serve the paper(s) upon all parties of record in the proceeding by:

(a) Mailing a copy thereof, by restricted certified mail, return receipt requested, to each party to the proceeding or to his or her attorney or authorized agent; or
(b) Delivery of a copy thereof in person.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-160 SERVICE OF PROCESS—OPPORTUNITY FOR HEARING. All hearings in contested cases shall be public. Any party to a contested case shall have the right to appear at such hearing in person, by counsel, or by other representative; and to call, examine and cross-examine witnesses; and to introduce into the record documentary or other evidence.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-170 SERVICE OF PROCESS—NOTICE OF HEARING. In any contested case, all parties shall be served with a notice (~~within the statutory time as required by the particular statute governing the proceeding involved. In the absence of a statutory requirement, notice shall be given twenty~~) not less than seven days before the date set for hearing. (~~All notices of hearing shall state the time and place of the hearing, and shall clearly identify the proceeding or the issues involved.~~) The notice shall include:

(1) Unless otherwise ordered by the presiding officer, the names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(2) The official file or other reference number and the name of the proceeding;

(3) The name, official title, mailing address, and telephone number of the presiding officer;

(4) A statement of the time, place, and nature of the proceeding;

(5) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(6) A reference to the particular sections of the statutes and rules involved;

(7) A short and plain statement of the matters asserted by the commission;

(8) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding, or be represented therein by agent or counsel, may be held in default.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-180 SERVICE OF PROCESS—CONTINUANCES. Immediately upon receipt of notice of a hearing, or as soon thereafter as circumstances necessitating a continuance come to its knowledge, any party desiring a continuance shall notify all other parties prior to filing a request for continuance with the commission. All continuance requests shall be filed in writing and shall specify, in detail, the reasons why the continuance is necessary, the position of all other parties concerning the requested continuance and suggested alternative dates for rescheduling. In passing upon a request for continuance, the commission shall consider whether the request was promptly and timely made. For good cause shown, the commission or its designated hearing officer or examiner may grant a continuance and may at any time order a continuance on its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may, in his discretion, continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-200 DEFINITION OF ISSUES—BEFORE HEARING. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that the (~~hearing officer or examiner~~) commission may proceed promptly to conduct the hearing on relevant and material matter only.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-210 DEFINITION OF ISSUES—PREHEARING CONFERENCE AUTHORIZED. In any proceeding, the commission or its designated (~~hearing officer or examiner~~) commissioner, upon its or his own motion or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider:

(1) The simplification of issues;
(2) The necessity of amendments to the pleadings;
(3) The possibility of obtaining stipulations, admissions of facts and of documents;
(4) The limitation of the number of expert witnesses;
(5) Such other matters as may aid in the disposition of the proceeding.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-220 DEFINITION OF ISSUES—RECORD OF ACTION TAKEN DURING PREHEARING CONFERENCE. The commission or its designated (~~hearing officer or examiner~~) commissioner shall make an order or statement which recites the action taken at any prehearing conference, the amendments allowed to the pleadings, and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-230 SUMMARY JUDGMENT. A summary judgment may be issued if the pleadings and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that one of the parties is entitled to a judgment as a matter of law. Motions for summary judgment made in advance of a hearing shall be filed with the commission and served on all other parties to the proceeding.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-300 SUBPOENAS—FORM—DISCOVERY. (1) Pursuant to RCW 34.05.446 and 47.64.280, the commission or the attorney of record in whose behalf the witness is required to appear may subpoena any ferry employee or employees, or their representatives, or any member or representative of the department, and any witness(es).

(2) The commission on its own motion or at the request of a party may require attendance of witnesses and the production of all pertinent records in any adjudicative proceeding.

(3) Except as otherwise provided by this chapter, the presiding officer may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 36 of the superior court civil rules.

(4) Every subpoena shall state the name of the commission as: State of Washington, marine employees' commission; shall state the title of the proceeding, if any; shall show on its face the name and address of the party at whose request the subpoena was issued; 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 Resolution No. 84-01, filed 3/20/84)

WAC 316-02-310 SUBPOENAS—ISSUANCE TO PARTIES. (1) Subpoenas requiring the attendance and testimony of witnesses or the production of evidence shall be issued ex parte to any party to a contested case: PROVIDED, HOWEVER, That no subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the commission or any member of the commission staff in any proceeding before the commission. The commission or its hearing officer or examiner shall issue subpoenas upon the application of counsel or other representative authorized to practice before the commission, and may condition the issuance of subpoenas to parties not so represented upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

(2) Attorneys may act under the authority conferred by RCW (~~34.04.105~~) 34.05.446 (2)(a).

(3) Witnesses in an adjudicatory proceeding shall be paid the same fees and allowances in the same manner and under the same conditions, as provided for witnesses in the courts of this state by chapter 2.40 RCW and by RCW 5.56.010, except that the commission shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010 as to courts.

(4) The person initiating an adjudicative proceeding or the party requesting issuance of a subpoena shall pay the fees and allowances and the cost of producing records required to be produced by subpoena.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-340 SUBPOENAS—PROOF OF SERVICE. The person serving the subpoena may make proof of service by filing the subpoena and the required return, affidavit, or acknowledgement of service with the agency or the officer before whom the witness is required to testify or produce evidence. If service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

READOPTED SECTION (Readopting Order 88-1, filed 4/29/88)

WAC 316-02-350 SUBPOENAS—QUASHING. Any motion to quash a subpoena shall be filed and served on all parties within five days after the date of service of the subpoena upon him and, in any event, shall be made at or before the time specified in the subpoena for compliance. The person making such motion shall give notice of the motion to the party to whom the subpoena was issued. The commission, hearing officer or examiner may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-360 SUBPOENAS—ENFORCEMENT. Upon application and for good cause shown, and upon proof of service of the subpoena involved if such proof was not previously provided pursuant to WAC 316-02-340, the commission will seek judicial enforcement of subpoenas which have not been quashed or may authorize a party to seek enforcement.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-370 SUBPOENAS—GEOGRAPHICAL SCOPE. Attendance of witnesses and production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-400 EVIDENCE—EXAMINATION OF WITNESSES. Witnesses in any hearing in a contested case shall be examined orally, under oath or affirmation, and shall be subject to cross-examination.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-410 EVIDENCE—APPLICATION OF RULES OF EVIDENCE. Subject to the other provisions of these rules, the officer conducting the hearing shall admit all competent and relevant evidence of probative value. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the state of Washington.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-420 EVIDENCE—OBJECTIONS AND RULINGS. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. No such objection shall be deemed waived by further participation in the hearing.

NEW SECTION

WAC 316-02-440 EVIDENCE—OFFICIAL NOTICE. The commission or assigned commissioner may take official notice of (a)

any judicially cognizable facts, (b) technical facts within the commissioner's specialized knowledge, and (c) codes or standards that have been so noticed. Parties shall be notified either before or during hearing or by reference in post-hearing reports or findings of the material so noticed and the sources thereof, including any specific data. They shall be afforded opportunity to contest the facts and material so noticed.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-450 EVIDENCE—STIPULATIONS AND ADMISSIONS OF RECORD. The evidence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) Upon whom binding. Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a prehearing conference, oral hearing, or oral argument, or, is made in a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) Withdrawal. Any party bound by a stipulation or admission of record may, at any time prior to final decision, be permitted to withdraw the same in whole or in part by showing to the satisfaction of the ~~((hearing officer or examiner of the agency))~~ commission or commissioner that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-460 EVIDENCE—SUBMISSION OF DOCUMENTARY EVIDENCE. Documentary evidence shall be submitted in duplicate. It shall be the responsibility of the party submitting documentary evidence to provide a copy thereof to each of the other parties to the proceeding not already having a copy. Upon failure of a party to comply with this rule within five days after the close of the hearing, the commission shall, upon request, make all necessary copies at a reasonable monetary charge to the party offering the document.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-470 EVIDENCE—EXCERPTS FROM DOCUMENTARY EVIDENCE. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing officer or examiner and to the other parties. In the absence of a request for and a showing of cause for the admission of the entire document in evidence, only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-490 EVIDENCE—REFUSAL OF WITNESS TO ANSWER. The refusal of a witness at any hearing in a contested case to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer or examiner, be ground for striking all testimony previously given by such witness on related matter.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-500 DECLARATORY RULINGS AUTHORIZED. As prescribed by RCW ~~((34.04.080))~~ 34.05.240 any interested person may petition the commission or assigned commissioner for a declaratory ~~((ruling. The commission shall consider the petition and within a reasonable time the commission shall:~~

~~((1) Issue a nonbinding declaratory ruling; or~~

~~((2) Notify the person that no declaratory ruling is to be issued; or
 ((3) Set a reasonable time and place for an oral hearing or the submission of written evidence upon the matter, give reasonable notification to the person of the time and place for such hearing or submission of the issued involved, and, within a reasonable time, the commission shall:~~

~~((a) Issue a binding declaratory ruling; or~~

~~((b) Issue a nonbinding declaratory ruling; or~~

~~((c) Notify the person that no declaratory ruling is to be issued)) or order with respect to the applicability to specified circumstances only of a rule, order, or statute enforceable by the commission or designated examiner. The petition shall set forth facts and reasons on which the petitioner relies to show:~~

~~((1) That uncertainty necessitating resolution exists;~~

~~((2) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion;~~

~~((3) That the uncertainty adversely affects the petitioner;~~

~~((4) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested; and~~

~~((5) That the petition complies with WAC 316-02-510.~~

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-510 DECLARATORY ~~((RULINGS))~~ ORDERS—PETITION. Any person petitioning the commission or assigned commissioner for a declaratory ~~((ruling))~~ order pursuant to RCW ~~((34.04.080))~~ 34.05.240 and WAC 316-02-500 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the marine employees' commission." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ~~((ruling))~~ order." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state the name of the other party to any collective bargaining relationship from which the issue or issues to be ruled upon arises. The third paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original ~~((and three legible copies))~~ of the petition plus one copy for service on each party the petitioner seeks to have bound by any declaratory ~~((ruling))~~ order shall be filed with the commission. ~~((Petitions shall be on white paper, 8 1/2" x 13" in size.))~~

NEW SECTION

WAC 316-02-520 DECLARATORY ORDERS—RIGHTS AND DISPOSITION. (1) The petitioner for a declaratory order shall enjoy the same rights, privileges and expectations as in any other proceeding before the commission, except as specifically limited by WAC 316-01-500 and 316-01-510.

(2) Within fifteen days after receipt of a petition for a declaratory order, the commission or designated examiner shall give notice of the petition to all persons to whom notice is required by law or rule, and may give notice to any other person deemed desirable.

(3) Within thirty days after receipt of a petition for a declaratory order the commission or designated examiner, in writing, shall do one of the following:

(a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances;

(b) Set the matter for specified proceedings to be held no more than ninety days after receipt of the petition;

(c) Set a specified time no more than ninety days after receipt of the petition by which a declaratory order will be entered; or

(d) Decline to enter a declaratory order, stating the reasons for that action.

(4) The time limits of subsection (3)(b) and (c) of this section may be extended by the commission or designated examiner for good cause.

(5) The commission or designated examiner may not enter a declaratory order that would substantially prejudice the rights of a person

who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

(6) A declaratory order has the same status as any other order entered in a commission or examiner adjudicative proceeding. Each declaratory order shall contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for the conclusions.

NEW SECTION

WAC 316-02-560 INTERVENTION AND CONSOLIDATION OF PROCEEDINGS. (1) Motion for intervention: Any person, not a party, who desires to appear and participate in any proceeding before the commission except resolution of impasse in reaching collective bargaining agreement, may make a written motion for intervention prior to the hearing or make an oral motion for intervention at the outset of the hearing. No such motion shall be filed or made after the hearing of evidence has commenced, except for good cause shown. The motion for intervention must state the name and address of the moving party; the name, address and telephone number of its principal representative, if any; the party's interest in the proceedings; and the party's position in regard to the labor dispute.

(2) Disposition of motion for intervention: Motions for intervention shall be considered first at all hearings, or may be set for prior hearing. An opportunity shall be afforded the original parties to be heard thereon. If it appears that the motion discloses an interest in the labor dispute or that participation by the moving party is in the public interest, the commission shall grant the motion. Thereafter, the moving party shall be a party to the proceedings with the same right to produce and cross-examine witnesses as the other parties. If it appears during the course of proceedings that an intervenor has no substantial interest therein, the commission may dismiss such intervenor.

(3) Consolidation: On its own motion or at the motion of any party, the commission may consolidate proceedings on two or more notices where the facts or principles of law are related.

(4) This general rule on intervention and consolidation of proceedings may be superseded by specific requirements in certain chapters.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-600 (~~COMMISSION DECISIONS IN CONTESTED CASES—FORM AND CONTENT~~) CONTESTED CASES INCLUDES APPLICATION FOR ADJUDICATIVE PROCEEDING—EXCEPTIONS. (~~Every decision and final order shall:~~

~~(1) Be correctly captioned as to name of commission and name of proceeding;~~

~~(2) Designate all parties and counsel to the proceeding;~~

~~(3) Include a concise statement of the nature and background of the proceeding;~~

~~(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;~~

~~(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;~~

~~(6) Wherever practical, the conclusions and/or order shall be referred to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.))~~ An application for the commission to investigate, and enter an order thereon, a question concerning (1) representation of ferry system employees, (2) clarification of an existing collective bargaining unit, (3) a complaint charging an unfair labor practice, (4) a grievance based upon alleged violation of rights granted by statute, rule or collective bargaining agreement, (5) union security dispute, or (6) other ferry system labor-management relations disputes, includes an application for the commission to conduct an appropriate adjudicative proceeding whether or not the applicant, complainant, petitioner or grievant expressly requests such proceeding: PROVIDED, That an application for nomination of mediator(s) or arbitrators of impasse(s) in interest arbitration or grievance arbitration from a panel maintained for that purpose in accordance with RCW 47.64.210 or 47.64.240, and/or questions concerning fact-finding procedures or data shall not be deemed to be adjudicative in nature.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-610 (~~COMMISSION DECISIONS IN~~) CONTESTED CASES—(SERVICE) COMMENCEMENT. (~~Every~~

~~final order issued by the commission shall be served on each party or upon the person or organization designated by the party or by law to receive service of such papers, and a copy shall be furnished to any counsel or person appearing for a party in a representative capacity.))~~ An adjudicative proceeding commences when the commission, or assigned commissioner, or the administrative assistant to the commission notifies a party that a prehearing conference, hearing or other stage of an adjudicative proceeding will be conducted.

NEW SECTION

WAC 316-02-620 CONTESTED CASES—DENIAL OF APPLICATION. If the commission decides not to conduct an adjudicative proceeding in response to a complaint, petition or grievance, the commission shall serve the complainant, petitioner or grievant with a copy of its decision in writing, with a brief statement of the reason(s) for the commission's denial: PROVIDED, That the commission shall advise said complainant, petitioner or grievant as to the appropriate review of such denial: AND FURTHER PROVIDED, That unless the complainant, petitioner or grievant files a request for review within thirty days following receipt of the denial, the denial shall be entered as an order which shall be final and binding in accordance with RCW 47.64.280.

NEW SECTION

WAC 316-02-630 CONTESTED CASES—COMMISSION ACTION UPON FILING. Upon receipt of an application for adjudicative proceeding under WAC 316-02-600, other than a declaratory order, the commission shall proceed as follows:

(1) Except in situations governed by subsection (2) or (3) of this section, within thirty days after receipt of the application or of the response to a timely request made by the commission under subsection (2) of this section, the commission shall commence an adjudicative proceeding in accordance with the appropriate chapter of these rules, or shall deny the application in accordance with WAC 316-02-620; or

(2) Within thirty days after receipt of the application, the commission shall notify the complainant, petitioner or grievant of any obvious errors or omissions, request any additional information the commission requires to make an initial determination scope or jurisdiction and is permitted by law to require, and shall notify said complainant, petitioner or grievant of the name, mailing address, and telephone number of an office that may be contacted regarding the application; or

(3) If the application seeks relief that is not available when the application is filed but may be available in the future, the commission may maintain the application on the commission's docket awaiting the expected availability of relief and shall notify the complainant, petitioner or grievant of the status of the application.

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

NEW SECTION

WAC 316-02-640 CONTESTED CASES—EX PARTE COMMUNICATIONS. (1) Unless required for the disposition of ex parte matters specifically authorized by statute or unless necessary to procedural aspects of maintaining orderly process, neither the commission nor any commissioner nor employee of the commission may communicate, directly or indirectly, regarding any issue in an adjudicative proceeding, with any person not employed by the commission who has a direct or indirect interest in the outcome of the proceeding, without notice and opportunity for all parties to participate.

(2) Unless necessary to procedural aspects of maintaining orderly process, persons to whom the commission or commissioner may not communicate under subsection (1) of this section, may not communicate with commissioners without notice and opportunity for all parties to participate.

(3) If a commissioner receives an ex parte communication of a type that cannot properly be received, that commissioner shall promptly disclose the communication in the manner prescribed in RCW 34.05-.455 (5), (6), and (7).

NEW SECTION

WAC 316-02-650 COMMISSION DECISIONS IN CONTESTED CASES—FORM AND CONTENT. Every decision and final order shall:

- (1) Be correctly captioned as to name of commission and name of proceeding;
- (2) Designate all parties and counsel to the proceeding;
- (3) Include a concise statement of the nature and background of the proceeding;
- (4) Be accompanied by appropriate numbered findings of fact and conclusions of law;
- (5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;
- (6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

NEW SECTION

WAC 316-02-660 COMMISSION DECISIONS IN CONTESTED CASES—SERVICE. Every final order issued by the commission shall be served on each party or upon the person or organization designated by the party or by law to receive service of such papers; and a copy shall be furnished to any counsel or person appearing for a party in a representative capacity.

NEW SECTION

WAC 316-02-700 COMMISSION STRUCTURE. (1) The marine employees' commission, its staff and/or any designated representative maintains an impartial role in all proceedings involving the Washington state ferry system, its employees and their representatives, ferry users, and the general public.

(2) The commission consists of three members, appointed by the governor with the advice and consent of the senate: One member appointed from labor, one member from industry and one public member who has significant knowledge of maritime affairs and who is chairman of the commission. The commission reserves unto itself all policy making functions. The members serve on a part-time basis. The commission may preside over adjudicative proceedings or may designate one of its members to preside. In the event that a single commissioner or other person acts as presiding officer, the commission is the appellate tribunal. Orders of the commission are final and binding upon the parties in accordance with RCW 47.64.280.

(3) The administrative assistant appointed by the commission is the agency manager with authority to act in administrative and personnel matters. Authority is delegated to the administrative assistant to investigate complaints, conduct such hearings as permitted by statute and rule, conduct salary surveys, conduct employee representation elections, and generally act as the representative of and for the part-time commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-800 COMMISSION RECORDS—PUBLIC ACCESS. The commission will maintain for public inspection: (1) An index to all proceedings filed with and processed by the commission; (2) a docket for each proceeding filed with and processed by the commission showing the actions taken on and the final resolution of each such proceeding; (3) a schedule of hearing dates assigned in particular cases; and (4) the files for all proceedings, including all documents filed with the commission in the particular case, except materials held in confidence as provided in WAC 316-02-810.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-810 COMMISSION RECORDS—CONFIDENTIALITY. The commission, in order to protect the privacy of individual employees and in order to respect the confidential nature of the mediation process and other labor-management relations processes, shall not permit the disclosure to any person of (1) evidence filed as a showing of interest in support of a representation petition or motion for intervention, or (2) notes and memoranda made by any member of the

commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

READOPTED SECTION (Readopting Order 88-01, filed 4/29/88)

WAC 316-02-820 COMMISSION OFFICES. The commission maintains its office at Main Floor, S.W. Quadrant, Evergreen Plaza Building, Mailstop FJ-11, Olympia, Washington 98504.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-02-900 PETITIONS FOR RULE MAKING—WHO MAY PETITION. Any interested person may petition the commission requesting the promulgation, amendment, or repeal of any rule.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-910 PETITIONS FOR RULE MAKING—FORM. Any interested person petitioning the commission requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the marine employees' commission." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the words "petition for rule making."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by commission rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and three legible copies of the petition shall be filed with the commission. ((Petitions shall be on white paper, 8 1/2" x 13" in size.))

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-920 PETITIONS FOR RULE MAKING—COMMISSION MUST CONSIDER. ((~~AND~~)) Each petition((s)) shall be considered by the commission ((~~and~~)). The commission may, at its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-02-930 PETITIONS FOR RULE MAKING—NOTICE OF DISPOSITION. The commission shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition. If the commission denies the petition, the denial shall be served upon the petitioner.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 316-02-320 SUBPOENAS—SERVICE.
- WAC 316-02-330 SUBPOENAS—FEES.

WSR 89-22-127
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed November 1, 1989, 3:20 p.m.]

Yakima Valley School, 609 Speyers Road, Selah, Washington 98942 has been determined to be out of compliance with federal requirements for Medicaid certification as an intermediate care facility for the mentally retarded. In accord with federal regulation 42 CFR 442.118, the Washington State Department of Social and Health Services is imposing a denial of payments for any new admissions effective December 1, 1989, as an alternative to terminating the facility's provider agreement. The denial of payments for new admissions is imposed because Yakima Valley School failed to meet the requirements for the following conditions of participation:

- 42 CFR 483. 430 Facility Staffing
- 42 CFR 483. 440 Active Treatment Services
- 42 CFR 483. 450 Client Behavior and Facility Practices

The effect of this sanction is to prohibit Medicaid payments for any individual admitted to Yakima Valley School on or after December 1, 1989. The denial of payments for new admissions will remain in effect until November 30, 1990, or until Yakima Valley School is able to achieve compliance with all certification requirements. You may call Denny McKee at (206) 438-7914 if you have questions regarding this notice.

WSR 89-22-128
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2890—Filed November 1, 1989, 3:21 p.m.]

Date of Adoption: November 1, 1989.

Purpose: To revise the schedule of charges for state hospitals. Charges increase as hospital costs increase. Increased charges result in additional revenue to the state.

Citation of Existing Rules Affected by this Order: Amending WAC 275-16-030.

Statutory Authority for Adoption: RCW 71.02.412.

Pursuant to notice filed as WSR 89-17-025 on August 8, 1989.

Effective Date of Rule: Thirty-one days after filing.
 November 1, 1989

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2715, filed 10/19/88)

WAC 275-16-030 SCHEDULE OF CHARGES. Pursuant to RCW 43.20B.325, the department shall base hospitalization charges for clients in state hospitals on the actual operating costs of such hospitals for the

previous year. Hospitalization charges are due and payable on or before the tenth day of each calendar month for services rendered to clients of the department during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
(a) INPATIENT SERVICES -			
Hospital Costs Per Day	\$(140.12) 229.75 169.86)		
	155.57	255.07	194.55
Physician Costs	*	((8.79)) 12.16	*
*The department shall bill the client for physician costs on a fee-for-service basis.			
(b) OUTPATIENT SERVICES -			
Per diem			
Outpatient	—	—	—
Day Care Per Day	—	((72.48)) 80.45	—
Per Hour	—	((+2.91)) 14.34	—
(c) ANCILLARY SERVICES -			
Per relative value unit ¹ / ₁			
Radiology	((5.88) 5.88 4.50))		
	5.50	5.50	3.65
Pathology	.32	.32	((+8)) .20
Medical Clinics	((2.15) 2.15 5.79))		
	1.73	1.73	8.42
Electrocardiogram	((-.22) .22 .44))		
	.13	.13	.40
Physical Therapy	((3.48) 3.48 3.96))		
	5.82	5.82	9.91
Occupational Therapy	—	—	((+9.15)) 21.97
Speech Therapy	—	—	((+8.32)) 15.76
Dental	((22.54) 22.54 17.09))		
	24.60	24.60	50.70
Podiatry	1.28	1.28	1.00

(2) Services required by the client, not provided by hospital staff, shall be purchased by the department from private sources and the client shall be charged ~~((at))~~ actual cost.

¹/California Medical Association. Relative Value Studies. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

WSR 89-22-129
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)

[Order 2891—Filed November 1, 1989, 3:23 p.m.]

Date of Adoption: November 1, 1989.

Purpose: To allow for new types of immersible bathing devices.

Citation of Existing Rules Affected by this Order: Amending WAC 248-14-120.

Statutory Authority for Adoption: RCW 74.42.620 and 18.51.070.

Pursuant to notice filed as WSR 89-19-071 on September 20, 1989.

Changes Other than Editing from Proposed to Adopted Version: Changes in content from the proposed rule and the adopted version are as follows:

(3) Resident Rooms

h) Delete "The", "and arrangements" and the first "other"; add "for"

To read: "Dimensions of rooms shall provide for three feet or more of space between the sides and foot of the bed and any wall, fixed obstruction or other bed."

The principle reasons for adopting the changes are to provide for flexibility in room arrangement.

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1675, filed 7/1/81)

WAC 248-14-120 RESIDENTIAL CARE UNIT.

(1) Location. Each residential care unit shall be located to minimize through traffic to any general service, diagnostic, treatment, or administrative area. All rooms or areas within the unit shall be on the same floor level.

(2) Required facilities.

(a) Each unit shall have at least the following basic service facilities:

(i) A nurses' station(;;);

(ii) A medicine storage and preparation area(;;);

(iii) Clean and soiled utility rooms(;;);

(iv) Housekeeping facilities; and

(v) Storage space for linen, other supplies, and equipment.

(b) Resident rooms in buildings which are connected to the main nursing home building by means of enclosed and heated passageways will be construed as portions of the main home.

(3) Resident rooms.

(a) The floor level shall be above grade level except for earth berms.

(b) Each resident room shall be directly accessible from the corridor and shall be located to prevent through traffic.

(c) Every resident room shall be an outside room and shall have a clear glass window which is located in an outside wall and has an area equal to not less than one-tenth of the usable floor space.

(i) All resident room windows shall be located ((at least 24)) twenty-four feet or more from another building or the opposite wall of a court or ((at least)) ten feet or more away from a property line, except on street sides. If the depth of a court is less than one-half its width, the width requirement will not apply. The outside window wall shall be ((at least)) eight feet or more from an outside public walkway.

(ii) Window sills shall be three feet or less above the floor.

(d) The maximum capacity of any resident bedroom shall be ((not more than)) four beds.

(e) No bed shall be located more than two beds deep from an exterior window wall.

(f) On each unit there shall be at least one single uncarpeted bedroom capable of providing isolation care. It shall contain:

(i) A lavatory with water supplied through a mixing valve(;;); and

(ii) Its own adjoining toilet room equipped with a bedpan flushing attachment and containing a bathing facility.

(g) There shall be ((at least)) eighty-five square feet or more of usable floor space per bed in each multibed room and ((at least)) one hundred square feet or more of usable floor space for each one bed room.

(h) ((The)) Dimensions ((and arrangements)) of rooms shall provide ((at least)) for three feet or more of space between the sides and foot of the bed and any wall, ((other)) fixed obstruction, or other bed.

(4) Resident room equipment.

(a) There shall be a wall-mounted or equivalent reading light and a nurse call signal device for each bed.

(b) There shall be a lavatory in each multibed room. There shall be a lavatory in each single room which does not have an adjoining toilet room containing a lavatory.

(c) There shall be a separate, enclosed wardrobe or closet for each bed in each room. The inside dimensions shall be ((at least)) twenty-two inches or more deep (front to back) by thirty inches wide. The clothes rod shall be placed to provide ((at least)) five feet ((and)) or more but not more than five feet six inches of free hanging space from the center of the clothes rod to the floor of the room.

(d) There shall be a lockable shelf space or drawer for storage of other personal belongings for each resident bed in addition to the bedside cabinet.

(e) There shall be separate storage for extra pillows and blankets for each bed. This may be combined with the wardrobe or closet if it does not impinge upon the required space for clothing.

(f) Each multibed room shall have permanently installed cubicle curtain tracks or rods around each bed with flame-proof curtains approved by the state fire marshal.

(g) For electrical outlet and lighting requirements refer to electrical section, WAC 248-14-160.

(5) Resident toilet(s).

(a) There shall be a toilet room directly accessible from each resident room and from each bathing facility without going through a general corridor. One toilet room may serve two bedrooms except for those resident rooms for which private toilet rooms are required. One toilet shall serve a maximum of four beds. For alterations of existing resident rooms the ratio of one toilet fixture for each eight residents or fraction thereof is acceptable.

(b) Each toilet fixture in toilet rooms adjoining resident rooms shall be equipped with a bedpan flushing attachment unless a siphon jet clinic service sink is provided in each soiled utility room.

(c) There shall be provision for storage of a bedpan brush container off the floor in each toilet room equipped with a bedpan flushing attachment.

(d) At least one lavatory shall be provided in each toilet room, except when it opens into a single bed room which has a lavatory.

(e) Each resident toilet room shall be designed to accommodate a person in a wheelchair.

(f) A properly located and securely mounted grab bar or its equivalent shall be provided at each side of a toilet fixture.

(6) Resident bathing facilities.

(a) On each unit there shall be at least one bathtub or shower facility per every fifteen beds or fraction thereof which are not in rooms served by an adjoining bathroom.

(b) On each unit there shall be ~~((at least one peninsular or island bathtub accessible from the corridor))~~ a bathing device designed for patient bathing by immersion, accessible from the corridor.

(c) There shall be at least one roll-in shower accessible from the corridor on each unit. It shall be designed:

(i) For ease of shower chair entry((-);

(ii) With bulkheads which are a maximum of thirty-four inches high and provide for toe space((-);

(iii) With a properly sloped and drained floor to prevent the flow of water outside the stall, but provide for safe use of a shower chair within the stall((-); and

(iv) With the water inlet approximately four and one-half feet from floor level and with a flexible hose approximately five feet long with a lightweight, shampoo-type, spray attachment.

(d) In each bathroom containing more than one bathing facility each bathtub or shower shall be in a separate room or compartment. The area for each bathtub and shower shall be sufficient to accommodate a shower chair and attendant(s) and provide for visual privacy.

(e) Grab bars((-);

(i) One horizontal grab bar ~~((a minimum of 48))~~ forty-eight or more inches long shall be provided at the side of a standard bathtub and an L-shaped bar at the faucet end. The horizontal side of the L-shaped bar shall extend the width of the tub and the vertical bar shall rise thirty inches at the outer side of the tub.

(ii) At the faucet end of each peninsular bathtub there shall be at least one horizontal grab bar mounted from ~~((33))~~ thirty-three to ((36)) thirty-six inches above the floor and extended the full width of the bathtub. It shall be ((at least)) ten inches or more from the wall at the faucet end.

(iii) A horizontal grab bar shall be provided on two sides of each shower stall and an L-shaped bar mounted on the shower head side. The horizontal bars shall be mounted ~~((31))~~ thirty-one inches to ((36)) thirty-six inches above the floor.

(f) Shower and tub bottom surfaces shall be slip-resistant.

(7) Nurses' station. On each residential care unit there shall be a nurses' station ~~((which shall have))~~ equipped with:

(a) A charting surface;

(b) Sufficient seating area;

(c) A rack or other storage for current health records;

(d) Storage for record and clerical supplies;

(e) A telephone;

(f) A nurse call annunciator; and

(g) A clock.

(8) Utility service rooms. On each unit there shall be a clean utility room and a soiled utility room designed and equipped to ensure separation of clean and sterile supplies and equipment from those ~~((that are))~~ contaminated.

(a) Each clean utility room shall have a work counter, a sink, and closed storage units for clean and sterile supplies and small equipment.

(b) Each soiled utility room shall have:

(i) At the minimum a two-compartment sink mounted in a work counter of ~~((at least))~~ three feet or more in length on each side of the sink((-); and the inside dimensions of each compartment shall be twenty-two by twenty-two by twenty inches deep;

(ii) Storage for cleaning supplies and other items;

(iii) Locked storage for cleaning agents, disinfectants and other caustic or toxic agents;

(iv) Adequate space for waste containers, linen hampers, and other large equipment;

(v) The work counters, sinks, and other fixed equipment shall be arranged to prevent intermingling of clean and contaminated items during processing; and

(vi) A siphon jet type clinic service sink or equivalent equipped with bedpan flushing attachment shall be provided unless a bedpan flushing device is provided in toilet rooms adjoining resident rooms.

(9) Drug facilities. There shall be facilities for drug preparation and locked storage near the nurses' station on each unit.

(a) The drug facilities shall be well illuminated, ventilated, and equipped with a work counter, sink with hot and cold running water, and drug storage units.

(b) Locks and keys for drug facilities shall be different from any other locks and keys within the nursing home.

(i) Separately keyed storage shall be provided for Schedule II and III controlled substances.

(ii) Segregated storage of different residents' drugs shall be provided.

(c) There shall be a refrigerator for storage of thermolabile drugs in the drug facility.

(10) Linen storage.

(a) A clean room shall be provided for storage of clean linen and other bedding on each unit. This may be an area within the clean utility room.

(b) There shall be a soiled linen room for collection and temporary storage of soiled linen on each unit. This may be in an area of the soiled utility room.

(11) Equipment storage. There shall be ~~((at least))~~ two square feet or more of storage space per bed for wheelchair and other ambulation equipment. Storage may be combined with an equipment storage room or be in a corridor alcove but shall not impinge upon the required corridor space. If the square footage is added to the resident room size, individual wheelchair(s) and other ambulation equipment may be stored in the room.

(12) Janitors' closet. A janitors' closet with a service sink and adequate storage space for housekeeping equipment and supplies shall be provided on each unit.

WSR 89-22-130
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2892—Filed November 1, 1989, 3:24 p.m.]

Date of Adoption: November 1, 1989.

Purpose: This rule clarifies how to treat clients' income received from foster care or an adult family home.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-532.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-19-073 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 786, filed 4/12/73)

WAC 388-28-532 (~~NET CASH~~) INCOME—FOSTER HOMES FOR CHILDREN AND ADULT FAMILY HOMES. (~~When payment is received by a recipient of or an applicant for public assistance who is operating a foster home for children or a family home for adults, that portion of payment made for such care which is in excess of the department's approved rate for such care shall be considered as net income available to the operator~~) (1) Foster home for children. When a public assistance client operates a foster home for children, the department shall:

(a) Disregard as income a foster care payment made for the care of a child;

(b) Regard as earned income retainer fees received to reserve beds for foster children.

(2) Adult family homes. When a public assistance client operates an adult family home, the department shall regard the adult family home payment as self-employment income.

WSR 89-22-131
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2893—Filed November 1, 1989, 3:25 p.m.]

Date of Adoption: November 1, 1989.

Purpose: Comply with the Administrative Procedure Act of 1989 (APA) and Code of Federal Regulations (CFR).

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-690 and 388-49-700.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 89-19-075 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Leslie F. James, Director
 Administrative Services

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

WAC 388-49-690 FAIR HEARINGS. Fair hearings in the food stamp program are governed by this section and chapter ~~((s 10-08 and))~~ 388-08 WAC ~~((and WAC 388-49-690))~~. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section shall govern.

(1) At application and any time a household disagrees with a department decision, the department shall inform the household, in writing, of the:

- (a) Right to a hearing,
- (b) Method to request a hearing,
- (c) Right to have a household member present their case, and

(d) Availability of free legal representation.

(2) The household has the right to a fair hearing on:

(a) An action by the department or loss of benefits occurring in the prior ninety days;

(b) A denial of a request for restoration of any benefits lost more than ninety days, but less than a year ~~((prior to))~~ before the request; or

(c) Any dispute of current benefit level at any time within a certification period.

(3) The department shall grant an alien's sponsor household the right to a fair hearing to contest:

(a) A determination that the sponsor was at fault for providing incorrect information~~((:));~~ or

(b) The overissuance amount.

(4) A request for a hearing is any oral or written request by a household or its representative. The person must request a hearing within ninety days of the household's receipt of the decision being appealed.

(5) The department shall ~~((schedule and))~~ provide advance notice of the hearing to all involved parties at least ~~((twenty))~~ ten days ~~((prior to))~~ before the hearing.

(6) Before and during the hearing, a household or its representative with written authorization may inspect the department's files containing information related to the issue in the hearing request.

(7) The department shall not release confidential information including:

(a) Name of persons providing information about the household without its knowledge~~((:));~~ and

(b) Nature and status of pending criminal prosecutions.

(8) The department shall:

(a) Assist the household in preparing the hearing request;

(b) Advise the household of its right to reapply for benefits pending the hearing;

(c) Upon request, provide bilingual interpreters; and

(d) Upon request, provide the household or its representative:

(i) ~~((Any))~~ Material needed to determine if a hearing should be requested or to prepare for a hearing~~((:));~~

(ii) Free copies of pertinent material from the case record((:)); and

(iii) ~~((Any))~~ Information of legal services available to the client.

(9) The department shall ~~((conduct a hearing:~~

~~(a) In the household's county of residence unless the household asks for or agrees to a hearing in another, or~~

~~(b) By telephone with the household in their county of residence)) withdraw a fair hearing request when the client so requests in writing.~~

(10) ~~((The decision-rendering rule is as described in WAC 388-08-409 and 388-08-413, except the period to file a timely petition for review is ten days from the date the initial decision is mailed))~~ The administrative law judge or department shall not dismiss or withdraw a fair hearing request because a client fails to attend a prehearing or agency conference.

(11) The department shall make a final decision within sixty days of the receipt of the hearing request. The department shall:

(a) Extend the time by the number of days a hearing is continued based on a request by or with the agreement of the household((:)); and

(b) Expedite hearing requests from households planning to move from the state before the hearing decision ~~((would))~~ is normally ((be)) made.

(12) The department shall carry out the hearing decision to:

(a) Provide lost benefits when:

(i) The household ~~((was))~~ is incorrectly denied benefits, or

(ii) Fewer benefits ~~((were))~~ are issued than ~~((were))~~ are due.

(b) Increase benefits within ten days of the receipt of the decision((:));

(c) Decrease benefits in the first scheduled issuance following the receipt of the decision((:)); and

(d) Establish a claim for ~~((any))~~ an overissuance if the department~~(('s))~~ is correct.

(13) The department shall, upon written request made within one year of the hearing, provide the household a free copy of the tape recording of the hearing.

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

WAC 388-49-700 FAIR HEARINGS—CONTINUATION OF BENEFITS PENDING. (1) The department shall continue benefits at the contested or previous level pending a fair hearing if:

(a) The client requests a hearing within the period specified by the notice of adverse action((:));

(b) The certification period ~~((has))~~ is not expired((:));

(c) The household ~~((has))~~ does not ~~((waived))~~ waive continuation of benefits((:)); and

(d) Households subject to monthly reporting submit a completed monthly report timely for each month of continued benefits.

(2) The department shall reduce or terminate benefits if a hearing request is not made within the period specified in the notice, unless failure to make the request ~~((was))~~ is for good cause.

(3) Once continued or reinstated, the department shall not reduce or terminate benefits ~~((prior to))~~ before receipt of the hearing decision unless:

(a) The certification period expires((:));

(b) The ~~((hearing officer makes))~~ administrative law judge issues a preliminary determination, in writing ~~((and at the hearing)),~~ stating:

(i) The sole issue is one of federal law or regulations((:)); and

(ii) The household's claim the department improperly computed benefits or misapplied such law or regulation is invalid~~((, or))~~.

(c) The household fails to request a new hearing after receiving a notice of adverse action on a change occurring pending the hearing decision~~((, or))~~;

(d) A mass change occurs while the hearing decision is pending~~((, and))~~; or

(e) A household whose certification period expired has made a timely application for a new certification period pending receipt of a hearing decision.

(4) For households subject to monthly reporting, the department shall continue benefits within five working days from the day the request for continued benefits is received.

(5) The department shall act on reported changes without regard to the matter at issue in the hearing:

(a) During the certification period,

(b) When a monthly report is received, or

(c) When a timely application is made for a new certification period pending receipt of a hearing decision.

(6) The department shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(7) The department shall establish a claim for all overissuances if the department's action is upheld by the hearing decision.

WSR 89-22-132
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2894—Filed November 1, 1989, 3:26 p.m.]

Date of Adoption: November 1, 1989.

Purpose: To update the thrifty food plan standards effective October 1, 1989.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-550.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 89-19-074 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2760, filed 2/13/89)

WAC 388-49-550 MONTHLY ALLOTMENTS.

(1) The department shall determine the value of the allotment a household receives.

(2) The monthly allotment shall equal the thrifty food plan (TFP) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service.

<u>Household Size</u>	<u>Thrifty Food Plan</u>
1	((90)) 99
2	((165)) 182
3	((236)) 260
4	((300)) 331
5	((356)) 393
6	((427)) 472
7	((472)) 521
8	((540)) 596
9	((608)) 671
10	((676)) 746
Each additional member	+ ((68)) 75

(3) The department shall issue to households, except for households as specified in subsection (4) of this section, a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.

(a) The allotment shall be based upon a thirty-day month.

(b) No allotment shall be issued for less than ten dollars.

(4) ~~((Effective September 1, 1988,))~~ The department shall issue a full month allotment to migrant and seasonal farmworker households applying within thirty days after a prior certification ends.

(5) The department shall determine the value of the monthly allotment a household receives by:

(a) Multiplying the household's net monthly income by thirty percent((:));

(b) Rounding the product up to the next whole dollar if it ends with one through ninety-nine cents((:)); and

(c) Subtracting the result from the thrifty food plan for the appropriate household size.

(6) One- and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when no allotment shall be issued for less than ten dollars.

(7) The department shall issue an identification card to each certified household.

Purpose: To clarify that the community services staff determine client cooperation with support enforcement activities based on all evidence in the file. Evidence can be provided by any party including Office of Support Enforcement (OSE), Prosecuting Attorney's Office, or the client.

Citation of Existing Rules Affected by this Order: Amending WAC 388-24-109 and 388-33-453.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-19-072 on September 20, 1989.

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 1644, filed 4/27/81)

WAC 388-24-109 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—~~((COOPERATION IN OBTAINING))~~ SUPPORT ~~((FROM ABSENT PARENTS))~~ ENFORCEMENT COOPERATION. (1) As a condition of eligibility, the department shall require each applicant for or recipient of AFDC ~~((shall be required))~~ to cooperate as specified in WAC 388-14-200 ~~((except))~~ unless the department has established good cause as specified in WAC 388-24-111.

(2) Department IV-A staff shall base the determination of client cooperation on all evidence in its possession.

AMENDATORY SECTION (Amending Order 2166, filed 10/31/84)

WAC 388-33-453 PROTECTIVE PAYMENT—FAILURE OR REFUSAL TO COOPERATE WITH SUPPORT ENFORCEMENT. (1) If ~~((the parent or other caretaker relative fails or refuses to cooperate with the office of support enforcement or other agencies))~~ department IV-A staff determine an AFDC applicant or recipient has not cooperated in obtaining support ~~((payments))~~ as ~~((stipulated))~~ required in WAC 388-24-108 and 388-24-109, the department IV-A staff shall authorize assistance to the other eligible assistance unit members:

(a) ~~((Assistance to meet the requirements of other eligible members of the assistance unit will be provided in the form of))~~ Through protective payments; ~~((except))~~ or

(b) Directly to the sanctioned individual, if the department, after making reasonable efforts, is unable to locate an appropriate protective payee~~((, assistance may be paid directly to the sanctioned individual))~~.

(2) ~~((The))~~ Department IV-A staff shall:

(a) Notify the relative payee in writing of the establishment of a protective payment as described in WAC 388-33-444((:));

~~((3))~~ (b) ~~((The selection of))~~ Select a protective payee ~~((shall be made))~~ in accordance with WAC 388-33-440 (3)(a), (b), and (c)((:));

~~((4))~~ (c) ~~((The manner in which the protective payee performs will be reviewed))~~ Review at least every

WSR 89-22-133
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2896—Filed November 1, 1989, 3:26 p.m.]

Date of Adoption: November 1, 1989.

three months the manner in which the protective payee performs; and

~~((d))~~ Review the caretaker relative's circumstances ~~((will be reviewed))~~ as frequently as ~~((indicated:))~~ circumstances require, but at least every six months;

~~((5))~~ ~~((e))~~ ~~((Payment to the relative payee shall not be resumed without written approval by the office of support enforcement stating that the individual is cooperating in obtaining support))~~ Notify the department IV-D staff of the client's change in cooperation status.

~~((6))~~ (3) The rules in this section as to the person selected as protective payee and manner of disbursements are not subject to a fair hearing.

WSR 89-22-134
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2897—Filed November 1, 1989, 3:28 p.m.]

Date of Adoption: November 1, 1989.

Purpose: To require individuals caring for children in licensed child care agencies to have education and training on the prevention, transmission and treatment of HIV and AIDS.

Statutory Authority for Adoption: RCW 74.15.030.

Pursuant to notice filed as WSR 89-19-076 on September 20, 1989.

Changes Other than Editing from Proposed to Adopted Version: The word "and" was inserted between subsections (1) and (2) to clarify that they both apply. Subsection (2) was changed to specify that training must be consistent with "the approved curriculum manual KNOW - HIV/AIDS PREVENTION EDUCATION FOR HEALTH CARE FACILITY EMPLOYEES, May 31, 1989, published by the Department of Health, Office of HIV/AIDS."

Effective Date of Rule: Thirty-one days after filing.

November 1, 1989

Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-73-143 HIV/AIDS EDUCATION AND TRAINING. Licensed child care agencies shall:

(1) Provide or arrange for appropriate education and training of employees on the prevention, transmission, and treatment of HIV and AIDS as prescribed by the department of social and health services. Such education and training shall consider infection control standards and materials available from appropriate professional associations and professional prepared publications. For foster family homes, family day care homes, and mini-day care centers, the primary caregiver shall complete this education and training; and

(2) Use infection control standards and educational material consistent with the approved curriculum manual KNOW - HIV/AIDS PREVENTION EDUCATION FOR

HEALTH CARE FACILITY EMPLOYEES, May 31, 1989, published by the department of health, office on HIV/AIDS.

WSR 89-22-135
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed November 1, 1989, 3:45 p.m.]

Original Notice.

Title of Rule: WAC 232-28-21810 Amendment to 1989 Hunting seasons and rules—GMU 472—White River (King and Pierce counties).

Purpose: To close GMU 472 (White River) to elk hunting for conservation of the elk herd that winters in GMU 472.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The proposed regulation closes that portion of GMU 472 (White River) east of Mud Mountain Dam to elk hunting effective December 15, 1989.

Reasons Supporting Proposal: The closure of elk hunting is necessary for conservation of the elk herd that winters in GMU 472.

Name of Agency Personnel Responsible for Drafting: Lee Smith, Administrative Rules Officer, Olympia, (206) 586-6212; Implementation: Tom Juelson, A.D., Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Dan Wyckoff, A.D., Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The closure of elk hunting is necessary for conservation of the elk herd that winters in GMU 472. The department's analysis of the data indicates that White River elk herd has been declining by five percent per year for the last few years. The management goal is to maintain the White River elk herd and not allow further depletion of the herd. To accomplish this goal, tribal and state representatives have agreed upon the need to reduce the overall harvest in GMU 472 by 20 percent.

Last year archers took 36 antlerless (cow) elk. This year nontribal elk seasons have been restricted to prohibit the taking of antlerless elk by archers. This year the only legal elk in GMU 472 for nontribal hunters are bulls with three or more antler points. No cows or young bulls may be taken by nontribal hunters. The department finds that in addition to these restrictions, a conservation closure not later than December 15 is necessary to achieve a 20 percent reduction in tribal harvest.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, on December 5, 1989, at 11:00 a.m.

Submit Written Comments to: Lee S. Smith, Department of Wildlife, 600 Capitol Way North, Olympia, WA, by November 28, 1989.

Date of Intended Adoption: December 5, 1989.

November 1, 1989

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-21810 AMENDMENT TO 1989 HUNTING SEASONS AND RULES - GMU 472 - WHITE RIVER (KING AND PIERCE COUNTIES) Notwithstanding the provisions of WAC 232-28-218, effective 12:01 a.m. on December 15, 1989, it is unlawful for any person to hunt or take elk in that part of Game Management Unit 472 (White River) east of Mud Mountain Dam. This is an all citizen closure.

WSR 89-22-136

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 89-59—Filed November 1, 1989, 4:15 p.m.]

Original Notice.

Title of Rule: WAC 173-19-2505 Bothell, city of.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: This filing is procedural only and is being filed in accordance with State Shoreline Hearings Board stipulation and order SHB 89-48.

Reasons Supporting Proposal: This master program amendment was approved by the State Shoreline Hearings Board on October 25, 1989, as consistent with the policy of the State Shorelines Management Act of 1971, RCW 90.58.020, and applicable guidelines.

Name of Agency Personnel Responsible for Implementation and Enforcement: D. Rodney Mack, Department of Ecology, Mailstop PV-11, Olympia, 98504, (206) 459-6777.

Name of Proponent: Department of Ecology, public.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The text of this rule as adopted will be identical to that contained in SHB 89-48 which amends the Bothell Shoreline master program to include an "Urban-Special Management Overlay Designation." Said designation fosters reasonable and appropriate uses while protecting against adverse effects to the environment.

Proposal Changes the Following Existing Rules: The proposal changes the city of Bothell shoreline master program, WAC 173-19-2505 to comply with SHB 89-48.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Ecology Headquarters, Room 154, Abbott Raphael Hall, St. Martins College Campus, Lacey, Washington, on December 6, 1989, at 2:00 p.m.

Submit Written Comments to: This rule is solely procedural to meet the requirement of the Administrative Procedure Act. Submit comments to: Master Program Coordinator, S & CZM Program, Department of Ecology, Mailstop PV-11, Olympia, 98504, by December 11, 1989.

Date of Intended Adoption: December 19, 1989.

October 31, 1989

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order 84-40, filed 12/5/84)

WAC 173-19-2505 BOTHELL, CITY OF. City of Bothell master program approved February 27, 1975. Revision approved July 2, 1976. Revision approved January 31, 1977. Revision approved March 8, 1983. Revision approved December 5, 1974. Revision approved December 19, 1989.

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

WSR 89-22-137

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 89-55—Filed November 1, 1989, 4:19 p.m.]

Continuance of WSR 89-17-155.

Title of Rule: WAC 173-19-4501 Bellingham, city of.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Other Identifying Information: Change of adoption date.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for the city of Bellingham.

Reasons Supporting Proposal: A prior amendment proposed by the city was found by the department to be inconsistent with the Shoreline Management Act with regard to uses within shorelines of statewide significance. This amendment brings the proposed revision into compliance with the act.

Name of Proponent: Department of Ecology, public.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment adds a requirement that certain types of over water development will require conditional use permits to shoreline master program revisions, proposed by the city, which divide the Urban II environment designation into urban maritime and urban multi-use designations; and clarify policy and adopt standards relating to water-oriented uses, public access, shoreline setbacks, parking, riparian vegetation, water quality, enforcement and other related issues.

Proposal Changes the Following Existing Rules: WAC 173-19-4501 Bellingham, city of.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Date of Intended Adoption: November 21, 1989.
October 31, 1989
Fred Olson
Deputy Director

1986. Revision approved March 1, 1988. Revision approved October 31, 1989.

WSR 89-22-138
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 89-41—Filed November 1, 1989, 4:20 p.m.]

Date of Adoption: October 31, 1989.
Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.
Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3503 Dupont, city of.
Statutory Authority for Adoption: RCW 90.58.200.
Pursuant to notice filed as WSR 89-15-044 on July 18, 1989.
Effective Date of Rule: Thirty-one days after filing.
October 31, 1989
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3503 DUPONT, CITY OF. City of Dupont master program approved June 11, 1975. Revision approved October 31, 1989.

WSR 89-22-139
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 89-17—Filed November 1, 1989, 4:22 p.m.]

Date of Adoption: October 31, 1989:
Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.
Citation of Existing Rules Affected by this Order: WAC 173-19-130 Clallam County.
Statutory Authority for Adoption: RCW 90.58.200.
Pursuant to notice filed as WSR 89-17-152 on August 23, 1989.
Effective Date of Rule: Thirty-one days after filing.
October 31, 1989
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order DE 87-51, filed 3/3/88)

WAC 173-19-130 CLALLAM COUNTY. Clallam County master program approved August 5, 1976. Revision approved November 16, 1976. Revision approved August 10, 1979. Revision approved January 4, 1983. Revision approved March 27, 1984. Revision approved January 27, 1986. Revision approved June 3,

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
- PREP = Preproposal comments
- 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
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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132D-18-140	REP 89-11-024	132D-20-190	REP-P 89-07-070	132D-276-060	NEW 89-11-024
132D-18-150	REP-P 89-07-062	132D-20-190	REP 89-11-025	132D-276-070	NEW-P 89-07-062
132D-18-150	REP 89-11-024	132D-20-200	REP-P 89-05-012	132D-276-070	NEW 89-11-024
132D-20-010	REP-P 89-05-012	132D-20-200	REP-W 89-05-046	132D-276-080	NEW-P 89-07-062
132D-20-010	REP-W 89-05-046	132D-20-200	REP-P 89-07-070	132D-276-080	NEW 89-11-024
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132D-20-020	REP-P 89-05-012	132D-20-210	REP-W 89-05-046	132D-276-100	NEW-P 89-07-062
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132D-20-060	REP 89-11-025	132D-20-260	REP-P 89-05-012	132D-280-035	NEW 89-11-044
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132Y-320-130	NEW-P	89-08-022	137-56-140	AMD-C	89-07-083	154-12-060	REP-E	89-11-008
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137-36-040	AMD-E	89-04-029	137-70-040	AMD-P	89-07-075	154-12-100	REP-P	89-07-090
137-44-010	NEW-P	89-11-029	137-70-040	AMD	89-12-003	154-12-100	REP-E	89-11-008
137-44-020	NEW-P	89-11-029	137-78-010	NEW-P	89-11-108	154-12-100	REP	89-11-010
137-44-030	NEW-P	89-11-029	137-78-010	NEW	89-15-059	154-12-107	NEW-P	89-07-090
137-44-040	NEW-P	89-11-029	137-78-020	NEW-P	89-11-108	154-12-107	NEW-E	89-11-008
137-44-050	NEW-P	89-11-029	137-78-020	NEW	89-15-059	154-12-107	NEW	89-11-010
137-44-060	NEW-P	89-11-029	137-78-030	NEW-P	89-11-108	154-12-110	AMD-P	89-07-090
137-44-070	NEW-P	89-11-029	137-78-030	NEW	89-15-059	154-12-110	AMD-E	89-11-008
137-44-080	NEW-P	89-11-029	137-78-040	NEW-P	89-11-108	154-12-110	AMD	89-11-010
137-44-090	NEW-P	89-11-029	137-78-040	NEW	89-15-059	154-16-010	REP-P	89-07-090
137-44-100	NEW-P	89-11-029	137-78-050	NEW-P	89-11-108	154-16-010	REP-E	89-11-008
137-44-110	NEW-P	89-11-029	137-78-050	NEW	89-15-059	154-16-010	REP	89-11-010
137-44-120	NEW-P	89-11-029	137-78-060	NEW-P	89-11-108	154-16-020	REP-P	89-07-090
137-44-130	NEW-P	89-11-029	137-78-060	NEW	89-15-059	154-16-020	REP-E	89-11-008
137-44-140	NEW-P	89-11-029	137-78-070	NEW-P	89-11-108	154-16-020	REP	89-11-010
137-44-150	NEW-P	89-11-029	137-78-070	NEW	89-15-059	154-20-010	REP-P	89-07-090
137-44-160	NEW-P	89-11-029	139-05-200	AMD-P	89-07-049	154-20-010	REP-E	89-11-008
137-44-170	NEW-P	89-11-029	139-05-200	AMD-E	89-07-050	154-20-010	REP	89-11-010
137-44-180	NEW-P	89-11-029	139-05-200	AMD	89-13-024	154-20-020	REP-P	89-07-090
137-44-190	NEW-P	89-11-029	139-05-230	AMD-P	89-07-048	154-20-020	REP-E	89-11-008
137-44-200	NEW-P	89-11-029	139-05-230	AMD	89-13-023	154-20-020	REP	89-11-010
137-44-210	NEW-P	89-11-029	143-06-990	REP	89-05-007	154-24-010	AMD-P	89-07-090
137-44-220	NEW-P	89-11-029	154-04-040	REP-P	89-07-090	154-24-010	AMD-E	89-11-008
137-44-230	NEW-P	89-11-029	154-04-040	REP-E	89-11-008	154-24-010	AMD	89-11-010
137-44-240	NEW-P	89-11-029	154-04-040	REP	89-11-010	154-32-010	AMD-P	89-07-090
137-44-250	NEW-P	89-11-029	154-04-060	REP-P	89-07-090	154-32-010	AMD-E	89-11-008
137-44-260	NEW-P	89-11-029	154-04-060	REP-E	89-11-008	154-32-010	AMD	89-11-010
137-56-010	AMD-P	89-07-083	154-04-060	REP	89-11-010	154-32-020	AMD-P	89-07-090
137-56-010	AMD-C	89-07-083	154-04-065	NEW-P	89-07-090	154-32-020	AMD-E	89-11-008
137-56-015	AMD-P	89-02-058	154-04-065	NEW-E	89-11-008	154-32-020	AMD	89-11-010
137-56-015	AMD-C	89-07-083	154-04-065	NEW	89-11-010	154-68-020	AMD-P	89-07-090
137-56-030	AMD-P	89-02-058	154-04-090	REP-P	89-07-090	154-68-020	AMD-E	89-11-008
137-56-030	AMD-C	89-07-083	154-04-090	REP-E	89-11-008	154-68-020	AMD	89-11-010
137-56-040	AMD-P	89-02-058	154-04-090	REP	89-11-010	154-120-015	AMD-P	89-07-089
137-56-040	AMD-C	89-07-083	154-12-010	AMD-P	89-07-090	154-120-015	AMD-E	89-11-009
137-56-050	AMD-P	89-02-058	154-12-010	AMD-E	89-11-008	154-120-015	AMD	89-11-011
137-56-050	AMD-C	89-07-083	154-12-010	AMD	89-11-010	154-130-020	AMD-P	89-15-061
137-56-060	AMD-P	89-02-058	154-12-010	AMD-P	89-16-100	154-130-020	AMD	89-20-022
137-56-060	AMD-C	89-07-083	154-12-010	AMD	89-20-021	154-130-030	AMD-P	89-15-061

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154-140-030	AMD-P	89-15-061	162-08-305	RE-AD-P	89-17-098	173-50-160	NEW-P	89-04-052
154-140-030	AMD	89-20-022	162-08-311	RE-AD-P	89-17-098	173-50-160	NEW	89-10-001
162-04-010	AMD-P	89-17-115	162-08-600	RE-AD-P	89-17-098	173-50-170	NEW-P	89-04-052
162-04-020	AMD-P	89-17-115	162-08-610	RE-AD-P	89-17-098	173-50-170	NEW	89-10-001
162-04-026	AMD-P	89-17-115	162-08-621	REP-P	89-17-098	173-50-180	NEW-P	89-04-052
162-04-030	AMD-P	89-17-115	162-08-700	RE-AD-P	89-17-098	173-50-180	NEW	89-10-001
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162-04-040	AMD-P	89-17-115	173-06-030	AMD-P	89-08-078	173-50-190	NEW	89-10-001
162-04-050	AMD-P	89-17-115	173-06-030	AMD-E	89-08-079	173-50-200	NEW-P	89-04-052
162-04-060	AMD-P	89-17-115	173-06-030	AMD	89-11-021	173-50-200	NEW	89-10-001
162-04-070	AMD-P	89-17-115	173-19-110	AMD-W	89-03-012	173-50-210	NEW-P	89-04-052
162-08-011	RE-AD-P	89-17-098	173-19-1104	AMD-P	89-21-087	173-50-210	NEW	89-10-001
162-08-013	RE-AD-P	89-17-098	173-19-130	AMD-P	89-17-152	173-98-010	NEW-P	89-11-082
162-08-015	RE-AD-P	89-17-098	173-19-130	AMD	89-22-139	173-98-010	NEW	89-18-019
162-08-017	RE-AD-P	89-17-098	173-19-240	AMD	89-08-012	173-98-020	NEW-P	89-11-082
162-08-019	RE-AD-P	89-17-098	173-19-2401	AMD	89-08-035	173-98-020	NEW	89-18-019
162-08-021	RE-AD-P	89-17-098	173-19-2503	AMD-P	89-08-112	173-98-030	NEW-P	89-11-082
162-08-041	RE-AD-P	89-17-098	173-19-2503	AMD-C	89-12-087	173-98-030	NEW	89-18-019
162-08-051	RE-AD-P	89-17-098	173-19-2503	AMD-C	89-16-028	173-98-040	NEW-P	89-11-082
162-08-061	RE-AD-P	89-17-098	173-19-2503	AMD	89-20-016	173-98-040	NEW	89-18-019
162-08-062	RE-AD-P	89-17-098	173-19-2505	AMD-P	89-09-076	173-98-050	NEW-P	89-11-082
162-08-071	RE-AD-P	89-17-098	173-19-2505	AMD-W	89-14-128	173-98-050	NEW	89-18-019
162-08-072	RE-AD-P	89-17-098	173-19-2505	AMD-P	89-22-136	173-98-060	NEW-P	89-11-082
162-08-081	RE-AD-P	89-17-098	173-19-2512	AMD	89-03-009	173-98-060	NEW	89-18-019
162-08-091	RE-AD-P	89-17-098	173-19-2512	AMD-P	89-17-153	173-98-070	NEW-P	89-11-082
162-08-093	RE-AD-P	89-17-098	173-19-2515	AMD	89-03-011	173-98-070	NEW	89-18-019
162-08-094	RE-AD-P	89-17-098	173-19-2519	AMD-P	89-09-075	173-98-080	NEW-P	89-11-082
162-08-09501	NEW-P	89-17-098	173-19-2519	AMD-W	89-12-071	173-98-080	NEW	89-18-019
162-08-096	RE-AD-P	89-17-098	173-19-2519	AMD-P	89-21-086	173-98-090	NEW-P	89-11-082
162-08-097	NEW-P	89-17-098	173-19-3503	AMD-P	89-15-044	173-98-090	NEW	89-18-019
162-08-098	RE-AD-P	89-17-098	173-19-3503	AMD	89-22-138	173-98-100	NEW-P	89-11-082
162-08-099	RE-AD-P	89-17-098	173-19-360	AMD	89-09-077	173-98-100	NEW	89-18-019
162-08-101	RE-AD-P	89-17-098	173-19-390	AMD	89-07-026	173-98-110	NEW-P	89-11-082
162-08-106	RE-AD-P	89-17-098	173-19-390	AMD-P	89-08-114	173-98-110	NEW	89-18-019
162-08-108	REP-P	89-17-098	173-19-390	AMD	89-14-130	173-98-120	NEW-P	89-11-082
162-08-109	RE-AD-P	89-17-098	173-19-3910	AMD-P	89-08-115	173-98-120	NEW	89-18-019
162-08-111	REP-P	89-17-098	173-19-3910	AMD	89-14-131	173-158-030	AMD-C	89-05-003
162-08-114	REP-P	89-17-098	173-19-4501	AMD-P	89-08-113	173-158-030	AMD	89-07-022
162-08-116	REP-P	89-17-098	173-19-4501	AMD-C	89-14-129	173-158-060	AMD-C	89-05-003
162-08-121	REP-P	89-17-098	173-19-4501	AMD-W	89-17-032	173-158-060	AMD	89-07-022
162-08-131	REP-P	89-17-098	173-19-4501	AMD-P	89-17-033	173-160-215	AMD-E	89-03-046
162-08-135	REP-P	89-17-098	173-19-4501	AMD-W	89-17-154	173-160-215	AMD-P	89-12-058
162-08-141	REP-P	89-17-098	173-19-4501	AMD-P	89-17-155	173-160-215	AMD	89-15-017
162-08-151	REP-P	89-17-098	173-19-4501	AMD-C	89-22-137	173-201	PREP	89-21-059
162-08-155	REP-P	89-17-098	173-19-4507	AMD	89-03-010	173-216-125	NEW-P	89-04-051
162-08-161	REP-P	89-17-098	173-20-700	AMD-W	89-07-025	173-216-125	NEW-W	89-09-015
162-08-171	REP-P	89-17-098	173-50	NEW-C	89-07-032	173-220-210	AMD-P	89-04-051
162-08-190	RE-AD-P	89-17-098	173-50-010	NEW-P	89-04-052	173-220-210	AMD-W	89-09-015
162-08-201	RE-AD-P	89-17-098	173-50-010	NEW	89-10-001	173-223	REP-C	89-12-016
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162-08-212	REP-P	89-17-098	173-50-020	NEW	89-10-001	173-223-015	AMD-E	89-06-053
162-08-215	REP-P	89-17-098	173-50-030	NEW-P	89-04-052	173-223-015	REP-P	89-07-088
162-08-217	REP-P	89-17-098	173-50-030	NEW	89-10-001	173-223-015	REP	89-12-027
162-08-221	RE-AD-P	89-17-098	173-50-040	NEW-P	89-04-052	173-223-020	REP-P	89-07-088
162-08-231	RE-AD-P	89-17-098	173-50-040	NEW	89-10-001	173-223-020	REP	89-12-027
162-08-241	RE-AD-P	89-17-098	173-50-050	NEW-P	89-04-052	173-223-030	AMD	89-05-026
162-08-251	RE-AD-P	89-17-098	173-50-050	NEW	89-10-001	173-223-030	AMD-E	89-06-053
162-08-253	NEW-P	89-17-098	173-50-060	NEW-P	89-04-052	173-223-030	REP-P	89-07-088
162-08-255	NEW-P	89-17-098	173-50-060	NEW	89-10-001	173-223-030	REP	89-12-027
162-08-261	RE-AD-P	89-17-098	173-50-070	NEW-P	89-04-052	173-223-040	AMD	89-05-026
162-08-263	NEW-P	89-17-098	173-50-070	NEW	89-10-001	173-223-040	AMD-E	89-06-053
162-08-265	RE-AD-P	89-17-098	173-50-080	NEW-P	89-04-052	173-223-040	REP-P	89-07-088
162-08-268	RE-AD-P	89-17-098	173-50-080	NEW	89-10-001	173-223-040	REP	89-12-027
162-08-271	RE-AD-P	89-17-098	173-50-090	NEW-P	89-04-052	173-223-050	AMD	89-05-026
162-08-275	REP-P	89-17-098	173-50-090	NEW	89-10-001	173-223-050	AMD-E	89-06-053
162-08-278	REP-P	89-17-098	173-50-100	NEW-P	89-04-052	173-223-050	REP-P	89-07-088
162-08-282	RE-AD-P	89-17-098	173-50-100	NEW	89-10-001	173-223-050	REP	89-12-027
162-08-284	REP-P	89-17-098	173-50-110	NEW-P	89-04-052	173-223-060	REP-P	89-07-088
162-08-286	RE-AD-P	89-17-098	173-50-110	NEW	89-10-001	173-223-060	REP	89-12-027
162-08-288	RE-AD-P	89-17-098	173-50-120	NEW-P	89-04-052	173-223-070	AMD	89-05-026
162-08-291	RE-AD-P	89-17-098	173-50-120	NEW	89-10-001	173-223-070	AMD-E	89-06-053
162-08-292	RE-AD-P	89-17-098	173-50-130	NEW-P	89-04-052	173-223-070	REP-P	89-07-088
162-08-294	RE-AD-P	89-17-098	173-50-130	NEW	89-10-001	173-223-070	REP	89-12-027
162-08-295	REP-P	89-17-098	173-50-140	NEW-P	89-04-052	173-223-080	REP-P	89-07-088
162-08-296	REP-P	89-17-098	173-50-140	NEW	89-10-001	173-223-080	REP	89-12-027
162-08-298	RE-AD-P	89-17-098	173-50-150	NEW-P	89-04-052	173-223-090	AMD	89-05-026

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173-223-090	REP-P	89-07-088	173-306-495	NEW-P	89-19-069	173-318-050	NEW-E	89-09-005
173-223-090	REP	89-12-027	173-306-500	NEW-P	89-19-069	173-318-050	NEW-P	89-12-065
173-223-100	REP-P	89-07-088	173-306-900	NEW-P	89-19-069	173-318-050	NEW	89-18-070
173-223-100	REP	89-12-027	173-306-9901	NEW-P	89-19-069	173-318-060	NEW-E	89-09-005
173-223-110	REP-P	89-07-088	173-313-010	NEW-E	89-06-060	173-318-060	NEW-P	89-12-065
173-223-110	REP	89-12-027	173-313-010	NEW-P	89-11-086	173-318-060	NEW	89-18-070
173-224	NEW-C	89-12-016	173-313-010	NEW-E	89-12-021	173-318-070	NEW-E	89-09-005
173-224-015	NEW-P	89-07-088	173-313-010	NEW	89-17-073	173-318-070	NEW-P	89-12-065
173-224-015	NEW	89-12-027	173-313-020	NEW-E	89-06-060	173-318-070	NEW	89-18-070
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173-224-020	NEW	89-12-027	173-313-020	NEW-E	89-12-021	173-318-080	NEW-P	89-12-065
173-224-030	NEW-P	89-07-088	173-313-020	NEW	89-17-073	173-318-080	NEW	89-18-070
173-224-030	NEW	89-12-027	173-313-030	NEW-E	89-06-060	173-321-010	NEW-P	89-15-046
173-224-040	NEW-P	89-07-088	173-313-030	NEW-P	89-11-086	173-321-010	NEW	89-21-072
173-224-040	NEW	89-12-027	173-313-030	NEW-E	89-12-021	173-321-020	NEW-P	89-15-046
173-224-050	NEW-P	89-07-088	173-313-030	NEW	89-17-073	173-321-020	NEW	89-21-072
173-224-050	NEW	89-12-027	173-313-040	NEW-E	89-06-060	173-321-030	NEW-P	89-15-046
173-224-060	NEW-P	89-07-088	173-313-040	NEW-P	89-11-086	173-321-030	NEW	89-21-072
173-224-060	NEW	89-12-027	173-313-040	NEW-E	89-12-021	173-321-040	NEW-P	89-15-046
173-224-070	NEW-P	89-07-088	173-313-040	NEW	89-17-073	173-321-040	NEW	89-21-072
173-224-070	NEW	89-12-027	173-313-050	NEW-E	89-06-060	173-321-050	NEW-P	89-15-046
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173-224-080	NEW	89-12-027	173-313-050	NEW-E	89-12-021	173-321-060	NEW-P	89-15-046
173-224-090	NEW-P	89-07-088	173-313-050	NEW	89-17-073	173-321-060	NEW	89-21-072
173-224-090	NEW	89-12-027	173-314-010	NEW	89-03-047	173-321-070	NEW-P	89-15-046
173-224-100	NEW-P	89-07-088	173-314-100	NEW	89-03-047	173-321-070	NEW	89-21-072
173-224-100	NEW	89-12-027	173-314-200	NEW	89-03-047	173-321-080	NEW-P	89-15-046
173-224-110	NEW-P	89-07-088	173-314-210	NEW	89-03-047	173-321-080	NEW	89-21-072
173-224-110	NEW	89-12-027	173-314-220	NEW	89-03-047	173-336-010	REP-P	89-20-059
173-224-120	NEW-P	89-07-088	173-314-300	NEW	89-03-047	173-336-020	REP-P	89-20-059
173-224-120	NEW	89-12-027	173-314-310	NEW	89-03-047	173-336-030	REP-P	89-20-059
173-303-040	AMD	89-02-059	173-314-320	NEW	89-03-047	173-338-010	REP-P	89-20-059
173-303-045	AMD	89-02-059	173-314-330	NEW	89-03-047	173-338-020	REP-P	89-20-059
173-303-070	AMD	89-02-059	173-314-340	NEW	89-03-047	173-338-030	REP-P	89-20-059
173-303-071	AMD	89-02-059	173-315-010	NEW-E	89-06-061	173-338-040	REP-P	89-20-059
173-303-080	AMD	89-02-059	173-315-010	NEW-P	89-11-087	173-338-050	REP-P	89-20-059
173-303-110	AMD	89-02-059	173-315-010	NEW-E	89-12-020	173-340	AMD-P	89-20-059
173-303-161	AMD	89-02-059	173-315-010	NEW	89-17-072	173-340-010	REP-P	89-20-059
173-303-200	AMD	89-02-059	173-315-020	NEW-E	89-06-061	173-340-020	REP-P	89-20-059
173-303-202	NEW	89-02-059	173-315-020	NEW-P	89-11-087	173-340-030	REP-P	89-20-059
173-303-400	AMD	89-02-059	173-315-020	NEW-E	89-12-020	173-340-040	REP-P	89-20-059
173-303-505	AMD	89-02-059	173-315-020	NEW	89-17-072	173-340-050	REP-P	89-20-059
173-303-515	AMD	89-02-059	173-315-030	NEW-E	89-06-061	173-340-100	NEW-P	89-20-059
173-303-550	AMD	89-02-059	173-315-030	NEW-P	89-11-087	173-340-110	NEW-P	89-20-059
173-303-610	AMD	89-02-059	173-315-030	NEW-E	89-12-020	173-340-120	NEW-P	89-20-059
173-303-620	AMD	89-02-059	173-315-030	NEW	89-17-072	173-340-130	NEW-P	89-20-059
173-303-640	AMD	89-02-059	173-315-040	NEW-E	89-06-061	173-340-140	NEW-P	89-20-059
173-303-645	AMD	89-02-059	173-315-040	NEW-P	89-11-087	173-340-200	NEW-P	89-20-059
173-303-805	AMD	89-02-059	173-315-040	NEW-E	89-12-020	173-340-210	NEW-P	89-20-059
173-303-806	AMD	89-02-059	173-315-040	NEW	89-17-072	173-340-300	NEW-P	89-20-059
173-303-830	AMD	89-02-059	173-315-050	NEW-E	89-06-061	173-340-310	NEW-P	89-20-059
173-303-902	NEW-P	89-15-047	173-315-050	NEW-P	89-11-087	173-340-320	NEW-P	89-20-059
173-303-902	NEW-E	89-19-030	173-315-050	NEW-E	89-12-020	173-340-330	NEW-P	89-20-059
173-303-902	NEW	89-21-071	173-315-050	NEW	89-17-072	173-340-340	NEW-P	89-20-059
173-303-9903	AMD	89-02-059	173-315-060	NEW-E	89-06-061	173-340-350	NEW-P	89-20-059
173-303-9904	AMD	89-02-059	173-315-060	NEW-P	89-11-087	173-340-360	NEW-P	89-20-059
173-303-9905	AMD	89-02-059	173-315-060	NEW-E	89-12-020	173-340-400	NEW-P	89-20-059
173-306-010	NEW-P	89-19-069	173-315-060	NEW	89-17-072	173-340-410	NEW-P	89-20-059
173-306-050	NEW-P	89-19-069	173-315-070	NEW-E	89-06-061	173-340-420	NEW-P	89-20-059
173-306-100	NEW-P	89-19-069	173-315-070	NEW-P	89-11-087	173-340-430	NEW-P	89-20-059
173-306-150	NEW-P	89-19-069	173-315-070	NEW-E	89-12-020	173-340-500	NEW-P	89-20-059
173-306-200	NEW-P	89-19-069	173-315-070	NEW	89-17-072	173-340-510	NEW-P	89-20-059
173-306-300	NEW-P	89-19-069	173-315-080	NEW-E	89-06-061	173-340-520	NEW-P	89-20-059
173-306-310	NEW-P	89-19-069	173-315-090	NEW-E	89-06-061	173-340-530	NEW-P	89-20-059
173-306-320	NEW-P	89-19-069	173-318	NEW-C	89-16-102	173-340-540	NEW-P	89-20-059
173-306-330	NEW-P	89-19-069	173-318-010	NEW-E	89-09-005	173-340-550	NEW-P	89-20-059
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173-306-345	NEW-P	89-19-069	173-318-010	NEW	89-18-070	173-340-600	NEW-P	89-20-059
173-306-350	NEW-P	89-19-069	173-318-020	NEW-E	89-09-005	173-340-610	NEW-P	89-20-059
173-306-400	NEW-P	89-19-069	173-318-020	NEW-P	89-12-065	173-340-700	NEW-P	89-20-059
173-306-405	NEW-P	89-19-069	173-318-020	NEW	89-18-070	173-340-800	NEW-P	89-20-059
173-306-410	NEW-P	89-19-069	173-318-030	NEW-E	89-09-005	173-340-810	NEW-P	89-20-059
173-306-440	NEW-P	89-19-069	173-318-030	NEW-P	89-12-065	173-340-820	NEW-P	89-20-059
173-306-450	NEW-P	89-19-069	173-318-030	NEW	89-18-070	173-340-830	NEW-P	89-20-059
173-306-470	NEW-P	89-19-069	173-318-040	NEW-E	89-09-005	173-340-840	NEW-P	89-20-059
173-306-480	NEW-P	89-19-069	173-318-040	NEW-P	89-12-065	173-340-850	NEW-P	89-20-059

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173-340-870	NEW-P	89-20-059	174-120-010	AMD	89-21-073	174-136-100	REP-P	89-22-031
173-340-880	NEW-P	89-20-059	174-120-020	REP-P	89-18-089	174-136-110	REP-P	89-22-031
173-340-890	NEW-P	89-20-059	174-120-020	REP	89-21-073	174-136-120	REP-P	89-22-031
173-342-010	NEW-P	89-20-060	174-120-030	AMD-P	89-18-089	174-136-130	REP-P	89-22-031
173-342-020	NEW-P	89-20-060	174-120-030	AMD	89-21-073	174-136-140	REP-P	89-22-031
173-342-030	NEW-P	89-20-060	174-120-040	AMD-P	89-18-089	174-136-160	REP-P	89-22-031
173-342-040	NEW-P	89-20-060	174-120-040	AMD	89-21-073	174-136-170	REP-P	89-22-031
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173-400-120	AMD	89-02-055	174-120-050	AMD	89-21-073	174-136-220	REP-P	89-22-031
173-403-030	AMD	89-02-055	174-120-060	AMD-P	89-18-089	174-136-230	REP-P	89-22-031
173-403-050	AMD	89-02-055	174-120-060	AMD	89-21-073	174-136-240	REP-P	89-22-031
173-403-080	AMD	89-02-055	174-120-070	AMD-P	89-18-089	174-136-250	REP-P	89-22-031
173-405-078	AMD	89-02-055	174-120-070	AMD	89-21-073	174-136-300	REP-P	89-22-031
173-410-071	AMD	89-02-055	174-120-080	AMD-P	89-18-089	174-136-310	REP-P	89-22-031
173-415-080	AMD	89-02-055	174-120-080	AMD	89-21-073	174-136-320	REP-P	89-22-031
173-422-020	AMD-P	89-21-075	174-121-010	NEW-P	89-18-089	174-136-330	REP-P	89-22-031
173-422-035	NEW-P	89-21-075	174-121-010	NEW	89-21-073	174-157-600	REP-P	89-22-031
173-422-040	AMD-P	89-21-075	174-122-010	NEW-P	89-22-031	174-157-610	REP-P	89-22-031
173-422-060	AMD-P	89-21-075	174-122-020	NEW-P	89-22-031	174-157-620	REP-P	89-22-031
173-422-070	AMD-P	89-21-075	174-122-030	NEW-P	89-22-031	174-157-990	REP-P	89-22-031
173-422-090	AMD-P	89-21-075	174-122-040	NEW-P	89-22-031	174-160-010	REP-P	89-22-031
173-422-100	AMD-P	89-21-075	174-126-010	REP-P	89-22-031	174-160-020	REP-P	89-22-031
173-422-130	AMD-P	89-21-075	174-126-020	REP-P	89-22-031	174-160-030	REP-P	89-22-031
173-422-140	AMD-P	89-21-075	174-126-030	REP-P	89-22-031	174-160-040	REP-P	89-22-031
173-422-145	AMD-P	89-21-075	174-128-010	REP-P	89-22-031	174-162-010	REP-P	89-22-031
173-422-160	AMD-P	89-21-075	174-128-020	REP-P	89-22-031	174-162-015	REP-P	89-22-031
173-422-170	AMD-P	89-21-075	174-128-030	REP-P	89-22-031	174-162-020	REP-P	89-22-031
173-422-190	NEW-P	89-21-075	174-128-040	REP-P	89-22-031	174-162-025	REP-P	89-22-031
173-422-195	NEW-P	89-21-075	174-128-042	REP-P	89-22-031	174-162-030	REP-P	89-22-031
173-425-030	AMD	89-02-055	174-128-044	REP-P	89-22-031	174-162-035	REP-P	89-22-031
173-425-035	REP	89-02-055	174-128-046	REP-P	89-22-031	174-162-040	REP-P	89-22-031
173-425-036	NEW	89-02-055	174-128-050	REP-P	89-22-031	174-162-045	REP-P	89-22-031
173-425-045	AMD	89-02-055	174-128-060	REP-P	89-22-031	174-168-010	NEW-P	89-22-031
173-425-065	AMD	89-02-055	174-128-062	REP-P	89-22-031	174-168-020	NEW-P	89-22-031
173-425-075	AMD	89-02-055	174-128-064	REP-P	89-22-031	174-276-010	NEW-P	89-22-031
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173-434-050	AMD	89-02-055	174-132	AMD-P	89-22-031	174-276-100	NEW-P	89-22-031
173-434-200	AMD	89-02-055	174-132-010	AMD-P	89-22-031	174-276-110	NEW-P	89-22-031
173-435-010	AMD	89-02-055	174-132-020	REP-P	89-22-031	174-276-120	NEW-P	89-22-031
173-435-015	NEW	89-02-055	174-132-030	REP-P	89-22-031	174-280-010	NEW-P	89-22-031
173-435-020	AMD	89-02-055	174-132-040	REP-P	89-22-031	174-280-015	NEW-P	89-22-031
173-435-030	AMD	89-02-055	174-132-050	REP-P	89-22-031	174-280-020	NEW-P	89-22-031
173-435-040	AMD	89-02-055	174-132-060	REP-P	89-22-031	174-280-025	NEW-P	89-22-031
173-435-050	AMD	89-02-055	174-132-070	REP-P	89-22-031	174-280-030	NEW-P	89-22-031
173-435-060	AMD	89-02-055	174-132-080	REP-P	89-22-031	174-280-035	NEW-P	89-22-031
173-435-070	AMD	89-02-055	174-132-090	REP-P	89-22-031	174-280-040	NEW-P	89-22-031
173-470-030	AMD	89-02-055	174-132-100	REP-P	89-22-031	174-280-045	NEW-P	89-22-031
173-470-100	AMD	89-02-055	174-132-110	REP-P	89-22-031	180-08-003	RE-AD-E	89-16-076
173-802-050	AMD-P	89-08-078	174-132-120	REP-P	89-22-031	180-08-003	RE-AD-P	89-17-107
173-802-050	AMD-E	89-08-079	174-133-010	NEW-P	89-22-031	180-08-003	AMD	89-22-010
173-802-050	AMD	89-11-021	174-133-020	NEW-P	89-22-031	180-08-005	RE-AD-E	89-16-076
174-108	AMD-P	89-22-031	174-135-010	NEW-P	89-22-031	180-08-005	RE-AD-P	89-17-107
174-108-170	REP-P	89-22-031	174-136-010	REP-P	89-22-031	180-08-005	AMD	89-22-010
174-108-180	REP-P	89-22-031	174-136-011	REP-P	89-22-031	180-16-220	AMD-P	89-21-078
174-108-190	REP-P	89-22-031	174-136-012	REP-P	89-22-031	180-24-205	NEW-E	89-16-039
174-108-200	REP-P	89-22-031	174-136-013	REP-P	89-22-031	180-24-205	NEW-P	89-17-100
174-108-210	REP-P	89-22-031	174-136-014	REP-P	89-22-031	180-24-205	NEW	89-22-005
174-108-220	REP-P	89-22-031	174-136-015	REP-P	89-22-031	180-25-060	NEW-P	89-21-079
174-108-230	REP-P	89-22-031	174-136-016	REP-P	89-22-031	180-25-065	NEW-P	89-21-079
174-108-240	REP-P	89-22-031	174-136-017	REP-P	89-22-031	180-25-070	NEW-P	89-21-079
174-108-250	REP-P	89-22-031	174-136-018	REP-P	89-22-031	180-25-075	NEW-P	89-21-079
174-108-260	REP-P	89-22-031	174-136-019	REP-P	89-22-031	180-25-080	NEW-P	89-21-079
174-108-900	REP-P	89-22-031	174-136-02001	REP-P	89-22-031	180-25-085	NEW-P	89-21-079
174-108-90001	REP-P	89-22-031	174-136-021	REP-P	89-22-031	180-25-090	NEW-P	89-21-079
174-108-90002	REP-P	89-22-031	174-136-022	REP-P	89-22-031	180-25-300	NEW-P	89-05-066
174-108-910	NEW-P	89-22-031	174-136-040	REP-P	89-22-031	180-25-300	NEW-E	89-06-018
174-112-130	REP-P	89-22-031	174-136-042	REP-P	89-22-031	180-25-300	NEW	89-08-086
174-112-140	REP-P	89-22-031	174-136-060	REP-P	89-22-031	180-25-300	AMD-E	89-13-011
174-112-150	REP-P	89-22-031	174-136-080	REP-P	89-22-031	180-25-300	AMD-E	89-16-040

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180-25-300	AMD	89-22-006	180-75-017	RE-AD-E	89-16-076	180-75-047	RE-AD	89-22-010
180-26-055	AMD-P	89-05-065	180-75-017	RE-AD-P	89-17-107	180-75-048	RE-AD-E	89-16-076
180-26-055	AMD-E	89-06-017	180-75-017	RE-AD	89-22-010	180-75-048	RE-AD-P	89-17-107
180-26-055	AMD	89-08-085	180-75-018	RE-AD-E	89-16-076	180-75-048	RE-AD	89-22-010
180-27-015	AMD-P	89-21-080	180-75-018	RE-AD-P	89-17-107	180-75-050	RE-AD-E	89-16-076
180-27-017	NEW-P	89-21-080	180-75-018	REP-P	89-21-082	180-75-050	RE-AD-P	89-17-107
180-27-019	NEW-P	89-21-080	180-75-018	RE-AD	89-22-010	180-75-050	RE-AD	89-22-010
180-27-023	NEW-P	89-21-080	180-75-019	RE-AD-E	89-16-076	180-75-055	RE-AD-E	89-16-076
180-27-057	AMD-E	89-13-015	180-75-019	RE-AD-P	89-17-107	180-75-055	RE-AD-P	89-17-107
180-27-057	AMD-E	89-16-041	180-75-019	REP-P	89-21-082	180-75-055	RE-AD	89-22-010
180-27-057	AMD-P	89-17-101	180-75-019	RE-AD	89-22-010	180-75-060	RE-AD-E	89-16-076
180-27-057	AMD	89-22-007	180-75-020	RE-AD-E	89-16-076	180-75-060	RE-AD-P	89-17-107
180-27-115	AMD-P	89-21-080	180-75-020	RE-AD-P	89-17-107	180-75-060	RE-AD	89-22-010
180-27-400	NEW-P	89-21-080	180-75-020	REP-P	89-21-082	180-75-061	RE-AD-E	89-16-076
180-27-405	NEW-P	89-21-080	180-75-020	RE-AD	89-22-010	180-75-061	RE-AD-P	89-17-107
180-27-410	NEW-P	89-21-080	180-75-025	RE-AD-E	89-16-076	180-75-061	RE-AD	89-22-010
180-27-415	NEW-P	89-21-080	180-75-025	RE-AD-P	89-17-107	180-75-065	RE-AD-E	89-16-076
180-27-420	NEW-P	89-21-080	180-75-025	REP-P	89-21-082	180-75-065	RE-AD-P	89-17-107
180-29-108	AMD-E	89-16-042	180-75-025	RE-AD	89-22-010	180-75-065	RE-AD	89-22-010
180-29-108	AMD-P	89-17-104	180-75-026	RE-AD-E	89-16-076	180-75-070	RE-AD-E	89-16-076
180-29-108	AMD	89-22-008	180-75-026	RE-AD-P	89-17-107	180-75-070	RE-AD-P	89-17-107
180-29-300	NEW-P	89-05-067	180-75-026	REP-P	89-21-082	180-75-070	RE-AD	89-22-010
180-29-300	NEW-E	89-06-019	180-75-026	RE-AD	89-22-010	180-75-080	RE-AD-E	89-16-076
180-29-300	NEW	89-08-087	180-75-027	RE-AD-E	89-16-076	180-75-080	RE-AD-P	89-17-107
180-29-300	AMD-E	89-13-014	180-75-027	RE-AD-P	89-17-107	180-75-080	RE-AD	89-22-010
180-29-300	AMD-E	89-16-043	180-75-027	REP-P	89-21-082	180-75-081	RE-AD-E	89-16-076
180-29-300	AMD-P	89-17-103	180-75-027	RE-AD	89-22-010	180-75-081	RE-AD-P	89-17-107
180-29-300	AMD	89-22-009	180-75-030	RE-AD-E	89-16-076	180-75-081	AMD-P	89-21-082
180-51-025	AMD-P	89-05-060	180-75-030	RE-AD-P	89-17-107	180-75-081	RE-AD	89-22-010
180-51-025	AMD-C	89-08-080	180-75-030	REP-P	89-21-082	180-75-082	RE-AD-E	89-16-076
180-51-025	AMD	89-12-061	180-75-030	AMD	89-22-010	180-75-082	RE-AD-P	89-17-107
180-53-025	AMD-P	89-21-081	180-75-033	RE-AD-E	89-16-076	180-75-082	RE-AD	89-22-010
180-53-050	AMD-P	89-21-081	180-75-033	RE-AD-P	89-17-107	180-75-083	RE-AD-E	89-16-076
180-53-055	AMD-P	89-21-081	180-75-033	REP-P	89-21-082	180-75-083	RE-AD-P	89-17-107
180-59	NEW-C	89-05-061	180-75-033	RE-AD	89-22-010	180-75-083	RE-AD	89-22-010
180-59-005	NEW	89-09-044	180-75-034	RE-AD-E	89-16-076	180-75-084	RE-AD-E	89-16-076
180-59-010	NEW	89-09-044	180-75-034	RE-AD-P	89-17-107	180-75-084	RE-AD-P	89-17-107
180-59-015	NEW	89-09-044	180-75-034	REP-P	89-21-082	180-75-084	REP-P	89-21-082
180-59-020	NEW	89-09-044	180-75-034	RE-AD	89-22-010	180-75-084	RE-AD	89-22-010
180-59-025	NEW	89-09-044	180-75-035	RE-AD-E	89-16-076	180-75-084	RE-AD	89-22-010
180-59-030	NEW	89-09-044	180-75-035	RE-AD-P	89-17-107	180-75-085	AMD-P	89-08-082
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180-59-035	NEW	89-09-044	180-75-035	RE-AD	89-22-010	180-75-085	AMD	89-12-025
180-59-037	NEW	89-09-044	180-75-037	RE-AD-E	89-16-076	180-75-085	RE-AD-E	89-16-076
180-59-040	NEW	89-09-044	180-75-037	RE-AD-P	89-17-107	180-75-085	RE-AD-P	89-17-107
180-59-045	NEW	89-09-044	180-75-037	REP-P	89-21-082	180-75-085	RE-AD	89-22-010
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180-59-060	NEW	89-09-044	180-75-038	REP-P	89-21-082	180-75-086	RE-AD	89-22-010
180-59-065	NEW	89-09-044	180-75-038	RE-AD	89-22-010	180-75-086	RE-AD-E	89-16-076
180-59-070	NEW	89-09-044	180-75-039	RE-AD-E	89-16-076	180-75-087	RE-AD-P	89-17-107
180-59-075	NEW	89-09-044	180-75-039	RE-AD-P	89-17-107	180-75-087	RE-AD	89-22-010
180-59-080	NEW	89-09-044	180-75-039	REP-P	89-21-082	180-75-088	RE-AD-E	89-16-076
180-59-090	NEW	89-09-044	180-75-039	RE-AD	89-22-010	180-75-088	RE-AD-P	89-17-107
180-59-095	NEW	89-09-044	180-75-040	RE-AD-E	89-16-076	180-75-088	RE-AD	89-22-010
180-59-100	NEW	89-09-044	180-75-040	RE-AD-P	89-17-107	180-75-090	RE-AD-E	89-16-076
180-59-105	NEW	89-09-044	180-75-040	REP-P	89-21-082	180-75-090	RE-AD-P	89-17-107
180-59-110	NEW	89-09-044	180-75-040	RE-AD	89-22-010	180-75-090	RE-AD	89-22-010
180-59-115	NEW	89-09-044	180-75-042	RE-AD-E	89-16-076	180-75-091	RE-AD-E	89-16-076
180-59-120	NEW	89-09-044	180-75-042	RE-AD-P	89-17-107	180-75-091	RE-AD-P	89-17-107
180-59-125	NEW	89-09-044	180-75-042	REP-P	89-21-082	180-75-091	RE-AD	89-22-010
180-59-130	NEW	89-09-044	180-75-042	AMD	89-22-010	180-75-092	RE-AD-E	89-16-076
180-59-135	NEW	89-09-044	180-75-043	RE-AD-E	89-16-076	180-75-092	RE-AD-P	89-17-107
180-59-140	NEW	89-09-044	180-75-043	RE-AD-P	89-17-107	180-75-092	RE-AD	89-22-010
180-59-145	NEW	89-09-044	180-75-043	REP-P	89-21-082	180-75-100	RE-AD-E	89-16-076
180-59-150	NEW	89-09-044	180-75-043	RE-AD	89-22-010	180-75-100	RE-AD-P	89-17-107
180-59-155	NEW	89-09-044	180-75-044	RE-AD-E	89-16-076	180-75-100	RE-AD	89-22-010
180-59-160	NEW	89-09-044	180-75-044	RE-AD-P	89-17-107	180-75-199	RE-AD-E	89-16-076
180-59-165	NEW	89-09-044	180-75-044	REP-P	89-21-082	180-75-199	RE-AD-P	89-17-107
180-75-003	RE-AD-E	89-16-076	180-75-044	RE-AD	89-22-010	180-75-199	REP-P	89-21-082
180-75-003	RE-AD-P	89-17-107	180-75-045	RE-AD-E	89-16-076	180-75-199	RE-AD	89-22-010
180-75-003	RE-AD	89-22-010	180-75-045	RE-AD-P	89-17-107	180-78-191	AMD-P	89-21-083
180-75-005	RE-AD-E	89-16-076	180-75-045	AMD-P	89-21-082	180-78-192	REP-P	89-21-083
180-75-005	RE-AD-P	89-17-107	180-75-045	RE-AD	89-22-010	180-78-193	REP-P	89-21-083
180-75-005	AMD-P	89-21-082	180-75-047	RE-AD-E	89-16-076	180-78-194	REP-P	89-21-083
180-75-005	AMD-P	89-21-082	180-75-047	RE-AD-E	89-16-076	180-78-195	REP-P	89-21-083

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180-78-198	REP-P 89-21-083	180-115-070	REP 89-22-012	192-09-145	REP-P 89-19-079
180-78-199	REP-P 89-21-083	180-115-081	NEW-E 89-16-044	192-09-150	REP-P 89-19-079
180-79-063	AMD-P 89-17-106	180-115-081	NEW-P 89-17-105	192-09-155	REP-P 89-19-079
180-79-063	AMD 89-22-011	180-115-081	NEW 89-22-012	192-09-160	REP-P 89-19-079
180-79-230	AMD-P 89-08-081	180-115-085	AMD-E 89-16-044	192-09-165	REP-P 89-19-079
180-79-230	AMD-E 89-08-083	180-115-085	AMD-P 89-17-105	192-09-170	REP-P 89-19-079
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180-86-003	NEW-P 89-21-084	180-115-090	AMD-E 89-16-044	192-09-205	REP-P 89-19-079
180-86-005	NEW-P 89-21-084	180-115-090	AMD-P 89-17-105	192-09-210	REP-P 89-19-079
180-86-010	NEW-P 89-21-084	180-115-090	AMD 89-22-012	192-09-215	REP-P 89-19-079
180-86-015	NEW-P 89-21-084	180-115-105	AMD-E 89-16-044	192-09-220	REP-P 89-19-079
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180-86-040	NEW-P 89-21-084	182-08-165	NEW 89-05-013	192-09-240	REP-P 89-19-079
180-86-050	NEW-P 89-21-084	182-08-190	AMD-P 89-08-005	192-09-300	REP-P 89-19-079
180-86-055	NEW-P 89-21-084	182-08-190	AMD-W 89-09-053	192-09-305	REP-P 89-19-079
180-86-065	NEW-P 89-21-084	182-12-115	AMD-P 89-09-054	192-09-310	REP-P 89-19-079
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180-86-180	NEW-P 89-21-084	192-04-090	NEW-P 89-19-079	192-12-305	NEW-P 89-17-086
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180-87-003	NEW-P 89-21-085	192-04-120	NEW-P 89-19-079	192-12-310	NEW 89-20-064
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180-87-070	NEW-P 89-21-085	192-09-035	REP-P 89-17-086	192-40-050	AMD-P 89-19-079
180-87-080	NEW-P 89-21-085	192-09-035	REP-P 89-19-079	192-40-060	AMD-P 89-19-079
180-87-085	NEW-P 89-21-085	192-09-035	REP-P 89-20-064	192-40-070	AMD-P 89-19-079
180-87-090	NEW-P 89-21-085	192-09-040	REP-P 89-17-086	192-40-080	AMD-P 89-19-079
180-87-095	NEW-P 89-21-085	192-09-040	REP-P 89-19-079	192-40-090	AMD-P 89-19-079
180-115-010	AMD-E 89-16-044	192-09-040	REP 89-20-064	192-40-100	AMD-P 89-19-079
180-115-010	AMD-P 89-17-105	192-09-050	REP-P 89-19-079	192-42-010	AMD-P 89-17-121
180-115-010	AMD 89-22-012	192-09-060	REP-P 89-19-079	192-42-010	AMD-C 89-22-064
180-115-020	AMD-E 89-16-044	192-09-062	REP-P 89-19-079	192-42-020	REP-P 89-17-121
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180-115-020	AMD 89-22-012	192-09-063	REP-P 89-19-079	192-42-021	NEW-P 89-17-121
180-115-035	AMD-E 89-16-044	192-09-065	REP-P 89-19-079	192-42-021	NEW-C 89-22-064
180-115-035	AMD-P 89-17-105	192-09-070	REP-P 89-19-079	192-42-030	AMD-P 89-17-121
180-115-035	AMD 89-22-012	192-09-100	REP-P 89-19-079	192-42-030	AMD-C 89-22-064
180-115-045	AMD-E 89-16-044	192-09-105	REP-P 89-19-079	192-42-035	NEW-P 89-17-121
180-115-045	AMD-P 89-17-105	192-09-110	REP-P 89-19-079	192-42-040	REP-P 89-17-121
180-115-045	AMD 89-22-012	192-09-115	REP-P 89-19-079	192-42-040	REP-C 89-22-064
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180-115-060	AMD-P 89-17-105	192-09-125	REP-P 89-19-079	192-42-050	REP-C 89-22-064
180-115-060	AMD 89-22-012	192-09-130	REP-P 89-19-079	192-42-055	NEW-P 89-17-121
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192-42-058	NEW-P	89-17-121	204-91-120	REP-P	89-10-029	220-20-017	AMD-P	89-09-080
192-42-058	NEW-C	89-22-064	204-91-120	REP	89-14-015	220-20-017	AMD	89-13-004
192-42-070	REP-P	89-17-121	204-91-130	REP-P	89-10-029	220-20-055	AMD-P	89-06-033
192-42-070	REP-C	89-22-064	204-91-130	REP	89-14-015	220-20-055	AMD	89-09-052
192-42-071	NEW-P	89-17-121	204-91-140	REP-P	89-10-029	220-22-030	AMD-P	89-09-080
192-42-080	REP-P	89-17-121	204-91-140	REP	89-14-015	220-22-030	AMD	89-13-004
192-42-080	REP-C	89-22-064	204-91-150	REP-P	89-10-029	220-24-02000D	NEW-E	89-09-073
192-42-081	NEW-P	89-17-121	204-91-150	REP	89-14-015	220-24-02000D	REP-E	89-12-086
192-42-081	NEW-C	89-22-064	204-91-160	REP-P	89-10-029	220-24-02000E	NEW-E	89-12-086
194-18-010	NEW-P	89-11-083	204-91-160	REP	89-14-015	220-24-02000E	REP-E	89-13-022
194-18-010	NEW	89-15-013	204-91-170	REP-P	89-10-029	220-24-02000F	NEW-E	89-13-022
194-18-020	NEW-P	89-11-083	204-91-170	REP	89-14-015	220-24-02000F	REP-E	89-15-034
194-18-020	NEW	89-15-013	204-91-180	REP-P	89-10-029	220-24-02000G	NEW-E	89-15-019
194-18-030	NEW-P	89-11-083	204-91-180	REP	89-14-015	220-24-02000G	REP-E	89-16-078
194-18-030	NEW	89-15-013	204-91-190	REP-P	89-10-029	220-24-02000H	NEW-E	89-16-078
196-16-007	AMD	89-05-021	204-91-190	REP	89-14-015	220-24-02000H	REP-E	89-17-061
196-16-020	AMD	89-05-021	204-91-200	REP-P	89-10-029	220-24-02000I	NEW-E	89-17-061
196-16-031	AMD	89-05-021	204-91-200	REP	89-14-015	220-24-02000I	REP-E	89-17-084
196-24-080	AMD	89-05-021	204-91A-010	NEW-P	89-10-029	220-24-02000J	NEW-E	89-17-084
196-24-085	AMD	89-05-021	204-91A-010	NEW	89-14-015	220-24-02000J	REP-E	89-17-143
196-26-020	AMD-E	89-20-044	204-91A-020	NEW-P	89-10-029	220-24-02000K	NEW-E	89-17-143
204-29-010	NEW-E	89-10-007	204-91A-020	NEW	89-14-015	220-24-02000K	REP-E	89-19-012
204-29-010	NEW	89-10-016	204-91A-030	NEW-P	89-10-029	220-32-05100P	NEW-E	89-04-046
204-65-010	AMD-E	89-09-023	204-91A-030	NEW	89-14-015	220-32-05100P	REP-E	89-07-080
204-65-010	AMD-P	89-09-024	204-91A-030	AMD-P	89-18-080	220-32-05100Q	NEW-E	89-07-080
204-65-010	AMD	89-12-018	204-91A-030	AMD	89-21-044	220-32-05100R	NEW-E	89-17-016
204-65-020	AMD-E	89-09-023	204-91A-040	NEW-P	89-10-029	220-32-05100R	REP-E	89-18-064
204-65-020	AMD-P	89-09-024	204-91A-040	NEW	89-14-015	220-32-05100S	NEW-E	89-18-064
204-65-020	AMD	89-12-018	204-91A-050	NEW-P	89-10-029	220-32-05100S	REP-E	89-19-049
204-65-030	AMD-E	89-09-023	204-91A-050	NEW	89-14-015	220-32-05100T	NEW-E	89-19-049
204-65-030	AMD-P	89-09-024	204-91A-060	NEW-P	89-10-029	220-32-05100T	REP-E	89-19-082
204-65-030	AMD	89-12-018	204-91A-060	NEW	89-14-015	220-32-05100U	NEW-E	89-19-082
204-65-040	AMD-E	89-09-023	204-91A-060	AMD-P	89-18-080	220-32-05100U	REP-E	89-20-025
204-65-040	AMD-P	89-09-024	204-91A-060	AMD	89-21-044	220-32-05100V	NEW-E	89-20-025
204-65-040	AMD	89-12-018	204-91A-070	NEW-P	89-10-029	220-32-05100V	REP-E	89-21-017
204-65-050	AMD-E	89-09-023	204-91A-070	NEW	89-14-015	220-32-05100W	NEW-E	89-21-017
204-65-050	AMD-P	89-09-024	204-91A-070	AMD-P	89-18-080	220-32-05100W	REP-E	89-21-021
204-65-050	AMD	89-12-018	204-91A-070	AMD	89-21-044	220-32-05100X	NEW-E	89-21-021
204-65-060	AMD-E	89-09-023	204-91A-080	NEW-P	89-10-029	220-32-05100X	REP-E	89-07-080
204-65-060	AMD-P	89-09-024	204-91A-080	NEW	89-14-015	220-32-05700D	NEW-E	89-07-080
204-65-060	AMD	89-12-018	204-91A-090	NEW-P	89-10-029	220-32-05900P	NEW-E	89-10-009
204-76-99001	AMD-P	89-09-025	204-91A-090	NEW	89-14-015	220-32-05900P	REP-E	89-10-059
204-76-99001	AMD	89-12-019	204-91A-100	NEW-P	89-10-029	220-32-05900Q	NEW-E	89-10-059
204-76-99002	AMD-P	89-09-025	204-91A-100	NEW	89-14-015	220-33-005	AMD-P	89-06-032
204-76-99002	AMD	89-12-019	204-91A-110	NEW-P	89-10-029	220-33-005	AMD	89-09-051
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204-82-020	REP-P	89-21-043	204-91A-120	NEW-P	89-10-029	220-33-01000C	REP-E	89-07-002
204-82-030	REP-P	89-21-043	204-91A-120	NEW	89-14-015	220-33-01000D	NEW-E	89-07-002
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204-82-050	REP-P	89-21-043	204-91A-120	AMD	89-21-044	220-33-01000E	NEW-E	89-07-021
204-82-060	REP-P	89-21-043	204-91A-130	NEW-P	89-10-029	220-33-01000F	NEW-E	89-17-016
204-82A-010	NEW-P	89-21-006	204-91A-130	NEW	89-14-015	220-33-01000F	REP-E	89-17-044
204-82A-020	NEW-P	89-21-006	204-91A-140	NEW-P	89-10-029	220-33-01000G	NEW-E	89-17-044
204-82A-030	NEW-P	89-21-006	204-91A-140	NEW	89-14-015	220-33-01000G	REP-E	89-17-053
204-82A-040	NEW-P	89-21-006	204-91A-140	AMD-P	89-18-080	220-33-01000H	NEW-E	89-17-053
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204-91-040	REP-P	89-10-029	204-91A-180	NEW	89-14-015	220-33-03000B	NEW-E	89-14-021
204-91-040	REP	89-14-015	204-91A-180	AMD-P	89-18-080	220-33-03000B	REP-E	89-17-016
204-91-050	REP-P	89-10-029	204-91A-180	AMD	89-21-044	220-36	AMD-C	89-16-055
204-91-050	REP	89-14-015	212-17-140	AMD-P	89-13-019	220-36-015	NEW-P	89-12-085
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232-12-829	NEW-P	89-08-107	236-48-003	AMD	89-17-094	236-48-152	AMD-P	89-14-013
232-12-829	NEW	89-11-073	236-48-004	AMD-P	89-14-013	236-48-152	AMD	89-17-094
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232-28-110	REP	89-11-063	236-48-005	AMD-P	89-14-013	236-48-153	AMD	89-17-094
232-28-20401	REP-P	89-14-108	236-48-005	AMD	89-17-094	236-48-155	AMD-P	89-14-013
232-28-206	REP-P	89-14-108	236-48-009	AMD-P	89-14-013	236-48-155	AMD	89-17-094
232-28-209	REP-P	89-14-108	236-48-009	AMD	89-17-094	236-48-161	REP-P	89-14-013
232-28-21201	REP-P	89-14-108	236-48-011	AMD-P	89-14-013	236-48-161	REP	89-17-094
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232-28-217	REP	89-11-063	236-48-012	AMD-P	89-14-013	236-48-162	AMD	89-17-094
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232-28-61719	NEW-E	89-05-002	236-48-084	AMD	89-17-094	236-49-060	AMD-P	89-14-013
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248-19-231	NEW-P	89-14-077	248-27-077	NEW-P	89-07-023	248-31-060	REP-P	89-07-023
248-19-231	NEW-E	89-14-087	248-27-077	NEW	89-12-077	248-31-060	REP	89-12-077
248-19-231	NEW-P	89-19-043	248-27-080	REP-P	89-07-023	248-31-065	NEW-P	89-07-023
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248-19-480	AMD-E	89-22-091	248-27-085	NEW	89-12-077	248-31-070	REP	89-12-077
248-19-480	AMD-P	89-22-107	248-27-090	REP-P	89-07-023	248-31-075	REP-P	89-07-023
248-21-005	AMD-E	89-14-097	248-27-090	REP	89-12-077	248-31-075	REP	89-12-077
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248-21-017	NEW-P	89-17-007	248-27-095	NEW	89-12-077	248-31-077	NEW	89-12-077
248-21-017	NEW	89-21-038	248-27-100	REP-P	89-07-023	248-31-080	REP-P	89-07-023
248-22-005	AMD-E	89-14-095	248-27-100	REP	89-12-077	248-31-080	REP	89-12-077
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248-22-005	AMD-P	89-22-107	248-27-105	NEW	89-12-077	248-31-085	NEW	89-12-077
248-22-017	NEW-P	89-17-007	248-27-115	NEW-P	89-07-023	248-31-090	REP-P	89-07-023
248-22-017	NEW	89-21-038	248-27-115	NEW	89-12-077	248-31-090	REP	89-12-077
248-23-010	AMD-E	89-14-095	248-27-120	REP-P	89-07-023	248-31-095	NEW-P	89-07-023
248-23-010	AMD-E	89-22-091	248-27-120	REP	89-12-077	248-31-095	NEW	89-12-077
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248-25-010	AMD-E	89-22-091	248-27-145	NEW-P	89-07-023	248-31-110	REP-P	89-07-023
248-25-010	AMD-P	89-22-107	248-27-145	NEW	89-12-077	248-31-110	REP	89-12-077
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248-26-020	AMD-E	89-22-091	248-27-165	NEW	89-12-077	248-31-120	REP	89-12-077
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248-27-005	NEW	89-12-077	248-31	AMD	89-12-077	248-31-155	NEW-P	89-07-023
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248-52-080	NEW-P	89-16-103	248-59-060	REP-P	89-22-107	248-105-100	AMD-W	89-22-039
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248-144-081	NEW	89-11-058	248-320-410	NEW-E	89-22-092	251-09-085	NEW-P	89-22-122
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248-144-100	REP	89-11-058	248-554-030	AMD-P	89-22-076	251-10-070	NEW	89-08-003
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296-155-750	REP	89-11-035	308-34-020	REP	89-02-051	308-51-260	NEW-P	89-10-077
296-303-02007	AMD-P	89-06-058	308-34-030	REP	89-02-051	308-51-260	NEW	89-14-092
296-303-02007	AMD	89-11-035	308-34-040	REP	89-02-051	308-51-270	NEW-P	89-10-077
296-303-040	AMD-P	89-06-058	308-34-050	REP	89-02-051	308-51-270	NEW	89-14-092
296-303-040	AMD	89-11-035	308-34-060	REP	89-02-051	308-51-280	NEW-P	89-10-077
296-304-010	AMD-P	89-06-058	308-34-070	REP	89-02-051	308-51-280	NEW	89-14-092
296-304-010	AMD	89-11-035	308-34-080	REP	89-02-051	308-51-290	NEW-P	89-10-077
296-305-025	AMD-P	89-06-058	308-34-090	REP	89-02-051	308-51-290	NEW	89-14-092
296-305-025	AMD	89-11-035	308-34-310	NEW	89-02-051	308-51-300	NEW-P	89-10-077
296-306	AMD-P	89-06-058	308-34-320	NEW	89-02-051	308-51-300	NEW	89-14-092
296-306	AMD	89-11-035	308-34-330	NEW	89-02-051	308-51-310	NEW-P	89-10-077
296-306-010	AMD-P	89-06-058	308-34-410	NEW	89-02-051	308-51-310	NEW	89-14-092
296-306-010	AMD	89-11-035	308-34-420	NEW	89-02-051	308-52-139	AMD	89-06-077
296-306-060	AMD-P	89-22-119	308-34-430	NEW	89-02-051	308-52-165	NEW-P	89-16-097
296-306-165	AMD-P	89-06-058	308-34-440	NEW	89-02-051	308-52-165	NEW	89-20-023
296-306-165	AMD	89-11-035	308-34-450	NEW	89-02-051	308-52-190	NEW-P	89-05-056
296-306-200	AMD-P	89-06-058	308-34-460	NEW	89-02-051	308-52-190	NEW	89-08-063
296-306-200	AMD	89-11-035	308-34-470	NEW	89-02-051	308-52-255	AMD-P	89-09-067
296-306-310	AMD-P	89-06-058	308-34-480	NEW	89-02-051	308-52-255	AMD	89-12-053
296-306-310	AMD-E	89-11-007	308-37-190	AMD-P	89-02-064	308-52-260	AMD	89-06-077
296-306-310	AMD	89-11-035	308-37-190	AMD-C	89-05-020	308-52-265	NEW-P	89-09-067
296-306-320	AMD-P	89-06-058	308-37-190	REP-P	89-07-092	308-52-265	NEW	89-12-053
296-306-320	AMD-E	89-11-007	308-37-190	AMD	89-08-095	308-52-405	AMD-P	89-09-067
296-306-320	AMD	89-11-035	308-40-102	AMD	89-06-075	308-52-405	AMD	89-12-053
296-400-045	AMD-P	89-07-079	308-40-105	AMD-P	89-10-072	308-52-415	AMD-P	89-09-067
296-400-045	AMD	89-12-004	308-40-105	AMD-E	89-10-074	308-52-415	AMD	89-12-053
308-12-025	AMD-P	89-13-049	308-40-105	AMD	89-13-052	308-52-590	AMD-E	89-14-008
308-12-025	AMD	89-17-038	308-40-106	NEW-P	89-10-072	308-52-590	AMD-P	89-14-030
308-12-031	AMD-P	89-13-049	308-40-106	NEW-E	89-10-074	308-52-590	AMD	89-18-037
308-12-031	AMD	89-17-038	308-40-106	NEW	89-13-052	308-52-620	NEW	89-06-076
308-12-040	AMD-P	89-06-067	308-40-125	AMD-E	89-21-041	308-52-630	NEW-P	89-09-067
308-12-040	AMD	89-12-052	308-40-130	NEW-E	89-22-094	308-52-630	NEW	89-13-002
308-12-050	AMD-P	89-13-049	308-40-130	NEW-P	89-22-095	308-52-640	NEW-P	89-09-067
308-12-050	AMD	89-17-038	308-40-135	REP-E	89-22-094	308-52-640	NEW	89-13-002
308-12-326	AMD-E	89-17-087	308-40-135	REP-P	89-22-095	308-52-650	NEW-P	89-09-067
308-25-080	NEW-P	89-10-077	308-40-140	NEW-P	89-06-068	308-52-650	NEW	89-13-002
308-25-080	NEW	89-14-092	308-40-140	NEW	89-11-053	308-52-660	NEW-P	89-09-067
308-25-090	NEW-P	89-10-077	308-42-010	AMD-P	89-06-069	308-52-660	NEW	89-13-002
308-25-090	NEW	89-14-092	308-42-010	AMD-C	89-10-073	308-52-670	NEW-P	89-09-067
308-25-100	NEW-P	89-10-077	308-42-010	AMD-P	89-17-095	308-52-670	NEW	89-13-002
308-25-100	NEW	89-14-092	308-42-010	AMD	89-21-007	308-52-670	REP-P	89-16-097
308-25-110	NEW-P	89-10-077	308-42-120	AMD-P	89-17-096	308-52-670	REP	89-20-023
308-25-110	NEW	89-14-092	308-42-120	AMD	89-21-008	308-52-680	NEW-P	89-16-097
308-25-120	NEW-P	89-10-077	308-42-121	NEW-P	89-09-066	308-52-680	NEW	89-20-023
308-25-120	NEW	89-14-092	308-42-121	NEW-P	89-17-097	308-52-690	NEW-P	89-16-097
308-25-130	NEW-P	89-10-077	308-42-121	NEW	89-19-007	308-52-690	NEW	89-20-023
308-25-130	NEW	89-14-092	308-42-121	NEW	89-21-009	308-53-120	AMD-P	89-06-070
308-25-140	NEW-P	89-10-077	308-42-145	AMD-P	89-09-066	308-53-120	AMD	89-10-030
308-25-140	NEW	89-14-092	308-42-145	AMD	89-19-007	308-53-123	NEW-P	89-06-070
308-25-150	NEW-P	89-10-077	308-48-021	NEW-P	89-18-084	308-53-123	NEW	89-10-030
308-25-150	NEW	89-14-092	308-48-165	REP-P	89-18-084	308-53-125	AMD-P	89-06-070
308-25-160	NEW-P	89-10-077	308-48-350	NEW	89-04-002	308-53-125	AMD	89-10-030
308-25-160	NEW	89-14-092	308-49-100	AMD-P	89-18-084	308-53-130	REP-P	89-06-070
308-25-170	NEW-P	89-13-048	308-49-130	AMD-P	89-18-084	308-53-130	REP	89-10-030
308-25-170	NEW	89-16-096	308-49-140	AMD-P	89-18-084	308-53-135	AMD-P	89-06-070
308-26-055	NEW-P	89-10-077	308-49-145	NEW-P	89-18-084	308-53-135	AMD	89-10-030
308-26-055	NEW	89-14-092	308-49-150	AMD-P	89-18-084	308-53-145	AMD-P	89-06-070
308-26-065	NEW-P	89-10-077	308-49-160	REP-P	89-18-084	308-53-145	AMD	89-10-030
308-26-065	NEW	89-14-092	308-49-162	NEW-P	89-18-084	308-53-146	AMD-P	89-06-070
308-26-075	NEW-P	89-10-077	308-49-164	NEW-P	89-18-084	308-53-146	AMD	89-10-030
308-26-075	NEW	89-14-092	308-49-166	NEW-P	89-18-084	308-53-150	AMD-P	89-06-070
308-26-085	NEW-P	89-10-077	308-49-168	NEW-P	89-18-084	308-53-150	AMD	89-10-030
308-26-085	NEW	89-14-092	308-50-010	AMD-P	89-05-055	308-53-151	AMD-P	89-06-070
308-26-095	NEW-P	89-10-077	308-50-010	AMD	89-08-096	308-53-151	AMD	89-10-030
308-26-095	NEW	89-14-092	308-50-020	AMD	89-04-017	308-53-165	AMD-P	89-06-070
308-26-105	NEW-P	89-10-077	308-50-035	AMD	89-04-017	308-53-165	AMD	89-10-030
308-26-105	NEW	89-14-092	308-50-035	AMD-P	89-09-026	308-53-170	AMD-P	89-06-070
308-26-115	NEW-P	89-10-077	308-50-035	AMD	89-14-007	308-53-170	AMD	89-10-030
308-26-115	NEW	89-14-092	308-50-130	AMD	89-04-017	308-53-175	NEW-P	89-06-070
308-26-125	NEW-P	89-10-077	308-50-350	AMD	89-04-017	308-53-175	NEW	89-10-030
308-26-125	NEW	89-14-092	308-50-420	AMD	89-04-017	308-53-180	AMD-P	89-06-070
308-26-135	NEW-P	89-10-077	308-51-230	NEW-P	89-10-077	308-53-180	AMD	89-10-030
308-26-135	NEW	89-14-092	308-51-230	NEW	89-14-092	308-53-330	NEW-P	89-13-062

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308-53-330	NEW	89-17-040	308-89-040	AMD-P	89-08-091	308-115-290	NEW	89-14-092
308-53-340	NEW-P	89-13-062	308-89-040	AMD-E	89-08-094	308-115-310	NEW-P	89-10-077
308-53-340	NEW	89-17-040	308-90-080	AMD-E	89-14-091	308-115-310	NEW	89-14-092
308-53-350	NEW-P	89-18-083	308-90-080	AMD-P	89-15-049	308-115-320	NEW-P	89-10-077
308-53-350	NEW	89-22-102	308-90-080	AMD	89-18-028	308-115-320	NEW	89-14-092
308-53-400	NEW-C	89-06-066	308-91	AMD-P	89-02-063	308-115-330	NEW-P	89-10-077
308-53-400	NEW	89-09-027	308-91	AMD	89-07-035	308-115-330	NEW	89-14-092
308-55-035	NEW-P	89-10-077	308-91-030	AMD-P	89-02-062	308-115-340	NEW-P	89-10-077
308-55-035	NEW	89-14-092	308-91-030	AMD	89-07-036	308-115-340	NEW	89-14-092
308-55-045	NEW-P	89-10-077	308-91-040	AMD-P	89-02-063	308-115-350	NEW-P	89-10-077
308-55-045	NEW	89-14-092	308-91-040	AMD	89-07-035	308-115-350	NEW	89-14-092
308-55-055	NEW-P	89-10-077	308-91-050	AMD-P	89-02-063	308-115-405	AMD-P	89-05-018
308-55-055	NEW	89-14-092	308-91-050	AMD	89-07-035	308-115-405	AMD	89-08-008
308-55-065	NEW-P	89-10-077	308-91-140	AMD-P	89-02-063	308-117-080	AMD-P	89-06-071
308-55-065	NEW	89-14-092	308-91-140	AMD	89-07-035	308-117-080	AMD	89-10-075
308-55-075	NEW-P	89-10-077	308-96A-260	AMD-P	89-08-091	308-117-450	NEW-P	89-02-065
308-55-075	NEW	89-14-092	308-96A-260	AMD-E	89-08-094	308-117-460	NEW-P	89-02-065
308-55-085	NEW-P	89-10-077	308-99-025	AMD-P	89-17-065	308-117-460	NEW	89-07-005
308-55-085	NEW	89-14-092	308-99-025	AMD	89-20-043	308-117-470	NEW-P	89-02-065
308-55-095	NEW-P	89-10-077	308-99-025	AMD	89-17-065	308-117-470	NEW	89-07-005
308-55-095	NEW	89-14-092	308-99-050	NEW-P	89-20-043	308-117-480	NEW-P	89-02-065
308-55-105	NEW-P	89-10-077	308-99-050	NEW	89-20-043	308-117-480	NEW	89-07-005
308-55-105	NEW	89-14-092	308-100-010	AMD-P	89-15-040	308-117-480	NEW	89-07-005
308-55-115	NEW-P	89-10-077	308-100-010	AMD	89-18-003	308-120-165	AMD-P	89-22-104
308-55-115	NEW	89-14-092	308-100-020	AMD-P	89-15-040	308-120-168	AMD-P	89-08-093
308-56A-610	NEW-E	89-10-045	308-100-020	AMD	89-18-003	308-120-168	AMD	89-12-032
308-56A-610	NEW-P	89-11-019	308-100-020	AMD	89-18-003	308-120-168	AMD	89-12-032
308-56A-610	NEW	89-16-074	308-100-030	AMD-P	89-15-040	308-120-170	AMD-P	89-06-072
308-56A-610	NEW-E	89-16-075	308-100-030	AMD	89-18-003	308-120-170	AMD	89-12-033
308-56A-620	NEW-E	89-10-045	308-100-040	AMD-P	89-15-040	308-120-305	AMD-P	89-06-072
308-56A-620	NEW-P	89-11-019	308-100-040	AMD	89-18-003	308-120-305	AMD	89-12-033
308-56A-620	NEW	89-16-074	308-100-050	AMD-P	89-15-040	308-120-620	NEW-P	89-22-104
308-56A-620	NEW-E	89-16-075	308-100-050	AMD	89-18-003	308-120-810	NEW-P	89-06-072
308-56A-630	NEW-E	89-10-045	308-100-080	REP-P	89-15-040	308-120-810	NEW	89-12-033
308-56A-630	NEW-P	89-11-019	308-100-080	REP	89-18-003	308-122-211	NEW-P	89-08-092
308-56A-630	NEW	89-16-074	308-100-100	NEW-P	89-15-040	308-122-211	NEW	89-11-054
308-56A-630	NEW-E	89-16-075	308-100-100	NEW	89-18-003	308-122-360	AMD-P	89-14-090
308-56A-640	NEW-E	89-10-045	308-100-110	NEW-P	89-15-040	308-122-360	AMD	89-19-053
308-56A-640	NEW-P	89-11-019	308-100-110	NEW	89-18-003	308-122-370	AMD-P	89-14-090
308-56A-640	NEW	89-16-074	308-100-110	NEW	89-18-003	308-122-370	AMD-P	89-14-090
308-56A-640	NEW-E	89-16-075	308-100-120	NEW-P	89-15-040	308-122-370	AMD	89-19-053
308-56A-640	NEW-E	89-10-045	308-100-120	NEW	89-18-003	308-122-380	AMD-P	89-14-090
308-56A-640	NEW-P	89-11-019	308-100-120	NEW	89-18-003	308-122-380	AMD-P	89-19-053
308-56A-640	NEW	89-16-074	308-100-130	NEW-P	89-15-040	308-122-380	AMD	89-19-053
308-56A-640	NEW-E	89-16-075	308-100-130	NEW	89-18-003	308-122-390	AMD-P	89-14-090
308-56A-650	NEW-E	89-10-045	308-100-140	NEW-P	89-15-040	308-122-390	AMD	89-19-053
308-56A-650	NEW-P	89-11-019	308-100-140	NEW	89-18-003	308-122-400	AMD-P	89-14-090
308-56A-650	NEW	89-16-074	308-100-150	NEW-P	89-15-040	308-122-400	AMD	89-19-053
308-56A-650	NEW-E	89-16-075	308-100-150	NEW	89-18-003	308-122-410	AMD-P	89-14-090
308-56A-660	NEW-E	89-10-045	308-100-160	NEW-P	89-15-040	308-122-410	AMD	89-19-053
308-56A-660	NEW-P	89-11-019	308-100-160	NEW	89-18-003	308-122-420	AMD-P	89-14-090
308-56A-660	NEW	89-16-074	308-100-170	NEW-P	89-15-040	308-122-420	AMD	89-19-053
308-56A-660	NEW-E	89-16-075	308-100-170	NEW	89-18-003	308-122-430	AMD-P	89-14-090
308-56A-670	NEW-E	89-10-045	308-100-180	NEW-P	89-15-040	308-122-430	AMD	89-19-053
308-56A-670	NEW-P	89-11-019	308-100-180	NEW	89-18-003	308-122-440	AMD-P	89-14-090
308-56A-670	NEW	89-16-074	308-100-190	NEW-P	89-15-040	308-122-440	AMD	89-19-053
308-56A-670	NEW-E	89-16-075	308-100-190	NEW	89-18-003	308-122-450	AMD-P	89-14-090
308-56A-680	NEW-E	89-10-045	308-100-200	NEW-P	89-15-040	308-122-450	AMD	89-19-053
308-56A-680	NEW-P	89-11-019	308-100-200	NEW	89-18-003	308-122-500	AMD-P	89-14-090
308-56A-680	NEW	89-16-074	308-104-025	AMD-P	89-15-040	308-122-500	AMD	89-19-053
308-56A-680	NEW-E	89-16-075	308-104-025	AMD	89-18-003	308-122-500	REP-E	89-21-050
308-56A-690	NEW-E	89-10-045	308-104-035	NEW-P	89-15-040	308-122-500	REP-P	89-21-051
308-56A-690	NEW-P	89-11-019	308-104-035	NEW	89-18-003	308-122-503	NEW-P	89-14-090
308-56A-690	NEW	89-16-074	308-104-100	AMD-P	89-15-040	308-122-503	NEW	89-19-053
308-56A-690	NEW-E	89-16-075	308-104-100	AMD	89-18-003	308-122-503	REP-E	89-21-050
308-61-108	AMD-P	89-20-010	308-104-105	AMD-P	89-15-040	308-122-503	REP-P	89-21-051
308-61-108	AMD-E	89-20-011	308-104-105	AMD	89-18-003	308-122-550	NEW-P	89-14-090
308-61-135	AMD-P	89-20-010	308-106-010	NEW-P	89-19-052	308-122-550	NEW	89-19-053
308-61-135	AMD-E	89-20-011	308-106-010	NEW	89-22-030	308-122-550	REP-E	89-21-050
308-61-185	AMD-P	89-20-010	308-106-020	NEW-P	89-19-052	308-122-550	REP-P	89-21-051
308-61-185	AMD-E	89-20-011	308-106-020	NEW	89-22-030	308-122-555	NEW-P	89-14-090
308-61-190	AMD-P	89-20-010	308-106-030	NEW-P	89-19-052	308-122-555	NEW	89-19-053
308-61-190	AMD-E	89-20-011	308-106-030	NEW	89-22-030	308-122-555	REP-E	89-21-050
308-61-230	AMD-P	89-20-010	308-115-065	NEW	89-16-037	308-122-555	REP-P	89-21-051
308-61-230	AMD-E	89-20-011	308-115-260	NEW-P	89-10-077	308-122-560	NEW-P	89-14-090
308-77-030	AMD	89-03-005	308-115-260	NEW	89-14-092	308-122-560	NEW	89-19-053
308-77-034	AMD	89-03-005	308-115-270	NEW-P	89-10-077	308-122-560	REP-E	89-21-050
308-77-040	AMD	89-03-005	308-115-270	NEW	89-14-092	308-122-560	REP-P	89-21-051
308-77-042	NEW	89-03-034	308-115-280	NEW-P	89-10-077	308-122-565	NEW-P	89-14-090
308-77-044	NEW	89-03-034	308-115-280	NEW	89-14-092	308-122-565	NEW	89-19-053
308-77-060	AMD	89-03-005	308-115-290	NEW-P	89-10-077	308-122-565	REP-E	89-21-050

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308-122-570	NEW-P	89-14-090	308-173-090	NEW	89-14-092	308-183-060	NEW	89-14-092
308-122-570	NEW	89-19-053	308-177-010	NEW-P	89-10-077	308-183-070	NEW-P	89-10-077
308-122-570	REP-E	89-21-050	308-177-010	NEW	89-14-092	308-183-070	NEW	89-14-092
308-122-570	REP-P	89-21-051	308-177-020	NEW-P	89-10-077	308-183-080	NEW-P	89-10-077
308-122-575	NEW-P	89-14-090	308-177-020	NEW	89-14-092	308-183-080	NEW	89-14-092
308-122-575	NEW	89-19-053	308-177-030	NEW-P	89-10-077	308-190-030	AMD-P	89-07-081
308-122-575	REP-E	89-21-050	308-177-030	NEW	89-14-092	308-190-030	AMD	89-14-070
308-122-575	REP-P	89-21-051	308-177-040	NEW-P	89-10-077	308-190-040	AMD-P	89-07-081
308-122-580	NEW-P	89-14-090	308-177-040	NEW	89-14-092	308-190-040	AMD	89-14-070
308-122-580	NEW	89-19-053	308-177-050	NEW-P	89-10-077	308-190-041	NEW-P	89-07-081
308-122-580	REP-E	89-21-050	308-177-050	NEW	89-14-092	308-190-041	NEW	89-14-070
308-122-580	REP-P	89-21-051	308-177-060	NEW-P	89-10-077	308-190-042	NEW-P	89-07-081
308-124A-025	AMD-P	89-05-057	308-177-060	NEW	89-14-092	308-190-042	NEW	89-14-070
308-124A-025	AMD-E	89-07-004	308-177-070	NEW-P	89-10-077	308-190-060	NEW-P	89-10-077
308-124A-025	AMD	89-08-009	308-177-070	NEW	89-14-092	308-190-060	NEW	89-14-092
308-124A-460	AMD-P	89-05-057	308-177-080	NEW-P	89-10-077	308-190-070	NEW-P	89-10-077
308-124A-460	AMD-E	89-07-004	308-177-080	NEW	89-14-092	308-190-070	NEW	89-14-092
308-124A-460	AMD	89-08-009	308-177-090	NEW-P	89-10-077	308-190-080	NEW-P	89-10-077
308-124C-040	AMD-P	89-22-068	308-177-090	NEW	89-14-092	308-190-080	NEW	89-14-092
308-124D-060	REP-P	89-07-091	308-177-110	NEW	89-03-035	308-190-090	NEW-P	89-10-077
308-124D-060	REP	89-11-032	308-177-110	AMD-E	89-14-009	308-190-090	NEW	89-14-092
308-124D-061	NEW-P	89-22-069	308-177-110	AMD-P	89-14-104	308-190-100	NEW-P	89-10-077
308-124D-065	REP-P	89-07-091	308-177-110	AMD	89-17-071	308-190-100	NEW	89-14-092
308-124D-065	REP	89-11-032	308-177-115	NEW-E	89-14-009	308-190-110	NEW-P	89-10-077
308-124E-012	AMD-P	89-22-070	308-177-115	NEW-P	89-14-104	308-190-110	NEW	89-14-092
308-124E-014	AMD-P	89-22-071	308-177-115	NEW	89-17-071	308-190-120	NEW-P	89-10-077
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308-124H-030	AMD	89-11-032	308-177-120	AMD-P	89-14-104	308-190-130	NEW	89-14-092
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308-126A-030	AMD	89-18-038	308-177-130	NEW	89-03-035	308-190-140	NEW	89-14-092
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308-130-320	NEW	89-14-092	308-177-150	REP-E	89-14-009	308-195-130	NEW	89-14-092
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388-49-690	AMD	89-22-131	388-83-015	AMD-P	89-08-045	388-88-101	AMD	89-11-017
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388-49-700	AMD-E	89-19-077	388-83-015	AMD	89-11-057	388-92-025	AMD-E	89-21-035
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388-55-010	AMD-P	89-13-081	388-83-032	AMD	89-11-057	388-92-045	AMD-P	89-21-034
388-55-010	AMD-E	89-14-060	388-83-032	AMD-P	89-16-060	388-92-045	AMD-E	89-21-035
388-55-010	AMD	89-17-029	388-83-032	AMD-E	89-16-067	388-92-043	AMD-P	89-14-057
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388-55-040	AMD	89-03-008	388-83-032	AMD	89-22-034	388-92-043	AMD	89-18-032
388-70-590	AMD-E	89-14-098	388-83-033	NEW-P	89-16-060	388-93-070	REP-P	89-14-057
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388-95-335	AMD-P	89-20-073	388-320-400	NEW-P	89-22-080	391-08-510	REP-E	89-17-010
388-95-335	AMD-E	89-20-074	388-320-400	NEW-E	89-22-087	391-08-600	REP-E	89-17-010
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388-95-337	AMD-P	89-20-073	388-320-410	NEW-E	89-22-087	391-08-800	RE-AD-E	89-17-010
388-95-337	AMD-E	89-20-074	388-320-500	NEW-E	89-14-099	391-08-810	RE-AD-E	89-17-010
388-95-356	NEW-P	89-14-125	388-320-500	NEW-P	89-22-080	391-08-820	AMD-E	89-17-010
388-95-360	AMD-P	89-14-125	388-320-500	NEW-E	89-22-087	391-08-900	REP-E	89-17-010
388-95-360	AMD	89-18-056	388-330-010	NEW-P	89-02-067	391-08-910	REP-E	89-17-010
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388-95-395	NEW	89-12-037	388-330-030	NEW-P	89-02-067	391-25-002	RE-AD-E	89-17-011
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388-96-221	AMD	89-11-100	388-330-050	NEW-P	89-02-067	391-25-050	RE-AD-E	89-17-011
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388-96-585	AMD	89-17-030	388-330-060	NEW	89-07-096	391-25-092	RE-AD-E	89-17-011
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388-96-904	AMD-E	89-14-098	390-16-011	AMD	89-20-068	391-25-130	RE-AD-E	89-17-011
388-96-904	AMD-P	89-22-075	390-16-012	NEW-P	89-17-139	391-25-140	RE-AD-E	89-17-011
388-96-904	AMD-E	89-22-089	390-16-012	NEW	89-20-068	391-25-150	RE-AD-E	89-17-011
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388-98-001	AMD-E	89-21-025	390-16-031	AMD	89-20-068	391-25-190	RE-AD-E	89-17-011
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388-98-003	NEW-E	89-21-025	390-16-032	NEW	89-20-068	391-25-220	NEW-E	89-17-011
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388-98-005	REP-E	89-21-025	390-16-033	AMD	89-20-068	391-25-250	RE-AD-E	89-17-011
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388-98-010	AMD-E	89-21-025	390-16-036	REP	89-20-068	391-25-253	RE-AD-E	89-17-011
388-98-015	AMD-P	89-21-024	390-16-041	AMD-P	89-17-139	391-25-270	RE-AD-E	89-17-011
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388-98-300	NEW-P	89-21-024	390-16-050	AMD-P	89-17-139	391-25-350	AMD-E	89-17-011
388-98-300	NEW-E	89-21-025	390-16-050	AMD	89-20-068	391-25-270	RE-AD-E	89-17-011
388-98-320	NEW-P	89-21-024	390-16-055	AMD-P	89-17-139	391-25-390	RE-AD-E	89-17-011
388-98-320	NEW-E	89-21-025	390-16-055	AMD	89-20-068	391-25-410	RE-AD-E	89-17-011
388-98-330	NEW-P	89-21-024	390-16-060	AMD-P	89-17-139	391-25-412	RE-AD-E	89-17-011
388-98-330	NEW-E	89-21-025	390-16-060	AMD	89-20-068	391-25-413	RE-AD-E	89-17-011
388-98-340	NEW-P	89-21-024	390-16-111	AMD-P	89-17-139	391-25-430	RE-AD-E	89-17-011
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388-98-700	AMD-P	89-21-024	390-16-115	AMD	89-20-068	391-25-490	RE-AD-E	89-17-011
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388-98-800	REP-E	89-21-025	390-16-125	AMD-P	89-17-139	391-25-570	RE-AD-E	89-17-011
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388-99-030	AMD-E	89-08-049	390-16-306	REP-P	89-17-139	391-35-001	AMD-E	89-17-012
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388-100-005	AMD-P	89-18-047	391-08-001	AMD-E	89-17-010	391-35-010	RE-AD-E	89-17-012
388-100-005	AMD-E	89-18-048	391-08-003	RE-AD-E	89-17-010	391-35-020	RE-AD-E	89-17-012
388-100-005	AMD	89-22-037	391-08-007	RE-AD-E	89-17-010	391-35-030	RE-AD-E	89-17-012
388-320	AMD-E	89-14-099	391-08-010	RE-AD-E	89-17-010	391-35-050	RE-AD-E	89-17-012
388-320	AMD-P	89-22-080	391-08-020	RE-AD-E	89-17-010	391-35-070	RE-AD-E	89-17-012
388-320	AMD-E	89-22-087	391-08-030	RE-AD-E	89-17-010	391-35-080	NEW-E	89-17-012
388-320-340	NEW-E	89-14-099	391-08-040	RE-AD-E	89-17-010	391-35-090	NEW-E	89-17-012
388-320-340	NEW-P	89-22-080	391-08-100	RE-AD-E	89-17-010	391-35-099	RE-AD-E	89-17-012
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388-320-360	NEW-E	89-14-099	391-08-200	REP-E	89-17-010	391-35-210	RE-AD-E	89-17-012
388-320-360	NEW-P	89-22-080	391-08-210	REP-E	89-17-010	391-35-230	RE-AD-E	89-17-012
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392-126-135	REP 89-17-069	392-126-390	REP-P 89-14-033	392-127-245	REP-P 89-14-034
392-126-200	REP-P 89-14-033	392-126-390	REP 89-17-069	392-127-245	REP 89-17-068
392-126-200	REP 89-17-069	392-126-391	REP-P 89-14-033	392-127-250	REP-P 89-14-034

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392-127-250	REP	89-17-068	392-127-565	REP-P	89-14-034	392-137-025	RE-AD-E	89-16-016
392-127-255	REP-P	89-14-034	392-127-565	REP	89-17-068	392-137-030	RE-AD-P	89-16-012
392-127-255	REP	89-17-068	392-127-570	REP-P	89-14-034	392-137-030	RE-AD-E	89-16-016
392-127-264	REP-P	89-14-034	392-127-570	REP	89-17-068	392-137-035	RE-AD-P	89-16-012
392-127-264	REP	89-17-068	392-127-576	REP-P	89-14-034	392-137-035	RE-AD-E	89-16-016
392-127-265	REP-P	89-14-034	392-127-576	REP	89-17-068	392-137-040	RE-AD-P	89-16-012
392-127-265	REP	89-17-068	392-127-577	REP-P	89-14-034	392-137-040	RE-AD-E	89-16-016
392-127-268	REP-P	89-14-034	392-127-577	REP	89-17-068	392-137-045	RE-AD-P	89-16-012
392-127-268	REP	89-17-068	392-127-578	REP-P	89-14-034	392-137-045	RE-AD-E	89-16-016
392-127-270	REP-P	89-14-034	392-127-578	REP	89-17-068	392-137-051	RE-AD-P	89-16-012
392-127-270	REP	89-17-068	392-127-579	REP-P	89-14-034	392-137-051	RE-AD-E	89-16-016
392-127-271	REP-P	89-14-034	392-127-579	REP	89-17-068	392-137-055	RE-AD-P	89-16-012
392-127-271	REP	89-17-068	392-127-580	REP-P	89-14-034	392-137-055	RE-AD-E	89-16-016
392-127-275	REP-P	89-14-034	392-127-580	REP	89-17-068	392-137-060	RE-AD-P	89-16-012
392-127-275	REP	89-17-068	392-127-645	REP-P	89-14-034	392-137-060	RE-AD-E	89-16-016
392-127-280	REP-P	89-14-034	392-127-645	REP	89-17-068	392-137-065	RE-AD-P	89-16-012
392-127-280	REP	89-17-068	392-127-650	REP-P	89-14-034	392-137-065	RE-AD-E	89-16-016
392-127-286	REP-P	89-14-034	392-127-650	REP	89-17-068	392-137-070	RE-AD-P	89-16-012
392-127-286	REP	89-17-068	392-127-651	REP-P	89-14-034	392-137-070	RE-AD-E	89-16-016
392-127-287	REP-P	89-14-034	392-127-651	REP	89-17-068	392-138-100	AMD-P	89-14-035
392-127-287	REP	89-17-068	392-127-655	REP-P	89-14-034	392-138-100	AMD	89-17-066
392-127-295	REP-P	89-14-034	392-127-655	REP	89-17-068	392-139-005	AMD-P	89-19-031
392-127-295	REP	89-17-068	392-127-665	REP-P	89-14-034	392-139-007	AMD-P	89-19-031
392-127-296	REP-P	89-14-034	392-127-665	REP	89-17-068	392-139-055	AMD-P	89-19-031
392-127-296	REP	89-17-068	392-127-670	REP-P	89-14-034	392-139-105	AMD-P	89-19-031
392-127-297	REP-P	89-14-034	392-127-670	REP	89-17-068	392-139-110	AMD-P	89-19-031
392-127-297	REP	89-17-068	392-127-676	REP-P	89-14-034	392-139-115	AMD-P	89-19-031
392-127-300	REP-P	89-14-034	392-127-676	REP	89-17-068	392-139-120	AMD-P	89-19-031
392-127-300	REP	89-17-068	392-127-677	REP-P	89-14-034	392-139-122	AMD-P	89-19-031
392-127-305	REP-P	89-14-034	392-127-677	REP	89-17-068	392-139-126	AMD-P	89-19-031
392-127-305	REP	89-17-068	392-127-678	REP-P	89-14-034	392-139-128	AMD-P	89-19-031
392-127-310	REP-P	89-14-034	392-127-678	REP	89-17-068	392-139-129	NEW-P	89-19-031
392-127-310	REP	89-17-068	392-127-679	REP-P	89-14-034	392-139-132	AMD-P	89-19-031
392-127-315	REP-P	89-14-034	392-127-679	REP	89-17-068	392-139-134	AMD-P	89-19-031
392-127-315	REP	89-17-068	392-127-680	REP-P	89-14-034	392-139-156	AMD-P	89-19-031
392-127-335	REP-P	89-14-034	392-127-680	REP	89-17-068	392-139-162	AMD-P	89-19-031
392-127-335	REP	89-17-068	392-129-003	AMD-P	89-21-100	392-139-164	AMD-P	89-19-031
392-127-340	REP-P	89-14-034	392-129-005	AMD-P	89-21-100	392-139-172	AMD-P	89-19-031
392-127-340	REP	89-17-068	392-129-008	NEW-P	89-21-100	392-139-205	AMD-P	89-19-031
392-127-345	REP-P	89-14-034	392-129-010	AMD-P	89-21-100	392-139-215	AMD-P	89-19-031
392-127-345	REP	89-17-068	392-129-013	REP-P	89-21-100	392-139-225	AMD-P	89-19-031
392-127-350	REP-P	89-14-034	392-129-015	AMD-P	89-21-100	392-139-230	AMD-P	89-19-031
392-127-350	REP	89-17-068	392-129-020	AMD-P	89-21-100	392-139-240	REP-P	89-19-031
392-127-355	REP-P	89-14-034	392-129-030	AMD-P	89-21-100	392-139-243	NEW-P	89-19-031
392-127-355	REP	89-17-068	392-129-035	NEW-P	89-21-100	392-139-245	AMD-P	89-19-031
392-127-364	REP-P	89-14-034	392-129-040	NEW-P	89-21-100	392-139-297	NEW-P	89-19-031
392-127-364	REP	89-17-068	392-129-045	NEW-P	89-21-100	392-139-300	AMD-P	89-19-031
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392-127-365	REP	89-17-068	392-129-060	NEW-P	89-21-100	392-139-320	AMD-P	89-19-031
392-127-368	REP-P	89-14-034	392-129-065	NEW-P	89-21-100	392-139-330	AMD-P	89-19-031
392-127-368	REP	89-17-068	392-129-070	NEW-P	89-21-100	392-139-340	AMD-P	89-19-031
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392-127-371	REP-P	89-14-034	392-129-100	NEW-P	89-21-100	392-139-650	REP-P	89-19-031
392-127-371	REP	89-17-068	392-129-105	NEW-P	89-21-100	392-139-660	AMD-P	89-19-031
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392-127-380	REP-P	89-14-034	392-129-120	NEW-P	89-21-100	392-139-674	NEW-P	89-19-031
392-127-380	REP	89-17-068	392-129-125	NEW-P	89-21-100	392-139-675	NEW-P	89-19-031
392-127-386	REP-P	89-14-034	392-129-130	NEW-P	89-21-100	392-139-900	AMD-P	89-19-031
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392-127-387	REP	89-17-068	392-129-145	NEW-P	89-21-100	392-140-042	REP	89-18-077
392-127-395	REP-P	89-14-034	392-129-150	NEW-P	89-21-100	392-140-043	REP-P	89-14-036
392-127-395	REP	89-17-068	392-129-155	NEW-P	89-21-100	392-140-043	REP	89-18-077
392-127-396	REP-P	89-14-034	392-137-001	RE-AD-P	89-16-012	392-140-044	REP-P	89-14-036
392-127-396	REP	89-17-068	392-137-001	RE-AD-E	89-16-016	392-140-044	REP	89-18-077
392-127-397	REP-P	89-14-034	392-137-002	RE-AD-P	89-16-012	392-140-046	REP-P	89-14-036
392-127-397	REP	89-17-068	392-137-002	RE-AD-E	89-16-016	392-140-046	REP	89-18-077
392-127-545	REP-P	89-14-034	392-137-003	RE-AD-P	89-16-012	392-140-047	REP-P	89-14-036
392-127-545	REP	89-17-068	392-137-003	RE-AD-E	89-16-016	392-140-047	REP	89-18-077
392-127-550	REP-P	89-14-034	392-137-010	RE-AD-P	89-16-016	392-140-048	REP-P	89-14-036
392-127-550	REP	89-17-068	392-137-015	RE-AD-P	89-16-012	392-140-048	REP	89-18-077
392-127-551	REP-P	89-14-034	392-137-015	RE-AD-E	89-16-016	392-140-049	REP-P	89-14-036
392-127-551	REP	89-17-068	392-137-020	RE-AD-P	89-16-012	392-140-049	REP	89-18-077
392-127-555	REP-P	89-14-034	392-137-020	RE-AD-E	89-16-016	392-140-050	REP-P	89-14-036
392-127-555	REP	89-17-068	392-137-025	RE-AD-P	89-16-012	392-140-050	REP	89-18-077

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392-196-060	AMD	89-22-004	419-70-020	NEW	89-16-083	440-44-041	NEW-E	89-14-061
392-196-066	NEW-P	89-16-013	419-70-030	NEW-P	89-11-094	440-44-041	NEW	89-16-064
392-196-066	NEW-E	89-16-017	419-70-030	NEW	89-16-083	440-44-042	NEW-P	89-12-076
392-196-066	NEW	89-22-004	419-70-040	NEW-P	89-11-094	440-44-042	NEW-E	89-14-061
392-196-070	AMD-P	89-16-013	419-70-040	NEW	89-16-083	440-44-042	NEW-P	89-17-026
392-196-070	AMD-E	89-16-017	419-70-050	NEW-P	89-11-094	440-44-042	NEW-E	89-17-027
392-196-070	AMD	89-22-004	419-70-050	NEW	89-16-083	440-44-042	NEW	89-21-040
392-196-075	AMD-P	89-16-013	419-72	NEW-C	89-16-084	440-44-043	NEW-P	89-12-076
392-196-075	AMD-E	89-16-017	419-72	NEW-C	89-19-034	440-44-043	NEW-E	89-14-061
392-196-075	AMD	89-22-004	419-72-010	NEW-P	89-11-095	440-44-043	NEW	89-16-064
392-196-080	AMD-P	89-16-013	419-72-010	NEW-C	89-22-040	440-44-050	AMD-P	89-12-076
392-196-080	AMD-E	89-16-017	419-72-015	NEW-P	89-11-095	440-44-050	AMD-E	89-14-061
392-196-080	AMD	89-22-004	419-72-015	NEW-C	89-22-040	440-44-050	AMD	89-16-064
392-196-085	AMD-P	89-16-013	419-72-020	NEW-P	89-11-095	446-20-285	AMD-E	89-14-038
392-196-085	AMD-E	89-16-017	419-72-020	NEW-C	89-22-040	446-20-285	AMD-P	89-19-045
392-196-085	AMD	89-22-004	419-72-025	NEW-P	89-11-095	446-20-285	AMD-E	89-19-046
392-196-090	AMD-P	89-16-013	419-72-025	NEW-C	89-22-040	446-40-020	AMD-E	89-10-011
392-196-090	AMD-E	89-16-017	419-72-030	NEW-P	89-11-095	446-40-020	AMD	89-10-015
392-196-090	AMD	89-22-004	419-72-030	NEW-C	89-22-040	446-40-025	NEW-E	89-10-011
392-196-095	NEW-P	89-16-013	419-72-035	NEW-P	89-11-095	446-40-025	NEW	89-10-015
392-196-095	NEW-E	89-16-017	419-72-035	NEW-C	89-22-040	456-08-001	REP-P	89-06-062
392-196-095	NEW	89-22-004	419-72-040	NEW-P	89-11-095	456-08-001	REP	89-10-055
392-196-100	NEW-P	89-16-013	419-72-040	NEW-C	89-22-040	456-08-002	REP-P	89-06-062
392-196-100	NEW-E	89-16-017	419-72-045	NEW-P	89-11-095	456-08-002	REP	89-10-055
392-196-100	NEW	89-22-004	419-72-045	NEW-C	89-22-040	456-08-003	REP-P	89-06-062
392-196-105	NEW-P	89-16-013	419-72-050	NEW-P	89-11-095	456-08-003	REP-E	89-07-031
392-196-105	NEW-E	89-16-017	419-72-050	NEW-C	89-22-040	456-08-003	REP	89-10-055
392-196-105	NEW	89-22-004	419-72-055	NEW-P	89-11-095	456-08-004	REP-P	89-06-062
392-196-110	NEW-P	89-16-013	419-72-060	NEW-P	89-11-095	456-08-004	REP	89-10-055
392-196-110	NEW-E	89-16-017	419-72-060	NEW-C	89-22-040	456-08-005	REP-P	89-06-062
392-196-110	NEW	89-22-004	419-72-065	NEW-P	89-11-095	456-08-005	REP	89-10-055
392-202-003	AMD-P	89-16-014	419-72-065	NEW-C	89-22-040	456-08-006	REP-P	89-06-062
392-202-003	AMD	89-19-032	419-72-070	NEW-P	89-11-095	456-08-006	REP	89-10-055
392-202-005	AMD-P	89-16-014	419-72-070	NEW-C	89-22-040	456-08-007	REP-P	89-06-062
392-202-005	AMD	89-19-032	419-72-075	NEW-P	89-11-095	456-08-007	REP	89-10-055
392-202-010	AMD-P	89-16-014	419-72-075	NEW-C	89-22-040	456-08-010	REP-P	89-06-062
392-202-010	AMD	89-19-032	419-72-080	NEW-P	89-11-095	456-08-010	REP	89-10-055
392-202-015	AMD-P	89-16-014	419-72-080	NEW-C	89-22-040	456-08-040	REP-P	89-06-062
392-202-015	AMD	89-19-032	419-72-090	NEW-P	89-11-095	456-08-040	REP	89-10-055
392-202-070	AMD-P	89-16-014	419-72-090	NEW-C	89-22-040	456-08-045	REP-P	89-06-062
392-202-070	AMD	89-19-032	419-72-095	NEW-P	89-11-095	456-08-045	REP	89-10-055
392-202-075	AMD-P	89-16-014	419-72-095	NEW-C	89-22-040	456-08-070	REP-P	89-06-062
392-202-075	AMD	89-19-032	434-04-010	NEW-P	89-15-036	456-08-070	REP	89-10-055
392-202-080	AMD-P	89-16-014	434-04-015	NEW-P	89-20-031	456-08-080	REP-P	89-06-062
392-202-080	AMD	89-19-032	434-04-015	NEW	89-15-036	456-08-080	REP	89-10-055
392-202-085	AMD-P	89-16-014	434-04-017	NEW-P	89-15-036	456-08-090	REP-P	89-06-062
392-202-085	AMD	89-19-032	434-04-017	NEW	89-20-031	456-08-090	REP	89-10-055
392-202-095	AMD-P	89-16-014	434-04-020	NEW-P	89-15-036	456-08-092	REP-P	89-06-062
392-202-095	AMD	89-19-032	434-04-020	NEW	89-20-031	456-08-092	REP	89-10-055
392-202-110	AMD-P	89-16-014	434-04-020	NEW-P	89-15-036	456-08-150	REP-P	89-06-062
392-202-110	AMD	89-19-032	434-04-030	NEW	89-20-031	456-08-150	REP	89-10-055
392-202-115	AMD-P	89-16-014	434-04-030	NEW-P	89-15-036	456-08-160	REP-P	89-06-062
392-202-115	AMD	89-19-032	434-04-040	NEW	89-15-036	456-08-160	REP	89-10-055
399-30-020	AMD-P	89-02-057	434-04-040	NEW-P	89-20-031	456-08-170	REP-P	89-06-062
399-30-020	AMD-C	89-06-057	434-04-040	NEW	89-20-031	456-08-170	REP	89-10-055
399-30-020	AMD	89-10-041	434-04-050	NEW-P	89-15-036	456-08-180	REP-P	89-06-062
399-30-045	NEW-P	89-02-057	434-04-050	NEW	89-20-031	456-08-180	REP	89-10-055
399-30-045	NEW-C	89-06-057	434-04-060	NEW-P	89-15-036	456-08-190	REP-P	89-06-062
399-30-045	NEW	89-10-041	434-04-060	NEW	89-20-031	456-08-190	REP	89-10-055
399-30-050	AMD-P	89-02-057	434-04-070	NEW-P	89-15-036	456-08-200	REP-P	89-06-062
399-30-050	AMD-C	89-06-057	434-04-070	NEW	89-20-031	456-08-200	REP	89-10-055
399-30-050	AMD	89-10-041	434-04-075	NEW-P	89-15-036	456-08-220	REP-P	89-06-062
399-30-060	AMD-P	89-02-057	434-04-075	NEW	89-20-031	456-08-220	REP	89-10-055
399-30-065	NEW-P	89-06-057	434-04-080	NEW-P	89-15-036	456-08-230	REP-P	89-06-062
399-30-065	NEW	89-10-041	434-04-080	NEW	89-20-031	456-08-230	REP	89-10-055
419-64-010	NEW	89-04-050	434-04-090	NEW-P	89-15-036	456-08-240	REP-P	89-06-062
419-64-020	NEW	89-04-050	434-04-090	NEW	89-20-031	456-08-240	REP	89-10-055
419-64-030	NEW	89-04-050	440-44-023	AMD-P	89-12-076	456-08-250	REP-P	89-06-062
419-64-040	NEW	89-04-050	440-44-023	AMD-E	89-14-061	456-08-250	REP	89-10-055
419-64-050	NEW	89-04-050	440-44-023	AMD	89-16-064	456-08-250	REP	89-10-055
419-64-060	NEW	89-04-050	440-44-030	AMD-P	89-17-051	456-08-260	REP-P	89-06-062
419-64-070	NEW	89-04-050	440-44-030	AMD-E	89-17-052	456-08-260	REP	89-10-055
419-64-080	NEW	89-04-050	440-44-030	AMD	89-21-042	456-08-270	REP-P	89-06-062
419-64-090	NEW	89-04-050	440-44-040	AMD-P	89-12-076	456-08-270	REP	89-10-055
419-70-010	NEW-P	89-11-094	440-44-040	AMD-E	89-14-061	456-08-280	REP-P	89-06-062
419-70-010	NEW	89-16-083	440-44-040	AMD	89-16-064	456-08-280	REP	89-10-055

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456-10-160	NEW-P	89-06-064	456-10-730	NEW-P	89-06-064	458-14-100	REP-P	89-07-087
456-10-160	NEW	89-10-057	456-10-730	NEW	89-10-057	458-14-110	REP-P	89-07-087
456-10-170	NEW-P	89-06-064	456-10-735	NEW-P	89-06-064	458-14-115	REP-P	89-07-087
456-10-170	NEW	89-10-057	456-10-735	NEW	89-10-057	458-14-120	REP-P	89-07-087
456-10-180	NEW-P	89-06-064	456-10-740	NEW-P	89-06-064	458-14-121	REP-P	89-07-087
456-10-180	NEW	89-10-057	456-10-740	NEW	89-10-057	458-14-122	REP-P	89-07-087
456-10-210	NEW-P	89-06-064	456-10-745	NEW-P	89-06-064	458-14-125	REP-P	89-07-087
456-10-210	NEW	89-10-057	456-10-745	NEW	89-10-057	458-14-126	REP-P	89-07-087
456-10-220	NEW-P	89-06-064	456-10-750	NEW-P	89-06-064	458-14-130	REP-P	89-07-087
456-10-220	NEW	89-10-057	456-10-750	NEW	89-10-057	458-14-135	REP-P	89-07-087
456-10-230	NEW-P	89-06-064	456-10-755	NEW-P	89-06-064	458-14-140	REP-P	89-07-087
456-10-230	NEW	89-10-057	456-10-755	NEW	89-10-057	458-14-145	REP-P	89-07-087
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456-10-315	NEW	89-10-057	456-12-010	NEW	89-10-058	458-14-160	NEW-P	89-07-087
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456-10-320	NEW	89-10-057	456-12-020	NEW	89-10-058	458-16-115	NEW-W	89-08-036
456-10-325	NEW-P	89-06-064	456-12-030	NEW-P	89-06-065	458-16-115	NEW-E	89-08-037
456-10-325	NEW	89-10-057	456-12-030	NEW	89-10-058	458-16-115	NEW-P	89-09-074
456-10-330	NEW-P	89-06-064	456-12-040	NEW-P	89-06-065	458-16-115	NEW	89-12-013
456-10-330	NEW	89-10-057	456-12-040	NEW	89-10-058	458-18-220	AMD	89-10-067
456-10-335	NEW-P	89-06-064	456-12-050	NEW-P	89-06-065	458-19-005	NEW-P	89-18-092
456-10-335	NEW	89-10-057	456-12-050	NEW	89-10-058	458-19-005	NEW-W	89-18-024
456-10-340	NEW-P	89-06-064	456-12-060	NEW-P	89-06-065	458-19-010	NEW-W	89-18-024
456-10-340	NEW	89-10-057	456-12-060	NEW	89-10-058	458-19-015	NEW-W	89-18-024
456-10-345	NEW-P	89-06-064	456-12-070	NEW-P	89-06-065	458-19-020	NEW-W	89-18-024
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456-10-430	NEW	89-10-057	456-12-130	NEW-P	89-06-065	458-19-095	NEW-P	89-18-092
456-10-440	NEW-P	89-06-064	456-12-130	NEW	89-10-058	458-19-095	NEW-W	89-18-024
456-10-440	NEW	89-10-057	456-12-140	NEW-P	89-06-065	458-19-100	NEW-P	89-18-092
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456-10-510	NEW	89-10-057	458-14-010	REP-P	89-07-087	458-19-110	NEW-W	89-18-024
456-10-515	NEW-P	89-06-064	458-14-014	NEW-P	89-07-087	458-20-105	AMD-P	89-13-043
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456-10-520	NEW	89-10-057	458-14-017	NEW-P	89-07-087	458-20-127	AMD	89-21-001
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456-10-525	NEW	89-10-057	458-14-020	REP-P	89-07-087	458-20-193B	AMD	89-06-015
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456-10-535	NEW	89-10-057	458-14-027	NEW-P	89-07-087	458-20-250	AMD-E	89-13-089
456-10-540	NEW-P	89-06-064	458-14-029	NEW-P	89-07-087	458-20-250	AMD	89-16-090
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456-10-570	NEW	89-10-057	458-14-075	REP-P	89-07-087	458-20-254	NEW	89-11-040
456-10-710	NEW-P	89-06-064	458-14-080	REP-P	89-07-087	458-20-255	NEW-P	89-13-041
456-10-710	NEW	89-10-057	458-14-085	REP-P	89-07-087	458-20-255	NEW-E	89-13-042
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456-10-715	NEW	89-10-057	458-14-090	REP-P	89-07-087	458-20-256	NEW-E	89-21-076
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456-10-720	NEW	89-10-057	458-14-092	REP-P	89-07-087	458-30-261	NEW	89-05-008
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458-40-660	AMD	89-14-051	460-46A-010	AMD-P	89-03-044	468-16-100	NEW-W	89-08-064
458-40-660	AMD-P	89-22-100	460-46A-010	AMD	89-07-042	468-16-100	NEW-P	89-16-086
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458-40-670	AMD-E	89-14-050	460-46A-050	AMD	89-07-042	468-16-110	NEW-P	89-07-034
458-40-670	AMD	89-14-051	460-46A-060	REP-P	89-03-044	468-16-110	NEW-W	89-08-064
458-40-670	AMD-P	89-22-100	460-46A-060	REP	89-07-042	468-16-110	NEW-P	89-16-086
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458-53-030	AMD	89-09-021	460-46A-080	REP	89-07-042	468-16-120	NEW-P	89-16-086
458-53-070	AMD-P	89-05-053	460-46A-085	REP-P	89-03-044	468-16-120	NEW-W	89-19-013
458-53-070	AMD	89-09-021	460-46A-085	REP	89-07-042	468-16-130	NEW-P	89-07-034
458-53-100	AMD-P	89-05-053	460-46A-090	AMD-P	89-03-044	468-16-130	NEW-W	89-08-064
458-53-100	AMD	89-09-021	460-46A-090	AMD	89-07-042	468-16-130	NEW-P	89-16-086
458-53-110	AMD-P	89-05-053	460-46A-092	NEW-P	89-03-044	468-16-130	NEW-W	89-19-013
458-53-110	AMD	89-09-021	460-46A-092	NEW	89-07-042	468-16-140	NEW-P	89-07-034
458-53-150	AMD-P	89-05-053	460-46A-095	AMD-P	89-03-044	468-16-140	NEW-W	89-08-064
458-53-150	AMD	89-09-021	460-46A-095	AMD	89-07-042	468-16-140	NEW-P	89-16-086
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460-10A-160	AMD	89-21-032	460-46A-120	REP	89-07-042	468-16-160	NEW-P	89-07-034
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468-100-004	NEW-P 89-14-039	468-300-010	AMD-C 89-12-005	478-116-360	AMD 89-15-023
468-100-004	NEW 89-17-048	468-300-010	AMD 89-14-052	478-116-380	AMD-P 89-09-043
468-100-005	NEW-P 89-14-039	468-300-020	AMD 89-04-014	478-116-380	AMD 89-15-023
468-100-005	NEW 89-17-048	468-300-020	AMD-P 89-08-068	478-116-430	AMD-P 89-09-043
468-100-006	NEW-P 89-14-039	468-300-020	AMD-C 89-12-005	478-116-430	AMD 89-15-023
468-100-006	NEW 89-17-048	468-300-020	AMD 89-14-052	478-116-440	AMD-P 89-09-043
468-100-007	NEW-P 89-14-039	468-300-040	AMD 89-04-014	478-116-440	AMD 89-15-023
468-100-007	NEW 89-17-048	468-300-040	AMD-P 89-08-068	478-116-455	NEW-P 89-09-043
468-100-008	NEW-P 89-14-039	468-300-040	AMD-C 89-12-005	478-116-456	NEW-P 89-09-043
468-100-008	NEW 89-17-048	468-300-040	AMD 89-14-052	478-116-462	NEW-P 89-09-043
468-100-009	NEW-P 89-14-039	468-300-070	AMD 89-04-014	478-116-463	NEW-P 89-09-043
468-100-009	NEW 89-17-048	468-300-070	AMD-P 89-08-068	478-116-465	NEW-P 89-09-043
468-100-010	NEW-P 89-14-039	468-300-070	AMD-C 89-12-005	478-116-466	NEW-P 89-09-043
468-100-010	NEW 89-17-048	468-300-070	AMD 89-14-052	478-116-467	NEW-P 89-09-043
468-100-101	NEW-P 89-14-039	468-300-700	AMD-P 89-08-068	478-116-470	AMD-P 89-09-043
468-100-101	NEW 89-17-048	468-300-700	AMD-C 89-12-005	478-116-470	AMD 89-15-023
468-100-102	NEW-P 89-14-039	468-320-010	NEW-P 89-18-087	478-116-490	AMD-P 89-09-043
468-100-102	NEW 89-17-048	468-320-010	NEW-E 89-18-088	478-116-490	AMD 89-15-023
468-100-103	NEW-P 89-14-039	468-320-010	NEW 89-22-028	478-116-500	AMD-P 89-09-043
468-100-103	NEW 89-17-048	468-320-020	NEW-P 89-18-087	478-116-500	AMD 89-15-023
468-100-104	NEW-P 89-14-039	468-320-020	NEW-E 89-18-088	478-116-510	AMD-P 89-09-043
468-100-104	NEW 89-17-048	468-320-020	NEW 89-22-028	478-116-510	AMD 89-15-023
468-100-105	NEW-P 89-14-039	468-320-030	NEW-P 89-18-087	478-116-510	NEW-P 89-09-043
468-100-105	NEW 89-17-048	468-320-030	NEW-E 89-18-088	478-116-515	NEW-P 89-09-043
468-100-106	NEW-P 89-14-039	468-320-030	NEW 89-22-028	478-116-520	AMD-P 89-09-043
468-100-106	NEW 89-17-048	468-320-040	NEW-P 89-18-087	478-116-520	AMD 89-15-023
468-100-201	NEW-P 89-14-039	468-320-040	NEW-E 89-18-088	478-116-525	NEW-P 89-09-043
468-100-201	NEW 89-17-048	468-320-040	NEW 89-22-028	478-116-550	AMD-P 89-09-043
468-100-202	NEW-P 89-14-039	468-320-050	NEW-P 89-18-087	478-116-550	AMD 89-15-023
468-100-202	NEW 89-17-048	468-320-050	NEW-E 89-18-088	478-116-586	AMD-P 89-09-043
468-100-203	NEW-P 89-14-039	468-320-050	NEW 89-22-028	478-116-586	AMD 89-15-023
468-100-203	NEW 89-17-048	468-320-060	NEW-P 89-18-087	478-116-600	AMD-P 89-09-043
468-100-204	NEW-P 89-14-039	468-320-060	NEW-E 89-18-088	478-116-600	AMD 89-15-023
468-100-204	NEW 89-17-048	468-320-060	NEW 89-22-028	478-116-600	AMD-P 89-20-041
468-100-205	NEW-P 89-14-039	468-320-070	NEW-P 89-18-087	478-138-030	AMD-P 89-20-042
468-100-205	NEW 89-17-048	468-320-070	NEW-E 89-18-088	478-138-040	AMD-P 89-20-042
468-100-206	NEW-P 89-14-039	468-320-070	NEW 89-22-028	478-138-050	AMD-P 89-20-042
468-100-206	NEW 89-17-048	468-320-080	NEW-P 89-18-087	479-112-005	NEW-P 89-10-053
468-100-207	NEW-P 89-14-039	468-320-080	NEW-E 89-18-088	479-112-005	NEW-E 89-10-054
468-100-207	NEW 89-17-048	468-320-080	NEW 89-22-028	479-112-005	NEW 89-14-005
468-100-208	NEW-P 89-14-039	468-320-090	NEW-P 89-18-087	479-112-007	NEW-P 89-10-053
468-100-208	NEW 89-17-048	468-320-090	NEW-E 89-18-088	479-112-007	NEW-E 89-10-054
468-100-301	NEW-P 89-14-039	468-320-090	NEW 89-22-028	479-112-007	NEW 89-14-005
468-100-301	NEW 89-17-048	468-320-100	NEW-P 89-18-087	479-112-008	NEW-P 89-10-053
468-100-302	NEW-P 89-14-039	468-320-100	NEW-E 89-18-088	479-112-008	NEW-E 89-10-054
468-100-302	NEW 89-17-048	468-320-100	NEW 89-22-028	479-112-008	NEW 89-14-005
468-100-303	NEW-P 89-14-039	478-116-020	AMD-P 89-09-043	479-112-009	NEW-P 89-10-053
468-100-303	NEW 89-17-048	478-116-020	AMD 89-15-023	479-112-009	NEW-E 89-10-054
468-100-304	NEW-P 89-14-039	478-116-030	AMD-P 89-09-043	479-112-009	NEW 89-14-005
468-100-304	NEW 89-17-048	478-116-030	AMD 89-15-023	479-112-010	NEW-P 89-10-053
468-100-305	NEW-P 89-14-039	478-116-055	AMD-P 89-09-043	479-112-010	NEW-E 89-10-054
468-100-305	NEW 89-17-048	478-116-055	AMD 89-15-023	479-112-010	NEW 89-14-005
468-100-306	NEW-P 89-14-039	478-116-060	AMD-P 89-09-043	479-112-017	NEW-P 89-10-053
468-100-306	NEW 89-17-048	478-116-060	AMD 89-15-023	479-112-017	NEW-E 89-10-054
468-100-401	NEW-P 89-14-039	478-116-095	AMD-P 89-09-043	479-112-017	NEW 89-14-005

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479-112-018	NEW-P 89-10-053	480-08-055	REP 89-21-036	480-08-290	REP-E 89-17-050
479-112-018	NEW-E 89-10-054	480-08-060	REP-C 89-17-049	480-08-290	REP 89-21-036
479-112-018	NEW 89-14-005	480-08-060	REP-E 89-17-050	480-08-300	REP-C 89-17-049
479-112-020	NEW-P 89-10-053	480-08-060	REP 89-21-036	480-08-300	REP-E 89-17-050
479-112-020	NEW-E 89-10-054	480-08-070	REP-C 89-17-049	480-08-300	REP 89-21-036
479-112-020	NEW 89-14-005	480-08-070	REP-E 89-17-050	480-08-310	REP-C 89-17-049
479-113-010	NEW-P 89-10-053	480-08-070	REP 89-21-036	480-08-310	REP-E 89-17-050
479-113-010	NEW-E 89-10-054	480-08-080	REP-C 89-17-049	480-08-310	REP 89-21-036
479-113-010	NEW 89-14-005	480-08-080	REP-E 89-17-050	480-08-320	REP-C 89-17-049
479-113-011	NEW-P 89-10-053	480-08-080	REP 89-21-036	480-08-320	REP-E 89-17-050
479-113-011	NEW-E 89-10-054	480-08-090	REP-C 89-17-049	480-08-320	REP 89-21-036
479-113-011	NEW 89-14-005	480-08-090	REP-E 89-17-050	480-08-330	REP-C 89-17-049
479-113-029	NEW-P 89-10-053	480-08-090	REP 89-21-036	480-08-330	REP-E 89-17-050
479-113-029	NEW-E 89-10-054	480-08-100	REP-C 89-17-049	480-08-330	REP 89-21-036
479-113-029	NEW 89-14-005	480-08-100	REP-E 89-17-050	480-09	NEW-C 89-16-048
479-113-031	NEW-P 89-10-053	480-08-100	REP 89-21-036	480-09	NEW-C 89-17-049
479-113-031	NEW-E 89-10-054	480-08-110	REP-C 89-17-049	480-09	NEW-E 89-17-050
479-113-031	NEW 89-14-005	480-08-110	REP-E 89-17-050	480-09	NEW 89-21-036
479-113-032	NEW-P 89-10-053	480-08-110	REP 89-21-036	480-09-010	NEW-P 89-13-090
479-113-032	NEW-E 89-10-054	480-08-120	REP-C 89-17-049	480-09-010	NEW-C 89-17-049
479-113-032	NEW 89-14-005	480-08-120	REP-E 89-17-050	480-09-010	NEW-E 89-17-050
479-113-035	NEW-P 89-10-053	480-08-120	REP 89-21-036	480-09-010	NEW 89-21-036
479-113-035	NEW-E 89-10-054	480-08-130	REP-C 89-17-049	480-09-015	NEW-P 89-17-049
479-113-035	NEW 89-14-005	480-08-130	REP-E 89-17-050	480-09-015	NEW-E 89-17-050
479-116-015	NEW-P 89-10-053	480-08-130	REP 89-21-036	480-09-015	NEW 89-21-036
479-116-015	NEW-E 89-10-054	480-08-140	REP-C 89-17-049	480-09-100	NEW-P 89-13-090
479-116-015	NEW 89-14-005	480-08-140	REP-E 89-17-050	480-09-100	NEW-C 89-17-049
479-116-016	NEW-P 89-10-053	480-08-140	REP 89-21-036	480-09-100	NEW-E 89-17-050
479-116-016	NEW-E 89-10-054	480-08-150	REP-C 89-17-049	480-09-100	NEW 89-21-036
479-116-016	NEW 89-14-005	480-08-150	REP-E 89-17-050	480-09-110	NEW-P 89-13-090
479-116-020	NEW-P 89-10-053	480-08-150	REP 89-21-036	480-09-110	NEW-C 89-17-049
479-116-020	NEW-E 89-10-054	480-08-160	REP-C 89-17-049	480-09-110	NEW-E 89-17-050
479-116-020	NEW 89-14-005	480-08-160	REP-E 89-17-050	480-09-110	NEW 89-21-036
479-116-030	NEW-P 89-10-053	480-08-160	REP 89-21-036	480-09-120	NEW-P 89-13-090
479-116-030	NEW-E 89-10-054	480-08-170	REP-C 89-17-049	480-09-120	NEW-C 89-17-049
479-116-030	NEW 89-14-005	480-08-170	REP-E 89-17-050	480-09-120	NEW-E 89-17-050
479-116-035	NEW-P 89-10-053	480-08-170	REP 89-21-036	480-09-120	NEW 89-21-036
479-116-035	NEW-E 89-10-054	480-08-180	REP-C 89-17-049	480-09-130	NEW-P 89-13-090
479-116-035	NEW 89-14-005	480-08-180	REP-E 89-17-050	480-09-130	NEW-C 89-17-049
479-116-040	NEW-P 89-10-053	480-08-180	REP 89-21-036	480-09-130	NEW-E 89-17-050
479-116-040	NEW-E 89-10-054	480-08-180	REP-C 89-17-049	480-09-130	NEW 89-21-036
479-116-040	NEW 89-14-005	480-08-190	REP-E 89-17-049	480-09-130	NEW 89-21-036
479-116-045	NEW-P 89-10-053	480-08-190	REP 89-21-036	480-09-135	NEW-P 89-17-049
479-116-045	NEW-E 89-10-054	480-08-200	REP-C 89-17-049	480-09-135	NEW-E 89-17-050
479-116-045	NEW 89-14-005	480-08-200	REP-E 89-17-050	480-09-135	NEW 89-21-036
479-116-050	NEW-P 89-10-053	480-08-200	REP 89-21-036	480-09-140	NEW-P 89-13-090
479-116-050	NEW-E 89-10-054	480-08-208	NEW-E 89-08-004	480-09-140	NEW-C 89-17-049
479-116-050	NEW 89-14-005	480-08-208	NEW-P 89-08-109	480-09-140	NEW-E 89-17-050
479-116-060	NEW-P 89-10-053	480-08-208	REP-E 89-11-006	480-09-140	NEW 89-21-036
479-116-060	NEW-E 89-10-054	480-08-208	NEW-C 89-11-085	480-09-150	NEW-P 89-13-090
479-116-060	NEW 89-14-005	480-08-208	NEW-C 89-13-028	480-09-150	NEW-C 89-17-049
479-120-020	NEW-P 89-10-053	480-08-208	NEW-P 89-15-041	480-09-150	NEW-E 89-17-050
479-120-020	NEW-E 89-10-054	480-08-210	REP-C 89-17-049	480-09-150	NEW 89-21-036
479-120-020	NEW 89-14-005	480-08-210	REP-E 89-17-050	480-09-200	NEW-P 89-13-090
479-120-033	NEW-P 89-10-053	480-08-210	REP 89-21-036	480-09-200	NEW-C 89-17-049
479-120-033	NEW-E 89-10-054	480-08-220	REP-C 89-17-049	480-09-200	NEW-E 89-17-050
479-120-033	NEW 89-14-005	480-08-220	REP-E 89-17-050	480-09-200	NEW 89-21-036
480-08-010	REP-C 89-17-049	480-08-220	REP 89-21-036	480-09-210	NEW-P 89-13-090
480-08-010	REP-E 89-17-050	480-08-230	REP-C 89-17-049	480-09-210	NEW-C 89-17-049
480-08-010	REP 89-21-036	480-08-230	REP-E 89-17-050	480-09-210	NEW-E 89-17-050
480-08-015	REP-C 89-17-049	480-08-230	REP 89-21-036	480-09-210	NEW 89-21-036
480-08-015	REP-E 89-17-050	480-08-240	REP-C 89-17-049	480-09-220	NEW-P 89-13-090
480-08-015	REP 89-21-036	480-08-240	REP-E 89-17-050	480-09-220	NEW-C 89-17-049
480-08-020	REP-C 89-17-049	480-08-240	REP 89-21-036	480-09-220	NEW-E 89-17-050
480-08-020	REP-E 89-17-050	480-08-250	REP-C 89-17-049	480-09-220	NEW 89-21-036
480-08-020	REP 89-21-036	480-08-250	REP-E 89-17-050	480-09-230	NEW 89-21-036
480-08-030	REP-C 89-17-049	480-08-250	REP 89-21-036	480-09-300	NEW-P 89-13-090
480-08-030	REP-E 89-17-050	480-08-260	REP-C 89-17-049	480-09-300	NEW-C 89-17-049
480-08-030	REP 89-21-036	480-08-260	REP-E 89-17-050	480-09-300	NEW-E 89-17-050
480-08-040	REP-C 89-17-049	480-08-260	REP 89-21-036	480-09-300	NEW 89-21-036
480-08-040	REP-E 89-17-050	480-08-270	REP-C 89-17-049	480-09-310	NEW-P 89-13-090
480-08-040	REP 89-21-036	480-08-270	REP-E 89-17-050	480-09-310	NEW-C 89-17-049
480-08-050	REP-C 89-17-049	480-08-270	REP 89-21-036	480-09-310	NEW-E 89-17-050
480-08-050	REP-E 89-17-050	480-08-280	REP-C 89-17-049	480-09-320	NEW 89-21-036
480-08-050	REP 89-21-036	480-08-280	REP-E 89-17-050	480-09-320	NEW-P 89-13-090
480-08-055	REP-C 89-17-049	480-08-280	REP 89-21-036	480-09-320	NEW-C 89-17-049
480-08-055	REP-E 89-17-050	480-08-290	REP-C 89-17-049	480-09-320	NEW-E 89-17-050
				480-09-320	NEW 89-21-036

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480-09-330	NEW-P 89-13-090	480-09-700	NEW-C 89-17-049	480-12-285	AMD 89-04-045
480-09-330	NEW-C 89-17-049	480-09-700	NEW-E 89-17-050	480-12-375	AMD-W 89-20-048
480-09-330	NEW-E 89-17-050	480-09-700	NEW 89-21-036	480-12-445	AMD-P 89-06-020
480-09-330	NEW 89-21-036	480-09-705	NEW-P 89-13-090	480-12-445	AMD 89-09-071
480-09-340	NEW-P 89-13-090	480-09-705	NEW-C 89-17-049	480-12-990	AMD-W 89-20-048
480-09-340	NEW-C 89-17-049	480-09-705	NEW-E 89-17-050	480-30-095	AMD 89-06-021
480-09-340	NEW-E 89-17-050	480-09-705	NEW 89-21-036	480-30-100	AMD 89-06-021
480-09-340	NEW 89-21-036	480-09-710	NEW-P 89-13-090	480-30-120	AMD-W 89-19-047
480-09-400	NEW-P 89-13-090	480-09-710	NEW-C 89-17-049	480-30-120	AMD-P 89-19-048
480-09-400	NEW-C 89-17-049	480-09-710	NEW-E 89-17-050	480-35-010	NEW-P 89-20-049
480-09-400	NEW-E 89-17-050	480-09-710	NEW 89-21-036	480-35-010	NEW-E 89-20-051
480-09-400	NEW 89-21-036	480-09-720	NEW-P 89-13-090	480-35-020	NEW-P 89-20-049
480-09-410	NEW-P 89-13-090	480-09-720	NEW-C 89-17-049	480-35-020	NEW-E 89-20-051
480-09-410	NEW-C 89-17-049	480-09-720	NEW-E 89-17-050	480-35-030	NEW-P 89-20-049
480-09-410	NEW-E 89-17-050	480-09-720	NEW 89-21-036	480-35-030	NEW-E 89-20-051
480-09-410	NEW 89-21-036	480-09-730	NEW-P 89-13-090	480-35-040	NEW-P 89-20-049
480-09-420	NEW-P 89-13-090	480-09-730	NEW-C 89-17-049	480-35-040	NEW-E 89-20-051
480-09-420	NEW-C 89-17-049	480-09-730	NEW-E 89-17-050	480-35-050	NEW-P 89-20-049
480-09-420	NEW-E 89-17-050	480-09-730	NEW 89-21-036	480-35-050	NEW-E 89-20-051
480-09-420	NEW 89-21-036	480-09-735	NEW-P 89-13-090	480-35-060	NEW-P 89-20-049
480-09-425	NEW-P 89-13-090	480-09-735	NEW-C 89-17-049	480-35-060	NEW-E 89-20-051
480-09-425	NEW-C 89-17-049	480-09-735	NEW-E 89-17-050	480-35-070	NEW-P 89-20-049
480-09-425	NEW-E 89-17-050	480-09-735	NEW 89-21-036	480-35-070	NEW-E 89-20-051
480-09-425	NEW 89-21-036	480-09-736	NEW-P 89-13-090	480-35-080	NEW-P 89-20-049
480-09-430	NEW-P 89-13-090	480-09-736	NEW-C 89-17-049	480-35-080	NEW-E 89-20-051
480-09-430	NEW-C 89-17-049	480-09-736	NEW-E 89-17-050	480-35-090	NEW-P 89-20-049
480-09-430	NEW-E 89-17-050	480-09-736	NEW 89-21-036	480-35-090	NEW-E 89-20-051
480-09-430	NEW 89-21-036	480-09-740	NEW-P 89-13-090	480-35-100	NEW-P 89-20-049
480-09-440	NEW-P 89-13-090	480-09-740	NEW-C 89-17-049	480-35-100	NEW-E 89-20-051
480-09-440	NEW-C 89-17-049	480-09-740	NEW-E 89-17-050	480-35-110	NEW-P 89-20-049
480-09-440	NEW-E 89-17-050	480-09-740	NEW 89-21-036	480-35-110	NEW-E 89-20-051
480-09-440	NEW 89-21-036	480-09-745	NEW-P 89-13-090	480-35-120	NEW-P 89-20-049
480-09-450	NEW-P 89-13-090	480-09-745	NEW-C 89-17-049	480-35-120	NEW-E 89-20-051
480-09-450	NEW-C 89-17-049	480-09-745	NEW-E 89-17-050	480-50-090	AMD-P 89-19-048
480-09-450	NEW-E 89-17-050	480-09-745	NEW 89-21-036	480-62-085	NEW-P 89-19-048
480-09-450	NEW 89-21-036	480-09-750	NEW-P 89-13-090	480-70-330	AMD 89-06-021
480-09-460	NEW-P 89-13-090	480-09-750	NEW-C 89-17-049	480-70-350	AMD-P 89-19-048
480-09-460	NEW-C 89-17-049	480-09-750	NEW-E 89-17-050	480-70-400	AMD 89-06-021
480-09-460	NEW-E 89-17-050	480-09-750	NEW 89-21-036	480-70-405	AMD 89-06-021
480-09-460	NEW 89-21-036	480-09-760	NEW-P 89-13-090	480-75-010	NEW-P 89-19-048
480-09-465	NEW-P 89-13-090	480-09-760	NEW-C 89-17-049	480-80-070	AMD-P 89-12-072
480-09-465	NEW-C 89-17-049	480-09-760	NEW-E 89-17-050	480-80-070	AMD 89-15-042
480-09-465	NEW-E 89-17-050	480-09-760	NEW 89-21-036	480-80-330	AMD-P 89-08-110
480-09-465	NEW 89-21-036	480-09-770	NEW-P 89-13-090	480-80-330	AMD 89-12-038
480-09-470	NEW-P 89-13-090	480-09-770	NEW-C 89-17-049	480-80-390	NEW-P 89-12-069
480-09-470	NEW-C 89-17-049	480-09-770	NEW-E 89-17-050	480-80-390	NEW-C 89-17-041
480-09-470	NEW-E 89-17-050	480-09-770	NEW 89-21-036	480-80-390	NEW 89-19-038
480-09-470	NEW 89-21-036	480-09-780	NEW-P 89-13-090	480-90-031	AMD-P 89-09-070
480-09-475	NEW-P 89-13-090	480-09-780	NEW-C 89-17-049	480-90-031	AMD-C 89-11-084
480-09-475	NEW-C 89-17-049	480-09-780	NEW-E 89-17-050	480-90-031	AMD 89-12-070
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480-09-500	NEW-C 89-17-049	480-09-810	NEW-E 89-17-050	480-90-206	REP-P 89-05-042
480-09-500	NEW-E 89-17-050	480-09-810	NEW 89-21-036	480-90-206	REP 89-08-030
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480-09-510	NEW-C 89-17-049	480-09-815	NEW-E 89-17-050	480-90-221	REP-P 89-05-042
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