

FEBRUARY 21, 1990

OLYMPIA, WASHINGTON

ISSUE 90-04



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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).

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of February 1990 pursuant to RCW 19.52.020 is twelve point zero percent (12.0%).

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 1990 pursuant to RCW 63.14.130(1)(a) is fourteen and one-half percent (14.50%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is thirteen point seven five percent (13.75%) for the first calendar quarter of 1990.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is fourteen percent (14.0%) for the first calendar quarter of 1990.

WASHINGTON STATE REGISTER

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

Raymond W. Haman
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Chief Assistant Code Reviser

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		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing on or after</i>
89-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
89-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
89-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
89-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
89-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
89-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
89-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
89-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
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
90-02	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 17	Feb 6
90-03	Dec 27, 1989	Jan 10, 1990	Jan 24	Feb 7	Feb 27
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90-13	May 24	Jun 7	Jun 21	Jul 5	Jul 25
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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 90-04-001
WITHDRAWAL OF PROPOSED RULES
UNIVERSITY OF WASHINGTON
[Filed January 25, 1990, 10:05 a.m.]

This letter is notice of withdrawal of the September 28, 1989, proposed amendment to chapter 478-138 WAC, Use of university stadium boat moorage facilities, WAC 478-138-020, 478-138-040 and 478-138-050.

Lloyd W. Peterson
Senior Assistant
Attorney General

WSR 90-04-002
PROPOSED RULES
UNIVERSITY OF WASHINGTON
[Filed January 25, 1990, 10:06 a.m.]

Continuance of WSR [89-20-041].

Title of Rule: Chapter 478-116 WAC, Parking and traffic regulations.

Hearing Location: Student Union Building, HUB 200-A-B-C, on January 26, 1990, at 11:30 to 1:00 p.m.

Submit Written Comments to: Vice Provost, Steven Olswang, Hearing Officer, AH-20, by January 26, 1990.

Date of Intended Adoption: February 17, 1990.

January 22, 1990
Lloyd W. Peterson
Senior Assistant
Attorney General

WSR 90-04-003
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Order 2027—Filed January 25, 1990, 1:31 p.m.]

Date of Adoption: January 25, 1990.

Purpose: To remove language that is inconsistent with other seed labeling requirements and to bring this chapter into compliance with chapter 15.49 RCW.

Citation of Existing Rules Affected by this Order: Amending chapter 16-317 WAC.

Statutory Authority for Adoption: Chapter 15.49 RCW.

Pursuant to notice filed as WSR 89-24-066 on December 5, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 25, 1990

Michael Schwisow
for C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1699, filed 5/30/80)

WAC 16-317-040 LABELING REQUIREMENTS FOR SMALL GRAIN, FIELD PEA, LENTIL, AND/OR SOYBEAN SEEDS(~~(, AND LAWN AND/OR PASTURE MIXES)~~). Labeling requirements shall be as specified in (~~RCW 15.49.320 of the~~

~~Washington State Seed Act~~) WAC 16-318-200 through 16-318-235 and 16-318-040 through 16-318-065. In addition, labels for small grain seed shall contain the following information:

(1) Each variety (e.g., Nugaines), (~~(type f)~~) whether the variety is typically a winter or spring(~~(t)~~) sown variety, and kind (e.g., wheat)(~~(, or each type and kind when in excess of five percent by weight of the whole)~~); or (~~(type)~~) may not be shown: PROVIDED, That the label shall conspicuously show the words "~~(type)~~ typical sowing season not stated."

(2) A tetrazolium test may be used in lieu of germination: PROVIDED, That the label shall state "Tetrazolium%," and that a germination test of the lot is in process and shall be made available to the purchaser when completed. The label shall also show the calendar month and year the tetrazolium test was completed.

AMENDATORY SECTION (Amending Order 1699, filed 5/30/80)

WAC 16-317-050 ALTERNATE LABELING REQUIREMENTS AND EXEMPTIONS. (1) Small grain, field pea, lentil, and/or soybean seed distributed in packaged form to a wholesaler or a commercial grower for his own use and accompanied by an invoice or other document containing the labeling information required in (~~RCW 15.49.320 (1)(a), (b), (d), (g) and (2)(a), (b), (c), (d), and (e) of the Washington State Seed Act~~) WAC 16-318-200 through 16-318-235 and 16-318-040 through 16-318-065 need attached labels containing only information required in (~~RCW 15.49.320 (1)(a), (b), (c) and (e);~~) WAC 16-318-205 (1) and (2); WAC 16-318-040 through 16-318-065; and the net weight of the seed and small grain seed labels shall also contain additional information in WAC 16-317-040(1): PROVIDED, That the purchaser has knowledge of and consents to said invoice labeling.

(2) When seed is needed for immediate planting, a purchaser may waive the seed analysis information requirement for his purchase by completion of the following waiver:

CUSTOMER WAIVER AFFIDAVIT

Date

.....
.....
.....
.....
(Seed Dealer's Name and Address)

I,, because of an emergency need for seed, am waiving my rights as provided in RCW (~~15.49.320(4)~~) 15.49.021 to receive the germination and purity information required in (~~RCW 15.49.320(1)(g) and (2);~~) chapter 16-318 WAC on lot/s purchased on: PROVIDED, That within thirty days, the supplier provides the above information to me in writing.

.....
(Customer's Signature)

(3) When small grain, field pea, lentil, and/or soybean seed is distributed in bulk, the information required in ((RCW 15.49.320 of the Washington State Seed Act)) WAC 16-318-200 through 16-318-235 and 16-318-040 through 16-318-065 and for small grain, the information in WAC 16-317-040 shall be provided on the invoice or other document accompanying the distribution of said seed.

(4) The seed labeling registrant may provide the information required in WAC 16-317-040 and ((RCW 15.49.320 of the Washington State Seed Act)) 16-318-205 through 16-318-230, and 16-318-040 through 16-318-065 as a guaranteed analysis at the time of distribution: PROVIDED, That the label, invoice, or other document accompanying the seed states "guaranteed analysis," and that the results of a purity and germination test of a representative sample are made available to the purchaser no later than thirty days following the initial distribution of the lot.

((5) Origin is not required for small grain, field pea, lentil, and/or soybean seed labeling.))

AMENDATORY SECTION (Amending Order 1699, filed 5/30/80)

WAC 16-317-060 SEED HELD IN STORAGE. Small grain, field pea, lentil, and/or soybean seed held for bulk distribution or invoice labeling, shall be plainly identified with information required in ((RCW 15.49.320 (1)(a), (b) and (c) of the Washington State Seed Act)) WAC 16-318-205 through 16-318-230, and 16-318-040 through 16-318-065, and for small grain, the information in WAC 16-317-040(1).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-317-090 LABELING LAWN AND PASTURE MIXTURES.

WSR 90-04-004
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 23, 1990]

The following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Parent and Child Nursing:

Meeting Dates	PCN Faculty Location	Time
February 12, 1990	T-404	1 p.m.
March 12, 1990	T-404	1 p.m.
April 9, 1990	T-404	1 p.m.
May 14, 1990	T-404	1 p.m.
July 9, 1990	T-404	1 p.m.
August 13, 1990	T-404	1 p.m.
October 15, 1990	T-404	1 p.m.
November 19, 1990	T-404	1 p.m.
December 9, 1990	T-404	1 p.m.

WSR 90-04-005
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—January 25, 1990]
BOARD OF TRUSTEES
January 26, 1990
9:00 a.m.
Spokane Center

Breakfast will be served to board members at 8:00 a.m., Eastern Washington University Spokane Center, Room 406.

WSR 90-04-006
NOTICE OF PUBLIC MEETINGS
LEGAL FOUNDATION OF WASHINGTON
[Memorandum—January 23, 1990]

The following are revised meeting dates scheduled for 1990 by the board of trustees of the Legal Foundation of Washington for publication by the code reviser as required by the Washington Supreme Court:

March 9-10, 1990	Inn at Langley	Bainbridge Island
March 23-24, 1990	Cancelled	
May 10, 1990	Westwater Inn	Olympia
September 13, 1990	Spokane Sheraton Hotel	Spokane
October 26, 1990	Cancelled	
November 2, 1990	Seattle-Tacoma Airport	
November 30, 1990	Seattle-Tacoma Airport	

WSR 90-04-007
PERMANENT RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed January 26, 1990, 8:02 a.m.]

Date of Adoption: January 26, 1990.

Purpose: WAC 296-20-124 is amended to eliminate the requirement to file an application to reopen an asbestos-related disease claim to permit payment of bills from recommended periodic medical examinations; WAC 296-14-400 is amended to provide a waiver of the seven year time limitation to reopen claims where there is objective evidence of worsening caused by a previously accepted asbestos-related disease; and WAC 296-20-680(8) is amended to establish 75% as the degree of the total bodily impairment assigned to Category 6 of the permanent respiratory impairment listings.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-124, 296-14-400 and 296-20-680.

Statutory Authority for Adoption: Chapters 34.04 [34.05], 51.04, 51.32 and 51.36 RCW.

Pursuant to notice filed as WSR 90-02-006 on December 22, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 26, 1990
Joseph A. Dear
Director

AMENDATORY SECTION (Amending Order 88-13, filed 6/24/88)

WAC 296-14-400 REOPENINGS FOR BENEFITS. The director at any time may, upon the workers' application to reopen for aggravation or worsening of condition, provide proper and necessary medical and surgical services as authorized under RCW 51.36.010. This provision will not apply to total permanent disability cases, as provision of medical treatment in those cases is limited by RCW 51.36.010.

The seven-year reopening time limitation shall run from the date the first claim closure becomes final and shall apply to all claims regardless of the date of injury. In order for claim closure to become final on claims where closure occurred on or after July 1, 1981, the closure must include documentation of medical recommendation, advice or examination. Such documentation is not required for closing orders issued prior to July 1, 1981. First closing orders issued between July 1, 1981, and July 1, 1985, shall for the purposes of this section only, be deemed issued on July 1, 1985.

The director shall, in the exercise of his or her discretion, reopen a claim provided objective evidence of worsening is present and proximately caused by a previously accepted asbestos-related disease.

In order to support a final closure based on medical recommendation or advice the claim file must contain documented information from a doctor, or nurse consultant (departmental) or a nurse practitioner supervised by a doctor. The doctor or nurse consultant or nurse practitioner may be in private practice, acting as a member of a consultation group, employed by a firm, corporation, or state agency.

For the purpose of this section, a "doctor" means the following professions: Medicine and surgery; osteopathic; chiropractic; drugless therapeutic; podiatry; dentistry; optometry. WAC 296-20-01002.

When a claim has been closed by the department or self-insurer for sixty days or longer, the worker must file a written application to reopen the claim. An informal written request filed without accompanying medical substantiation of worsening of the condition will constitute a request to reopen, but the time for taking action on the request shall not commence until an application form provided by the department has been completed in full by the worker and the doctor and filed with the department or self-insurer as the case may be.

A formal application occurs when the worker and doctor completes and files the application for reopening provided by the department. Upon receipt of an informal request without accompanying medical substantiation of worsening of the worker's condition, the department or self-insurer shall promptly provide the necessary application to the worker for completion.

Applications for reopenings filed on or after July 1, 1988, must be acted upon by the department within ninety days of receipt of the application by the department or the self-insurer. The ninety-day limitation shall not apply if the worker files an appeal or request for reconsideration of the department's denial of the reopening application.

The department may, for good cause, extend the period in which the department must act for an additional sixty days. "Good cause" for such an extension may include, but not be limited to the following:

- (1) Inability to schedule a necessary medical examination within the ninety-day time period;
- (2) Failure of the worker to appear for a medical examination;
- (3) Lack of clear or convincing evidence to support reopening or denial of the claim without an independent medical examination;
- (4) Examination scheduled timely but cannot be conducted and a report received in sufficient time to render a decision prior to the end of the ninety-day time period.

The department shall make a determination regarding "good cause" in a final order as provided in RCW 51.52.050.

The ninety-day limitation will not apply in instances where the previous closing order has not become final.

AMENDATORY SECTION (Amending Order 80-29, filed 12/23/80, effective 3/1/81)

WAC 296-20-124 REJECTED AND CLOSED CLAIMS. (1) No payment will be made for treatment or medication on rejected claims or for services rendered after the date of claim closure.

(2) When the department or self-insurer has denied responsibility for an alleged injury or industrial condition the only services which will be paid are those which were carried out at the specific request of the department or the self-insurer and/or those examination or diagnostic services which served as a basis for the adjudication decision. Following the date of the order and notice of claim closure, the department or self-insurer will be responsible only for those services specifically requested or those examinations, and diagnostic services necessary to complete and file a reopening application.

(3) Periodic medical surveillance examinations will be covered by the department or self-insurer for workers with closed claims for asbestos-related disease, to include chest x-ray abnormalities, without the necessity of filing a reopening application when such examinations are recommended by accepted medical protocol.

(4) Replacement of prosthetics, orthotics, and special equipment can be provided on closed claims after prior authorization. See WAC 296-20-1102 for further information.

AMENDATORY SECTION (Amending Order 80-29, filed 12/23/80, effective 3/1/81)

WAC 296-20-680 CLASSIFICATION OF DISABILITIES IN PROPORTION TO TOTAL BODILY IMPAIRMENT.

- (1) Permanent Cervical and Cervico-Dorsal Impairments

Category	1	0%
	2	10%
	3	20%
	4	25%
	5	35%

(2) Permanent Dorsal Region Impairments

Category	1	0%
	2	10%
	3	20%

(3) Permanent Dorso-Lumbar and Lumbosacral Impairments

Category	1	0%
	2	5%
	3	10%
	4	15%
	5	25%
	6	40%
	7	60%
	8	75%

(4) Permanent Impairments of the Pelvis

Category	1	0%
	2	2%
	3	5%
	4	5%
	5	5%
	6	5%
	7	10%
	8	10%
	9	15%

(5) Permanent Convulsive Neurologic Impairments

Category	1	0%
	2	10%
	3	35%
	4	60%

(6) Permanent Mental Health Impairments

Category	1	0%
	2	10%
	3	25%
	4	45%
	5	70%

(7) Permanent Cardiac Impairments

Category	1	0%
	2	10%
	3	20%
	4	35%
	5	50%
	6	65%

(8) Permanent Respiratory Impairments

Category	1	0%
	2	15%
	3	25%
	4	40%
	5	65%
	6	75%

(9) Permanent Air Passage Impairments

Category	1	0%
	2	5%
	3	15%
	4	25%
	5	35%
	6	60%

(10) Permanent Air Passage Impairments Due to Nasal Septum Perforations

Category	1	0%
	2	2%

(11) Permanent Loss of Taste and Smell

Category	1	3%
	2	3%

(12) Permanent Speech Impairments

Category	1	0%
	2	5%
	3	10%
	4	20%
	5	30%
	6	35%

(13) Permanent Skin Impairments

Category	1	0%
	2	5%
	3	10%
	4	25%
	5	40%
	6	60%

(14) Permanent Impairments of Upper Digestive Tract, Stomach, Esophagus or Pancreas

Category	1	0%
	2	5%
	3	10%
	4	35%
	5	60%

(15) Permanent Impairments of Lower Digestive Tract

Category	1	0%
	2	5%
	3	15%
	4	30%

(16) Permanent Impairments of Anal Function

Category	1	0%
	2	5%
	3	15%
	4	25%

(17) Permanent Impairments of Liver and Biliary Tract

Category	1	0%
	2	5%
	3	20%
	4	40%
	5	60%

Work session, 10:00 a.m. – 4:00 p.m., Thursday, February 15, 1990, in Olympia at the County Road Administration Board.

TIB work session, 6:00 p.m., Thursday, March 15, 1990, in Bellevue (site to be determined).

TIB meeting, 9:00 a.m., Friday, March 16, 1990, in Bellevue.

(18) Permanent Impairments of the Spleen, Loss of One Kidney, and Surgical Removal of Bladder with Urinary Diversion

Category	1	15%
	2	10%
	3	20%

(19) Permanent Impairments of Upper Urinary Tract

Category	1	0%
	2	10%
	3	25%
	4	45%
	5	65%

(20) Additional Permanent Impairments of Upper Urinary Tract Due to Surgical Diversion

Category	1	10%
	2	15%

(21) Permanent Impairments of Bladder Function

Category	1	0%
	2	10%
	3	20%
	4	30%
	5	50%

(22) Permanent Anatomical or Functional Loss of Testes

Category	1	0%
	2	5%
	3	10%
	4	25%
	5	35%

WSR 90-04-009

**PERMANENT RULES
BOARD OF BOILER RULES**

[Filed January 26, 1990, 10:22 a.m.]

Date of Adoption: December 21, 1989.

Purpose: WAC 296-104-200 allows for adoption of specific editions of code; and WAC 296-104-195 allows specific directions for clearances around pressure vessel.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-200 Standards for new construction.

Statutory Authority for Adoption: RCW 70.79.040.

Pursuant to notice filed as WSR 89-21-066 on October 17, 1989.

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

January 24, 1990

Robert E. Reid

Chairman

NEW SECTION

WAC 296-104-195 PRESSURE VESSEL CLEARANCES. When pressure vessels are replaced or new vessels are installed in either existing or new buildings, a minimum height of eighteen inches shall be provided between the top of the pressure vessel proper and the ceiling and adjacent walls or other structures. All pressure vessels having manholes shall have five feet clearance from manhole openings and any wall, ceiling, or piping that will prevent a person from entering the vessel. Lesser clearances may be acceptable at the discretion of the inspector.

AMENDATORY SECTION (Amending Order 85-26, filed 12/19/85)

WAC 296-104-200 STANDARDS FOR NEW CONSTRUCTION. The standards for new construction are the 1989 edition of ASME Boiler and Pressure Vessel Code, the 1987 edition of ASME/ANSI PVHO-1 (Standard for Pressure Vessels for Human Occupancy), the ((1980)) 1987 edition of ANSI B31.3 (Chemical Plant & Petroleum Refinery Piping) for oil and chemical plants, and the ((1983)) 1989 edition of ASME/ANSI B31.1 (Power Piping) for other nonnuclear construction((;)) with all addenda as ((effectively)) issued and made part of the above referenced ASME/ANSI sections of the codes. ((The last preceding code)) These codes and standards may be used on ((and)) or after the date of issue and become((s)) mandatory twelve months after adoption by the board as ((defined)) specified in RCW 70.79.050(2). The board recognizes that the

WSR 90-04-008

NOTICE OF PUBLIC MEETINGS

TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—January 26, 1990]

MEETING NOTICE FOR

FEBRUARY AND MARCH 1990

TRANSPORTATION IMPROVEMENT BOARD

TRANSPORTATION BUILDING

OLYMPIA, WASHINGTON 98504

TIB meeting, 9:00 a.m. – 10:00 a.m., Thursday, February 15, 1990, in Olympia at the County Road Administration Board, 2404 Chandler Court S.W.

ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. Also, in circumstances such as nuclear systems, the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

WSR 90-04-010
EMERGENCY RULES
DEPARTMENT OF LICENSING
(Board of Registration for Professional Engineers and Land Surveyors)
 [Filed January 26, 1990, 11:23 a.m.]

Date of Adoption: January 25, 1990.

Purpose: To amend chapter 196-26 WAC, Registered professional engineers and land surveyors fees, to change the amount charged to renew engineer and land surveyor licenses.

Citation of Existing Rules Affected by this Order: Amending chapter 196-26 WAC, Registered professional engineers and land surveyors fees.

Statutory Authority for Adoption: RCW 43.24.086.

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: Projections of the board's expenditures and revenue for the biennium, show that its 024 account will be depleted by January 1990. If this occurs, the board will be operating with a negative fund balance until the fees proposed by Department of Licensing are implemented and they generate sufficient revenue to bring the fund positive again. Operating with a negative fund balance is a violation of state law. The original emergency rule, WSR 89-20-044, expires on January 29, 1990. The permanent rule, WSR 90-03-028, was filed on January 11, 1990, with an effective date of February 10, 1990. This emergency rule expires on February 10, 1990.

Effective Date of Rule: January 29, 1990.

January 25, 1990
 Marsha Tadano Long
 Assistant Director

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

WAC 196-26-020 ENGINEER FEES. The following fees shall be charged by the professional licensing divisions of the department of licensing:

Title of Fee	Fee
<i>Engineers:</i>	
Application fee	\$ 60.00
Examination retake (2nd subsequent or more)	50.00
Reciprocity	50.00
Engineer certificate (initial registration)	15.00
Replacement certificate	15.00

Title of Fee	Fee
Renewal	((40.00)) 65.00
Late renewal penalty	((40.00)) 65.00
Duplicate license Certification	15.00 25.00
<i>Engineer in training:</i>	
Application, examination and certificate	30.00
Examination retake (2nd subsequent or more)	50.00
Replacement certificate	15.00
Duplicate license Certification	15.00 25.00
<i>Land surveyor</i>	
Examination and certificate	60.00
Examination retake (2nd subsequent or more)	50.00
Reciprocity	50.00
Renewal	((40.00)) 65.00
Late renewal penalty	((40.00)) 65.00
Replacement certificate	15.00
Duplicate license Certification	15.00 25.00
<i>Engineer Corporation</i>	
Certificate of authorization	250.00
Renewal	125.00
Duplicate license	15.00
Replacement certificate	15.00
Certification	25.00
<i>Engineer partnership</i>	
Certificate of authorization	250.00
Renewal	125.00
Replacement certificate	15.00
Duplicate license	15.00
Certification	25.00

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 90-04-011
PERMANENT RULES
THE EVERGREEN STATE COLLEGE
 [Filed January 26, 1990, 2:32 p.m.]

Date of Adoption: December 13, 1989.

Purpose: Implements chapter 34.05 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 174-108-170 through 174-108-90002, Public records; 174-112-130 through 174-112-150, Employment of relatives concerning conflict of interest; 174-126-010 through 174-126-030, Use of human subjects; 174-128-010 through 174-128-990, Faculty membership; 174-132-020 through 174-132-120, Computer services; 174-136-010 through 174-136-022 and 174-136-060 through 174-136-330, Use of college facilities; 174-157-600 through 174-157-990, Food service—Alcoholic beverage banquet permit procedures; 174-160-010 through 174-160-040, Admissions policy; and 174-162-010 through 174-162-045, Release of student information—Financial obligation of students; amending WAC 174-132-010, Financial aid; and new sections WAC 174-108-910, Model rules of procedure;

174-122-010 through 174-122-040, Mid-contract termination with adequate cause; 174-130-010 through 174-130-020, Tuition and fees; 174-131-010, Scholarships; 174-133-010 through 174-133-020, Organization; 174-135-010, Brief adjudicative proceeding; 174-276-010 through 174-276-120, Public records; and 174-280-010 through 174-280-045, Family Educational Rights and Privacy Act of 1974.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Pursuant to notice filed as WSR 89-22-031 on October 27, 1989.

Changes Other than Editing from Proposed to Adopted Version: Repeal of WAC 174-136-010 through 174-136-022 and 174-136-060 through 174-136-330. Two sections in proposed version were not repealed, WAC 174-136-040 and 174-136-042.

Effective Date of Rule: Thirty-one days after filing.
January 25, 1990
Rita M. Sevcik
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 AT 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 EXEMPT 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.

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.

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.

REPEALER

The following sections of the Washington Administrative Code are 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 174-136-060 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.

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 174-122 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 type-written 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, non-resident 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 174-133 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 174-276 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. DATE

1. Name of Requester	2. Representing (if applicable)
3. Street Address	
4. City-State-Zip Code	If there is any particular urgency attached to this request, please indicate the date by which you need the information.

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) (non-commercial 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
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Section IV – DISPOSITION OF REQUEST

1.	2.	3.	4.	
5.	6.	7.	8.	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
.....

Reason for Request of Review

Opinion

.....
Review Made By

**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 education 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.

WSR 90-04-012
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2937—Filed January 29, 1990, 1:35 p.m.]

Date of Adoption: January 29, 1990.

Purpose: To change the cross references to WAC 388-14-200.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-83-013 Cooperation in securing.
Statutory Authority for Adoption: RCW 74.08.090.
Pursuant to notice filed as WSR 89-23-105 on
November 22, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 29, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2809,
filed 6/7/89)

WAC 388-83-013 COOPERATION IN SECURING MEDICAL CARE SUPPORT. (1) As a condition of ~~((medical))~~ eligibility for medical assistance, the department shall require the applicant or recipient/enrollee to cooperate with the department in:

(a) Obtaining medical care support or payment for the applicant or recipient/enrollee or for any other applicant or recipient/enrollee other than an unborn for whom the applicant or recipient/enrollee can legally assign rights; and

(b) Identifying and providing information to assist the department in pursuing any liable third party.

(2) The department shall also require an AFDC/FIP-related medical assistance client to cooperate as described under WAC 388-14-200 (2)(a), (b), (c), (3), (4), (5), ~~(6)~~, (7), (8), (9), and ~~((+7))~~ (16), unless there is a finding of good cause under WAC 388-24-111, except for the provision under WAC 388-24-111 (15)(b), in establishing:

(a) The paternity of a child; and

(b) Medical care support.

(3) The department shall waive such cooperation requirements if the department finds the applicant or recipient/enrollee has good cause under WAC 388-83-014 for noncooperation.

(4) Unless the department finds good cause for noncooperation under WAC 388-24-111 or 388-83-014, the department shall find the applicant or recipient/enrollee, who refuses to cooperate under subsection (1) of this section, ineligible to receive medical assistance.

(5) The department shall provide medical assistance to an otherwise eligible applicant or recipient/enrollee when the person who has the legal authority to cooperate on behalf of the applicant or recipient/enrollee refuses such cooperation.

WSR 90-04-013
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2932—Filed January 29, 1990, 1:37 p.m.]

Date of Adoption: January 29, 1990.

Purpose: To include in the rules that an individual in a public institution is not eligible for Medicaid. To add that hospice clients with up to 300 percent of the SSI benefit cap are eligible as categorically needy.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-82-010.
Statutory Authority for Adoption: RCW 74.08.090.
Pursuant to notice filed as WSR 89-24-034 on
December 1, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 29, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2620,
filed 4/15/88)

WAC 388-82-010 PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE. Medical assistance is available to any ~~((individual))~~ categorically needy person who is ~~((categorically needy.))~~:

(1) ~~((Individuals))~~ Receiving or eligible to receive a cash assistance payment. Payment categories ~~((under which individuals))~~ a person may qualify for include:

(a) Aid to families with dependent children (AFDC);

(b) Supplemental Security Income (SSI);

(c) State supplemental payment. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for ~~((medicaid))~~ categorically needy medical assistance; and

(d) ~~((Individuals))~~ A person under ~~((age))~~ twenty-one years of age:

(i) Whose income is less than the one-person AFDC standard and ~~((who are))~~ is in:

~~((i))~~ (A) Foster care; or

~~((ii))~~ (B) Subsidized adoption; or

~~((iii))~~ (C) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or

~~((iv))~~ (D) An approved inpatient psychiatric ~~((facilities))~~ facility.

(ii) Meeting the eligibility requirements under WAC 388-83-033.

(e) Family independence program (FIP).

(2) A pregnant woman:

(a) Who would be eligible for AFDC if her child were born and ~~((living))~~ residing with her. In determining income eligibility for Medicaid, the department shall increase the number in the household by one before comparing the pregnant woman's income to the AFDC payment standard; or

(b) Meeting the eligibility requirements under WAC 388-83-032.

~~((f))~~ Family independence program.

~~((2))~~ (3) ((Individuals)) In a medical ~~((facilities))~~ facility and:

(a) Who would be eligible for cash assistance if ~~((they were))~~ the person was not institutionalized. This includes all categorically needy groups; or

(b) ~~((Who are))~~ SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

~~((3))~~ (4) ((Individuals who would)) Not ~~((receive))~~ receiving cash assistance because of special provisions as defined in WAC 388-83-028.

- (5) Not an inmate of a public institution.
(6) Sixty-four years of age or older, a patient in an institution for mental diseases, and eligible under subsection (3)(a) and (b) of this section.
(7) An individual:
(a) SSI categorically related;
(b) With gross income in excess of the total of the SSI and state supplement rate, but less than three hundred percent of the SSI federal benefit rate; and
(c) Eligible for, and accepting of, hospice services as described under WAC 388-86-047.

WSR 90-04-014
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2936—Filed January 29, 1990, 1:39 p.m.]

Date of Adoption: January 29, 1990.

Purpose: To amend the rule to incorporate into the regulations that the present sound care plan is being expanded to Jefferson and Clallam counties.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-00901.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-24-033 on December 1, 1989.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2) we have added the words, "may offer optional enrollment to." Our original intent was to have possible optional groups if both the department and plan agreed. The additional wording clarifies this intent; in subsection (6) a cross reference is added to clarify the written agreement before providing services. This is to keep the different parts of WAC in agreement; and in subsection (7)(c) we deleted "division of medical assistance of." This terminology is not needed as we are part of the department. The term department is sufficient. These changes were made on the basis of written comments received from Evergreen legal services.

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

January 29, 1990

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2554, filed 11/4/87)

WAC 388-86-00901 KITSAP PHYSICIANS SERVICE—SOUND CARE PLAN. (1) ~~((A))~~ The department shall enroll aid to families with dependent children (AFDC-R) grant recipients ((who live)) and family independence program (FIP-J and G) enrollees residing in Kitsap ((or)), Mason, Jefferson, or Clallam counties ((shall be enrolled)) in the Kitsap Physicians Service-Sound Care Plan (plan), except as provided in ~~((subsection (3)))~~ subsections (4) and (5) of this section.

(2) The department may offer optional enrollment to additional program eligible groups with the agreement of the plan.

(3) Timely provision of services~~((The))~~ means a recipient shall have the right to receive medically necessary care without unreasonable delay.

~~((3))~~ (4) ((Exemptions and disenrollment: The following have the right to be exempt from enrollment in the plan or to disenroll from the plan:

(a)) Upon a client's request, the department may exempt clients, for whom medically necessary care ~~((that))~~ is required, and the plan is ~~((obligated by contract))~~ contracted to provide but cannot ~~((be made reasonably))~~ make medically necessary care available. In making the exemption determination, consideration shall include, but not be limited to:

~~((i))~~ (a) Whether distance or transportation problems make it unreasonably difficult for the ~~((recipient))~~ client to obtain services; or

~~((ii))~~ (b) Whether the absence of translators or of services accessible to disabled persons makes it unreasonably difficult for the ~~((recipient))~~ client to obtain services.

~~((b))~~ (5) Indians eligible under subsection (1) of this section and eligible to receive health services through the Indian Health Service ~~((Clinics))~~ may choose to enroll in the plan.

~~((4))~~ (6) ((Emergencies: "Emergency" is defined as a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or to alleviate a condition manifesting itself by acute symptoms, including severe pain or discomfort, or active labor.)) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for ~~((any))~~ further services received only if the recipient is informed ~~((of his/her))~~ and agrees, in writing, to the responsibility ~~((prior to the receipt of))~~ before receiving the services as described under WAC 388-87-010(6).

~~((5))~~ (7) ((Fair hearings:)) Any ~~((applicant or recipient))~~ client aggrieved by a decision of the plan or the department has the right to a fair hearing ~~((as provided in))~~ under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure ~~((prior to))~~ before requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance. The plan may be a party to the fair hearing.

(b) In any case (~~in which urgently needed medical services are being denied~~) where the plan denies a recipient (~~by the plan~~) urgently needed medical services, a recipient (~~is~~) need only (required to) provide a written grievance to the plan (prior to) before or (at the time of) when requesting a fair hearing.

(c) (~~An applicant or recipient~~) A client requesting exemption from enrollment in the plan is (not) required to file a (formal grievance) written request with the (plan prior to requesting) department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to (any such) the fair hearing.

~~((6))~~ (8) Each recipient enrolled in the plan shall have a primary care physician(s) (PCP):

(a) (~~All clients~~) Recipients shall have an opportunity to choose a PCP from current plan providers(-);

(b) The plan shall assign a PCP to (those clients who do) recipients not (choose an enrolled) choosing a participating provider(-);

~~((b))~~ (c) (~~A client~~) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason(-);

(ii) For (any) subsequent changes during the twelve-month period the (client) recipient shall first show good cause.

~~((c))~~ (d) When requesting a change in their PCP the (client) recipient shall notify the plan of the:

(i) (~~The~~) Desired change including the name of the new PCP(-); and

(ii) (~~The~~) Reason for the desired change.

~~((7))~~ (9) (~~Second opinions~~) The (client) recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the (client) recipient needs more information as to the medical necessity of medical treatment recommended by the PCP(-); or

(b) If the (client) recipient believes (that) the PCP is not authorizing medically necessary care.

~~((8))~~ (10) (~~Physician referral~~) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

~~((9))~~ (11) (~~Program administration~~) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

~~((a))~~ (13) The plan shall appoint a medical director (appointed by the plan (shall)) who:

~~((i))~~ (a) (~~Be~~) Is responsible for the plan's quality assurance program and shall review all plan grievances(-); and

~~((ii))~~ (b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to (all written) such grievances.

~~((b))~~ (14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan (for clients shall be conducted on an annual basis).

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 90-04-015
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)
 [Filed January 29, 1990, 2:01 p.m.]

Continuance of WSR 89-22-075 and 89-23-057.

Date of Intended Adoption: February 5, 1990.

January 29, 1990
 Leslie F. James, Director
 Administrative Services

WSR 90-04-016
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)
 [Filed January 29, 1990, 2:02 p.m.]

Continuance of WSR 89-22-076 and 89-23-058.

Date of Intended Adoption: February 5, 1990.

January 29, 1990
 Leslie F. James, Director
 Administrative Services

WSR 90-04-017
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed January 29, 1990, 2:03 p.m.]

Continuance of WSR 89-22-077 and 89-23-059.
Date of Intended Adoption: February 5, 1990.
January 29, 1990
Leslie F. James, Director
Administrative Services

WSR 90-04-021
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 29, 1990, 2:11 p.m.]

Continuance of WSR 89-22-081 and 89-23-063.
Date of Intended Adoption: February 5, 1990.
January 29, 1990
Leslie F. James, Director
Administrative Services

WSR 90-04-018
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed January 29, 1990, 2:04 p.m.]

Continuance of WSR 89-22-078 and 89-23-060.
Date of Intended Adoption: February 5, 1990.
January 29, 1990
Leslie F. James, Director
Administrative Services

WSR 90-04-022
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 29, 1990, 2:12 p.m.]

Continuance of WSR 89-22-082 and 89-23-064.
Date of Intended Adoption: February 5, 1990.
January 29, 1990
Leslie F. James, Director
Administrative Services

WSR 90-04-019
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed January 29, 1990, 2:05 p.m.]

Continuance of WSR 89-22-079 and 89-23-061.
Date of Intended Adoption: February 5, 1990.
January 29, 1990
Leslie F. James, Director
Administrative Services

WSR 90-04-023
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed January 29, 1990, 3:22 p.m.]

Original Notice.
Title of Rule: Chapter 204-36 WAC, Authorized emergency vehicle permits.

Purpose: Establishes the operator vehicle and equipment requirements for the issuance and renewal of emergency vehicle permits.

Statutory Authority for Adoption: RCW 46.37.194.

Statute Being Implemented: RCW 46.37.194.

Summary: Rule outlines the approval requirements for emergency vehicle permit applicants and establishes the need to use caution when in emergency operation.

Reasons Supporting Proposal: Eliminates the possibility of an applicant for an emergency vehicle permit being the only person in the organization required to approve.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lt. L. E. Klewin, 400 East Union, 753-0347.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Refer to Summary and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: Clarifies approval requirements.

WSR 90-04-020
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 29, 1990, 2:10 p.m.]

Continuance of WSR 89-22-080 and 89-23-062.
Date of Intended Adoption: February 5, 1990.
January 29, 1990
Leslie F. James, Director
Administrative Services

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

Hearing Location: Washington State Patrol, Supply Conference Room, 4242 Martin Way, Olympia, WA 98504, on March 13, 1990, at 9 a.m.

Submit Written Comments to: Lt. L. E. Klewin, General Administration Building, AX-12, Olympia, 98504, by March 13, 1990.

Date of Intended Adoption: March 15, 1990.

January 29, 1990
George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-030 PERMIT REQUIREMENTS. (1) Any person, firm, corporation or municipal corporation desiring to have a vehicle registered as an authorized emergency vehicle pursuant to RCW 46.37.194 shall apply for such classification to the state patrol on forms provided by the patrol.

(2) The applicant shall furnish the following information to the patrol:

(a) A description of the specific geographic area in which the vehicle shall be used as an authorized emergency vehicle.

(b) A description of the specific purposes for which the vehicle shall be used as an authorized emergency vehicle.

(c) An explanation of the nature and scope of the duties, responsibilities and authority of the vehicle operator which necessitate the vehicle's registration as an authorized emergency vehicle.

(d) A description of the emergency equipment to be used if the permit is granted.

(e) A listing of the names, addresses, birthdates, operator's license numbers and other identifying data as may be prescribed on the application form by the patrol, of all persons who will use the vehicle as an authorized emergency vehicle, and a completed applicant fingerprint card.

(f) Certification ~~((by the chief law enforcement officer, or fire chief if the vehicle is to be used for firefighting purposes, of each jurisdiction in which the vehicle is to be used as an authorized emergency vehicle; that a need exists in such jurisdiction for the vehicle to be used as described in the application and that he knows of no reason why the application should be denied. The patrol may issue emergency vehicle permits to vehicles which operate throughout the state, and such permit may be canceled upon receipt of complaint from any state law enforcement agency))~~ from each jurisdiction identified in (a) of this subsection that the vehicle is to be used as described. Such certification shall be by:

(i) The chief law enforcement officer if the applicant is a law enforcement or security officer, or has funeral home, coroner, ambulance or other nonfire related duties.

(ii) The fire chief if the vehicle is to be used for firefighting purposes.

The certification shall state that a need exists in the jurisdiction for the vehicle to be used as described and that the certifier knows of no reason why the application should be denied.

Note: If the person making application is the chief law enforcement officer or the fire chief of the jurisdiction, certification must be made by the chief executive officer of the political subdivision of the jurisdiction.

Upon satisfactory application the patrol may issue an emergency vehicle permit or permits which, when carried as required, are valid until expiration or cancellation as prescribed in WAC 204-36-070.

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-040 PERMIT LIMITATIONS. (1) A vehicle registered by the patrol shall not be used as an authorized emergency vehicle except as follows:

(a) Only by the operators named in the original or amended application.

(b) Only with the equipment described in the original or amended application.

(c) Only within the geographic area described in the original or amended application.

(d) Only for the purposes set forth in the original or amended application.

(2) If an authorized emergency vehicle is used for private purposes, or for purposes in an area or by an operator other than as set forth in the application, all emergency equipment which is exposed to public view shall be covered with an opaque hood, and shall not be operated during such period of time.

(3) The issuance of an emergency vehicle permit does not relieve the driver of the responsibility for using due care and caution in the operation of the vehicle. The inappropriate or misuse of authorized emergency vehicles may result in criminal or civil liability as well as cancellation of the emergency vehicle permit.

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-050 EQUIPMENT ~~((REQUIRED))~~ REQUIREMENTS. Authorized emergency vehicles shall be conventional passenger cars, vans, pickups, or similar vehicles. The vehicles shall be conventionally painted, legally equipped and shall not display commercial signs, posters, or pictures. Equipment, not related to the emergency nature of the vehicle, shall not be carried or attached to the outside of the vehicle. Every authorized emergency vehicle shall be equipped in conformance with RCW 46.37.190(1) with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal. To be considered approved equipment for use under the provisions of this section, all devices must meet the criteria established in RCW 46.37.320. In descending order of preference, these are:

~~(1) ((Conformance to Federal Motor Vehicle Safety Standards, or, if none;~~

~~(2))~~ Conformance to current standards and specifications of the Society of Automotive Engineers, or, if none,

~~((3))~~ (2) Certified for compliance by any recognized organization or agency such as, but not limited to, the American National Standards Institute, the Society of Automotive Engineers, or the American Association of Motor Vehicle Administrators.

(a) Such equipment shall not be installed prior to obtaining approval of the application by the patrol.

(b) Blue lamps shall not be installed unless requested in the application and specifically approved and listed on the permit.

AMENDATORY SECTION (Amending Order 88-08-ESR, filed 7/18/88)

WAC 204-36-060 PROCEDURE. (1) If the patrol approves the application, it shall first issue a certificate of approval which shall be valid for thirty days, during which time the emergency equipment may be installed. After installation of the emergency equipment, the applicant shall bring the vehicle to a district or detachment office of the Washington state patrol to be examined to determine if it is of an approved type. A Washington state patrol officer shall certify the results of this examination on a form prescribed and provided by the patrol and the applicant shall file the form with the State Patrol, E.S.R. Section, ~~((6604 Martin Way))~~ General Administration Building, Mailstop ((PQ-H)) AS-12, Olympia, Washington 98504. Upon receipt of such certification, the patrol shall issue a permit, which shall expire one year from the date of issuance thereof.

(2) The patrol may refuse to approve the application, certificate or permit or in the case of an application which lists multiple operators may refuse to approve any single operator if the applicant/operator has been convicted of a felony during the ~~((fast))~~ ten years preceding the date of the application ~~((and if))~~ provided the felony for which the applicant was convicted directly relates to the specific occupation, trade, vocation, or business for which the certificate or permit is sought.

(3) The certificate of approval and when issued, the permit, including all endorsements for change of conditions as provided in WAC 204-36-030, shall be carried in the authorized emergency vehicle at all times, and shall be displayed on request to any law enforcement officer.

WSR 90-04-024

PERMANENT RULES

PARKS AND RECREATION COMMISSION

[Filed January 29, 1990, 4:53 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Allows certain categories of campers reduced campsite or moorage fees and free admission to state parks.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-251.

Statutory Authority for Adoption: RCW 43.51.040 and 43.51.060.

Pursuant to notice filed as WSR 89-23-079 on November 17, 1989.

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

January 26, 1990

Dick Dixon

Chairman

AMENDATORY SECTION (Amending Order 106, filed 9/19/88)

WAC 352-32-251 LIMITED INCOME SENIOR CITIZEN, DISABILITY, AND VETERAN DISABILITY PASSES. (1)(a) Persons who are senior citizens, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission accompanied by either a copy of a federal income tax return filed for the previous calendar year, or a senior citizen property tax exemption pursuant to RCW 84.36.381, or a notarized affidavit of income on a form provided by the commission, receive ~~((an annual))~~ a limited income senior citizen pass at no charge, which entitles the holder and the holder's camping unit to free admission to any state park administered facility and to a fifty percent reduction in any campsite fees or moorage fees levied by the commission. Limited income senior citizen passes shall remain valid so long as the pass holder meets eligibility requirements.

(b) ~~((Applications for limited income senior citizen passes shall be accepted only after November 30 for the following year.))~~ Proof submitted to the commission for the return of a senior citizen pass surrendered upon request to a commission employee who has reason to believe the user does not meet the eligibility criteria shall be the same as listed in subsections (1) and (5) of this section for original pass issuance.

(2) Persons who are permanently disabled, legally blind, or profoundly deaf, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive a five year disability pass at no charge and other disabled persons who meet the eligibility requirements of RCW 43.51.055 and have been residents of Washington state for at least one year shall, upon application to the commission, receive a one year disability pass which entitles the holder and the holder's camping unit to free admission to any state park administered facility and to a fifty percent reduction in any campsite fees or moorage fees levied by the commission.

(3) Persons who are veterans, meet the eligibility requirements of RCW 43.51.055, and have been residents of Washington state for at least one year shall, upon application to the commission, receive a lifetime veteran disability pass at no charge which entitles the holder and the holder's camping unit to free admission to any state park administered facility and to free use of any state park campsite or moorage facility.

(4) Applications for limited income senior citizen, disability, and veteran disability passes shall be made on forms prescribed by the commission.

(5) Verification of age shall be by original or copy of a birth certificate, notarized affidavit of age, witnessed statement of age, baptismal certificate, or driver's license. Verification of residency shall be by original or copy of a Washington state driver's license, voter's registration card, or senior citizen property tax exemption.

(6) For pass holders who travel by car or recreational vehicle a camping unit shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area when in the judgment of a ranger the constructed facilities so warrant and the total number of guests of the holder do not exceed seven.

~~((6))~~ (7) For pass holders who travel by a mode of transportation other than car or recreational vehicle a camping unit shall include the pass holder and up to five guests who travel with the holder and use one campsite or portion of a designated group camping or emergency area.

~~((7))~~ (8) If the conditions of a pass holder change during the time period when a pass is valid such that a pass holder no longer meets the eligibility requirements of RCW 43.51.055 and WAC 352-32-251, then a pass holder shall return a pass to the commission.

WSR 90-04-025

PERMANENT RULES

PARKS AND RECREATION COMMISSION

[Filed January 29, 1990, 4:55 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Allows time, place and procedures for using metal detectors in Washington state parks.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-235.

Statutory Authority for Adoption: RCW 43.51.040 and 43.51.060.

Pursuant to notice filed as WSR 89-24-076 on December 6, 1989.

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

January 26, 1990

Dick Dixon

Chair

AMENDATORY SECTION (Amending Order 99, filed 3/23/87, effective 9/8/87)

WAC 352-32-235 USE OF METAL DETECTORS IN STATE PARKS. The use and operation of metal detectors, as well as the removal of found materials, is permitted within selected state parks as designated by the director, subject to the conditions and limitations specified.

(1) The use of metal detectors is permitted only within specified portions of the developed day use areas of these state parks as posted for public reference.

(2) ~~((Recovery and removal of any items found on state parks property, whether through the use of a metal detector or otherwise, are subject to the provisions of the Lost and found property statute (chapter 63.21 RCW.)~~

~~((3))~~ The use of metal detectors within a state park shall be limited to hours of operation ~~((from the day after Labor Day through May 15 of each))~~ before 10:00 a.m. from the Friday before Memorial Day through Labor Day, and shall be limited to the hours of operation at other times of the year. No use shall be allowed during periods of seasonal or emergency park closure.

~~((4))~~ (3) Any person wishing to use a metal detector shall so indicate to park personnel at the park where the use is to occur, by ~~((signing a register))~~ complying with the registration process provided for such purpose.

~~((5))~~ Metal detector use shall not interfere with other recreational activities.

(6) No item which appears to be of historical or archaeological significance, remaining from either early pioneer activity or from a native American presence, may be removed from the site at which it was found. Any such find shall be immediately reported to park personnel, and the area in which the find occurred shall not be disturbed further.

(7) Digging implements shall be limited to ice picks and screwdrivers. Any holes dug shall be limited to six inches maximum depth and shall be immediately refilled and the surface restored to its earlier condition.

~~((8))~~ (4) Exceptional uses of metal detectors in state parks may be allowed through the issuance of a special recreation event application, available from the agency.

(5) This section does not apply to commission employees while engaged in the performance of their duties.

(6) Persons operating metal detectors in state parks and state park areas shall:

(a) Observe all laws and regulations.

(b) Never destroy or disturb park facilities, natural features, or historical or archeological resources. No item which appears to be of historical or archaeological significance, remaining from either early pioneer activity or from a native American presence, may be removed from the site at which it was found. Any such find shall be immediately reported to park personnel, and the area in which the find occurred shall not be disturbed further.

(c) Limit digging implements to ice picks, screwdrivers and probes not to exceed one inch width. Any holes dug shall be limited to six inches maximum depth and shall be immediately refilled and the surface restored to its earlier condition.

(d) Properly dispose of all found or recovered trash and litter.

(e) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities. An operator shall not allow any emitted metal detector sound audible to other park users from the Friday before Memorial Day through Labor Day.

WSR 90-04-026

PERMANENT RULES

DEPARTMENT OF FISHERIES

[Order 90-06—Filed January 30, 1990, 11:37 a.m.]

Date of Adoption: January 16, 1990.

Purpose: Establish fisheries regional enhancement groups.

Statutory Authority for Adoption: Chapter 426, Laws of 1989 and RCW 75.08.080.

Pursuant to notice filed as WSR 89-23-092 on November 21, 1989; and WSR 89-24-099 on December 6, 1989.

Effective Date of Rule: Thirty days after filing.

January 16, 1990

Judith Merchant

Deputy

for Joseph R. Blum

Director

Chapter 220-140 WAC

REGIONAL FISHERIES ENHANCEMENT GROUPS

WAC

- 220-140-001 Purpose.
- 220-140-010 Definitions.
- 220-140-020 Geographical regional fisheries enhancement groups.
- 220-140-030 Establishing a group.

NEW SECTION

WAC 220-140-001 PURPOSE. The purpose of this section is to establish regional fisheries enhancement groups, adopt procedures for the implementation of enhancement projects, and provide for accountability.

NEW SECTION

WAC 220-140-010 DEFINITIONS. The following definitions apply to this chapter:

(1) "Regional fisheries enhancement group" or "group" means a nonprofit association established in compliance with Title 24 RCW, representing diverse interests, and which will work together within a predesignated area for the express purpose of enhancing salmon production and habitat in that area.

(2) "Enhancement project" means a project undertaken or overseen by a group, whether publicly or privately funded, the goal of which project is an increase in the salmon resource of the state. Enhancement projects

include both salmon production and salmon habitat improvement.

(3) "Regional enhancement task force" means persons, representing diverse interests, who have been designated by the department of fisheries to review the establishing of groups, to select among competing prospective groups, and to review start up enhancement project applications. Should the legislature authorize a regional fisheries enhancement group advisory board, the board shall take over the responsibilities of the task force.

NEW SECTION

WAC 220-140-020 GEOGRAPHICAL REGIONAL FISHERIES ENHANCEMENT GROUPS. The following geographical areas are designated as areas from which groups may be formed, and after being established as provided for in this chapter, such groups are eligible to make funding requests through the department. There shall be one group per region.

- (1) Region 1: Nooksack/Samish
Marine Areas: 7, 7A, 7B, 7C, 7D
Watersheds: Those entering the above marine areas, including Bellingham Bay, Samish Bay, and Padilla Bay. Major rivers include Nooksack and Samish.
- (2) Region 2: Skagit
Marine Areas: 6A, 8
Watersheds: Those entering Skagit Bay and Saratoga Passage south to East Point on Whidbey Island. The major watersheds are the Skagit River and its tributaries.
- (3) Region 3: Stillaguamish/Snohomish
Marine Areas: 8A, 8D
Watersheds: Those entering Port Susan, Port Garner, and Possession Sound, also Saratoga Passage south from Elger Bay. Major rivers include Stillaguamish and Snohomish and their tributaries.
- (4) Region 4: Mid-Sound
Marine Areas: 10, 10A-G, 11
Watersheds: Those entering Elliott Bay, Lake Washington, Lake Sammamish, East Passage, Colvos Passage, Sinclair Inlet, Dyes Inlet, Port Orchard, Port Madison. Major rivers include Cedar and Green.
- (5) Region 5: South Sound
Marine Areas: 13, 13A-K
Watersheds: Those entering Carr Inlet, Commencement Bay, Henderson Bay, Case Inlet, Nisqually Reach, Henderson Inlet, Budd Inlet, Eld Inlet, Totten Inlet, Hammersley Inlet, and Oakland Bay. Major rivers include Puyallup, Nisqually, and Deschutes.

- (6) Region 6: Hood Canal
Marine Areas: 12, 12A-D
Watersheds: Those entering Hood Canal, Dabob Bay, and Quilcene Bay. Major rivers include Skokomish, Hamma Hamma, Duckabush, Dosewallips, and Quilcene.
- (7) Region 7: Strait of Juan de Fuca
Marine Areas: 4B, 5, 6B, 6C and Area 9 north of Foulweather Bluff.
Watersheds: Those entering Admiralty Inlet and the Straits of Juan de Fuca. Major rivers include the Dungeness, Elwha, Lyre, Pysht, Clallam, and Hoko.
- (8) Region 8: North Coast
Watersheds: Those entering directly into the Pacific Ocean, including Ozette, Quillayute, Hoh, Queets, and Quinault.
- (9) Region 9: Grays Harbor
Watersheds: Those entering Grays Harbor, including Humptulips, Hoquiam, Wishkah, Chehalis, and Johns.
- (10) Region 10: Willapa Bay
Watershed: Those entering Willapa Bay, including North River, Willapa, Nemah, and Naselle.
- (11) Region 11: Lower Columbia River
Watersheds: Those entering the Columbia River below Bonneville Dam, including Grays, Elochoman, Cowlitz, Kalama, Lewis, and Washougal.
- (12) Region 12: Mid-Columbia River
Watersheds: Those entering the Columbia River above Bonneville Dam up to Chief Joseph Dam. Major rivers include Little White Salmon, White Salmon, Wind, Yakima, Klickitat, Snake, Wenatchee, Entiat, Methow, and Okanogan.

NEW SECTION

WAC 220-140-030 ESTABLISHING A GROUP.

- (1) In order to establish a regional fisheries enhancement group, interested parties must make application through the department. In order to qualify to establish a group, interested parties must:
 - (a) Identify which geographic region the interested parties live in.
 - (b) Identify the interested parties, including addresses.
 - (c) Identify a representative who will work with the department on the initial application.
 - (d) Agree to form a nonprofit corporation, registered with the secretary of state of the state of Washington.
 - (e) Agree to periodic audits by the department, or its representative.
- (2) The department will provide coordination and technical assistance to facilitate the application by prospective groups to be fisheries regional enhancement groups. The department shall provide a format and guidelines which any prospective group may use to make initial application. An initial application will be reviewed

by the regional enhancement task force within thirty days, and notice will be given in writing of any omissions or errors and corrective action will be discussed with the group representative. The prospective group will be given thirty days for correction and resubmission of the application.

(3) The goal shall be one prospective group per region, and a department coordinator shall seek reconciliation of competing interests, but in the event two or more prospective groups make application, the department may request a representative of each group to meet with the regional enhancement task force and make a presentation addressing why that group should be the fisheries regional enhancement group for the region. The regional fisheries task force shall recommend to the director which group shall be selected as the regional fisheries enhancement group. The criteria to be considered when choosing from among competing groups shall include, but not be limited to:

(a) Representation of diverse interests within the group.

(b) The intentions of the group regarding salmon production, salmon habitat protection, and salmon habitat enhancement.

(c) The inclusion of an educational component within the group's planning process.

(d) Group plans to provide accountability for both salmon production and fiscal matters.

(e) The expected level of voluntary contributions to and voluntary participation in group projects.

(4) Upon selection of the prospective group, the department will provide guidance and assistance with the articles of incorporation and establishment as a 501 (C)(3) organization.

(5) After approval as a group, incorporation, and initial 501 (C)(3) application, one-twelfth of the start up funds provided for in section 9, chapter 426, Laws of 1989, will be made available, as needed, to each group for start up costs, other than incorporation costs, or start up projects. Distribution of start up funds for start up costs or start up projects will be made by the director, based on review and recommendation by the regional enhancement task force. After January 1, 1991, uncommitted start up funds may be distributed by the director to established groups for start up projects, based on review and recommendation of the regional enhancement task force.

WSR 90-04-027
PROPOSED RULES
WASHINGTON STATE PATROL
[Filed January 30, 1990, 1:50 p.m.]

Original Notice.

Title of Rule: WAC 446-10-090 Charge for public records.

Purpose: To amend the current WAC to include the actual costs of postage, mailing and UPS services in the charges allowed for copying of public records.

Statutory Authority for Adoption: RCW 42.17.250.

Statute Being Implemented: RCW 42.17.300.

Summary: The department will charge actual costs for postage, mailing and UPS services.

Reasons Supporting Proposal: To provide the means for the department to receive reimbursement for actual costs of mailing copies of public documents.

Name of Agency Personnel Responsible for Drafting: Lt. R. J. Lopez, R & D, General Administration, 753-4453; Implementation and Enforcement: Deputy Chief M. L. Boston, SSB, General Administration, 753-6563.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Presently, the department only charges ten cents per page for duplication costs, but no charges for postage. This proposal would save taxpayer expense by passing the actual cost of providing public records to the person making the request.

Proposal Changes the Following Existing Rules: It adds a provision for charging actual costs for postage, mailing and UPS services when those services are requested.

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

Hearing Location: General Administration Building, Room G-150, on March 30, 1990, at 1:00 p.m.

Submit Written Comments to: Lt. R. J. Lopez, Research and Development, General Administration Building, Olympia, Washington 98504, by March 30, 1990.

Date of Intended Adoption: April 20, 1990.

January 25, 1990
George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 79-2, filed 3/23/79)

WAC 446-10-090 CHARGE FOR PUBLIC RECORDS ((COPYING)). No fee shall be charged for the inspection of public records. The department shall charge a fee of ten cents per page of copy for providing copies of public records and for use of department copy and duplicating equipment, and actual costs for postage, mailing and UPS services. ((This)) These charges ((is)) are the amounts necessary to reimburse the department for its actual costs incident to such copying and mailing. (Statutory Authority: RCW 42.17.250. 79-04-037 [Order 79-2], 446-10-090, filed 3/23/79.)

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.

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.

WSR 90-04-028
PROPOSED RULES
THE EVERGREEN STATE COLLEGE
[Filed January 30, 1990, 1:55 p.m.]

Original Notice.

Title of Rule: WAC 174-168-010 through 174-168-080, Library circulation policy.

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: Implementation of statute and new APA requirements.

Reasons Supporting Proposal: Renumbering and adoption of existing rules into new chapter.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sarah Pedersen, Library 2300, 866-6000/6262.

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: Existing rule renumbered and readopted into new chapter, The Evergreen State College library circulation policy; and implementation of chapter 34.05 RCW, the Administrative Procedure Act.

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 Meeting Room, Library 3112, Olympia, Washington 98505, on April 18, 1990, at 1:45 p.m.

Submit Written Comments to: Rita Sevcik, Room 3109, Library Building, The Evergreen State College, by April 9, 1990.

Date of Intended Adoption: April 18, 1990.

January 30, 1990

Rita Sevcik

Rules Coordinator

Chapter 174-168 WAC
LIBRARY CIRCULATION POLICY

NEW SECTION

WAC 174-168-010 ACCESS AND USE OF LIBRARY RESOURCES. Any person has access to the public areas of the library. Library resources (except those noted below) may be borrowed by members of the Evergreen community with a valid Evergreen State College identification card, and by members of the local community who have suitable identification (e.g., driver's license).

NEW SECTION

WAC 174-168-020 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 174-168-030 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).

NEW SECTION

WAC 174-168-040 RESERVE. Materials on reserve will be found at the circulation desk.

NEW SECTION

WAC 174-168-050 CHARGING OUT LIBRARY RESOURCES. Resources are charged out at the main circulation desk, at the media loan desk, and at other appropriate locations in the library.

NEW SECTION

WAC 174-168-060 INTERLIBRARY LOAN. The library will attempt to obtain resources from wherever available. Interlibrary loan services are maintained by the reference services.

NEW SECTION

WAC 174-168-070 CIRCULATION RECORDS. In order to prevent an unreasonable invasion of personal privacy (including but not limited to RCW 42.17.260 and 42.17.310) all records relating to the registration of patrons and their requests for use and subsequent circulation of materials by The Evergreen State College library are hereby deemed confidential, regardless of the source of inquiry or request for information.

NEW SECTION

WAC 174-168-080 SELECTION OF RESOURCES AND SERVICES. It is the policy of The Evergreen State College to select for its library the best and most suitable library materials, library equipment, and library services. The college expressly rejects any form of selection based on censorship of materials or prejudicial considerations based upon race, religion, sex, national origin, or political view point.

WSR 90-04-029
PROPOSED RULES
DEPARTMENT OF HEALTH
(Chiropractic Disciplinary Board)
 [Filed January 30, 1990, 4:10 p.m.]

Original Notice.

Title of Rule: WAC 113-12-200 Scope of practice for chiropractors.

Purpose: To prohibit electromyography, and to repeal WAC 113-12-130, 113-12-160 and 113-12-161 which are no longer needed.

Statutory Authority for Adoption: Chapter 18.26 RCW.

Summary: Amends the scope of practice to prohibit chiropractors from using any form of electromyography.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie Glasgow, 1300 Quince Street, Olympia, 753-0776.

Name of Proponent: Chiropractic Disciplinary Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amends the scope of practice to prohibit electromyography. Repeals WAC 113-12-130, 113-12-160 and 113-12-161 which are no longer necessary.

Proposal does not change existing rules.

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

Hearing Location: West Coast Sea-Tac, 18220 Pacific Highway South, Seattle, WA 98188, on March 22, 1990, at 9:30 a.m.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by March 20, 1990.

Date of Intended Adoption: March 22, 1990.

January 29, 1990
 Connie M. Glasgow
 Program Manager

AMENDATORY SECTION (Amending Order PM 765, filed 8/23/88)

WAC 113-12-200 SCOPE OF PRACTICE—REVOCATION OR SUSPENSION OF LICENSE AUTHORIZED FOR PRACTICE OUTSIDE SCOPE. (1) The chiropractic disciplinary board finds that over the past few years there has been an increasing number of persons licensed as chiropractors who have been practicing other healing arts while holding themselves out to the public as chiropractors to the detriment of the public health and welfare of the state of Washington and contrary to the legislative directive contained in RCW 18.26.010(5). The board further finds and deems it necessary to carry out the provisions of chapter 18.26 RCW that this rule be adopted to give guidance to members of the profession, and the public, in interpreting for purposes of application by the disciplinary board of RCW 18.26.030, the scope of health care which comes within the definition of chiropractic in RCW 18.25.005 and which is authorized under a license to practice chiropractic in the state of Washington.

(2) RCW 18.25.005 defines the term "chiropractic" for purposes of chapters 18.25 and 18.26 RCW, as that practice of health care which deals with the detection of subluxations, which shall be defined as any alteration of the biomechanical and physiological dynamics of contiguous spinal structures which can cause neuronal disturbances, the chiropractic procedure preparatory to, and complementary to the correction thereof, by adjustment or manipulation of the articulations of the vertebral column and its immediate articulations for the restoration and maintenance of health; it includes the normal regimen and rehabilitation of the patient, physical examination to determine the necessity for chiropractic care, the use of x-ray and other analytical instruments generally used in the practice of chiropractic: PROVIDED, That no chiropractor shall prescribe or dispense any medicine or drug nor practice obstetrics or surgery nor use x-rays for therapeutic purposes: PROVIDED, HOWEVER, That the term "chiropractic" as defined in this act shall not prohibit a practitioner licensed under chapter 18.71 RCW from performing accepted medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine: AND PROVIDED FURTHER, That nothing herein shall be construed to prohibit the rendering of dietary advice.

(3) The board finds that the following diagnostic techniques and procedures, by whatever name known, are not within the definition of "chiropractic" as specified in subsection (2) of this section and in RCW 18.25.005, and, consequently, a license to practice chiropractic does not authorize their use:

- (a) The use of x-rays or other forms of radiation for any other reason than to x-ray the human skeleton.
- (b) The use of any form of electrocardiogram.
- (c) The testing and reduction to mathematical formulae of sputum and/or urine (commonly known as "Reams" testing).
- (d) Hair analysis.
- (e) The use of a vasculizer or plethysmograph (commonly known as plethysmography) except for research purposes.
- (f) The use of iridology.
- (g) The taking of blood samples.
- (h) Female breast examinations.
- (i) The use of any form of electromyography.

The above list is not to be considered exhaustive or to limit the board in any way from finding under the statutory definition in RCW 18.25.005 that any other diagnostic technique or procedure is outside the scope of chiropractic practice.

(4) The board finds that the following treatment modalities, by whatever name known, are not within the definition of "chiropractic" as specified in subsection (2) of this section and in RCW 18.25.005 and, consequently, a license to practice chiropractic does not authorize their use:

- (a) Ultrasound, diathermy, high voltage galvanic therapy and x-rays or other radiation.
- (b) Colonic irrigation.
- (c) Extremity adjusting.
- (d) Electrotherapy.
- (e) The use of a transcutaneous electrical nerve stimulator (TENS).
- (f) The use of the endonasal technique.
- (g) The use of any type of casting other than light body casting.
- (h) The use of meridian therapy, whether known as "acupressure," or the same type of therapy under any other names.
- (i) The use of hypnosis for any other than relaxation purposes.
- (j) The use of clinical herbology.

The above list is not to be considered exhaustive or to limit the board in any way from finding under the statutory definition in RCW

18.25.005 that any other treatment modalities are outside the scope of chiropractic practice.

(5) The use by a chiropractor of diagnostic techniques or procedures or treatment modalities which are outside the definition of chiropractic in RCW 18.25.005, whether or not listed in this rule, or the use by a chiropractor of any of the diagnostic techniques and procedures listed in subsection (3) of this section or the use by a chiropractor of any of the treatment modalities listed in subsection (4) of this section shall constitute unprofessional conduct under RCW 18.130.180(12) which shall be good and sufficient cause for revocation or suspension of that chiropractor's license to practice chiropractic in Washington.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 113-12-130 CIVIC AND CHARITABLE CONTRIBUTION RECOGNITION.

WAC 113-12-160 ETHICAL STANDARDS—PERMITTED PUBLICITY AND ADVERTISING.

WAC 113-12-161 ETHICAL STANDARDS—PERMITTED IDENTIFICATION OF CHIROPRACTOR.

WSR 90-04-030
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed January 30, 1990, 4:13 p.m.]

Original Notice.

Title of Rule: WAC 246-09-060 Refund of fees.

Purpose: To standardize the Department of Health's refund process.

Statutory Authority for Adoption: RCW 43.01.072.

Summary: Department of Health will refund fees in excess of the stated fee or fees paid erroneously. Refunds of five dollars or less will be made only upon written request by the fee payor within thirteen months from date of payment.

Name of Agency Personnel Responsible for Drafting: John Toohey, 1300 Quince Street, 586-6894; Implementation and Enforcement: Debra Wilhelmi, 1300 Quince Street, 586-5941.

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: This rule describes the Department of Health's refund policy.

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 Health, 1300 Quince Street, 1st Floor Conference Room, Olympia, WA 98504, on March 15, 1990, at 9:00 a.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 Quince Street, Olympia, WA 98504, by March 14, 1990.

Date of Intended Adoption: March 19, 1990.

January 25, 1990
Pam Campbell Mead
Deputy
for Kristine M. Gebbie
Secretary

NEW SECTION

WAC 246-09-060 REFUND OF FEES. (1) The department of health shall refund fees it collects that are paid in excess of the stated fee, or paid erroneously.

(2) The payee must provide the department with a cancelled check or a cash receipt as proof of payment when requesting a refund.

(3) The department shall make refunds of five dollars or less only upon written request within 13 months from date of payment.

WSR 90-04-031
PERMANENT RULES
STATE BOARD OF EDUCATION
[Filed January 30, 1990, 4:18 p.m.]

Date of Adoption: January 26, 1990.

Purpose: To make additional needed changes to comprehensive school construction assistance program revisions made in chapters 180-25 and 180-27 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 180-25-025, 180-27-050, 180-27-058; and new section WAC 180-27-425.

Statutory Authority for Adoption: RCW 28A.47.803, 28A.47.060 and 28A.47.802.

Other Authority: RCW 28A.47.105.

Pursuant to notice filed as WSR 90-01-135 on December 20, 1989.

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

January 29, 1990

Monica Schmidt

Secretary

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

WAC 180-25-025 STATE STUDY AND SURVEY—CONTENT. The study and survey to be conducted by the superintendent of public instruction with the cooperation of the local school district shall include the following:

(1) An inventory and area analysis of existing school facilities within the district and the physical condition of such facilities;

(2) A long-range (i.e., minimum of six years) educational and facilities plan setting forth the projected facility needs and priorities of the district based on the educational plan;

(3) Demographic data including population projections and projected economic growth and development;

(4) The ability of such district to provide capital funds by local effort;

(5) The existence of a school housing emergency;

(6) The need to improve racial balance and/or to avoid creation or aggravation of racial imbalance;

(7) The type and extent of the school facilities required and the urgency of need for such facilities;

(8) A cost/benefit analysis on the need to modernize and/or replace school facilities in order to meet current educational needs and the current state building code;

(9) A determination from data as to whether the district is eligible to receive funds from the state board of education for the construction and/or modernization of its school facilities;

(10) A determination of the amount of space and the estimated state financial assistance the district is eligible to receive;

(11) A determination of the district's time line for completion of the school facilities project;

(12) An inventory of accessible unused or underutilized school facilities in neighboring school districts and the physical condition of such school facilities;

(13) The need for adjustments of school attendance areas among or within such districts; and

(14) Such other matters as the superintendent of public instruction deems pertinent to a decision by the state board of education in the allocation of funds for school facilities. Cooperation by the applicant school district in conducting the study and survey is a requisite for the superintendent of public instruction to complete the study and survey and to establish the eligibility of the district for state assistance in school facility construction.

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

WAC 180-27-050 SPACE ALLOCATIONS—COMPUTING BUILDING CAPACITY. The net total area of a school facility eligible for state matching purposes shall be calculated as follows:

(1) The capacity of existing buildings within the district based on the school district's assigned grade spans shall be computed in accordance with the tables set forth in WAC 180-27-035 and the square foot area analysis set forth in WAC 180-27-040.

(2) The number of students projected at each grade span shall be multiplied by appropriate numbers of square feet as set forth in WAC 180-27-035. (Note: The area generated at each grade level determines district eligibility, if any.)

(3) The amount of housing the district is eligible to construct at each grade span is determined by subtracting the area computed in subsection (2) of this section from the existing housing capacity at each grade span in the school district. Using this formula, over housing at ~~((one grade span))~~ the secondary grade level, grades nine through twelve, or elementary grade level, kindergarten through eight, will not negatively affect unhoused eligibility at ~~((another grade span))~~ the elementary grade level or secondary grade level respectively.

(4) Appropriate grade assignment is a local determination and shall not affect the above calculations.

AMENDATORY SECTION (Amending Order 25-85, filed 11/27/85)

WAC 180-27-058 STATE ASSISTANCE—PRIORITIES. The priority system for the funding of school construction projects during a priority approval process imposed by order of the state board of education shall be as follows:

(1) Priority one: New construction projects in districts with unhoused students other than those in priority two. Projects within this priority shall be ranked as follows: The project with the highest percentage of unhoused students in the district by grade level on the date of

project approval pursuant to WAC 180-25-040 shall be ranked highest—i.e., projected enrollment times authorized space allocation as calculated pursuant to WAC 180-27-035 divided by capacity of existing buildings as calculated pursuant to WAC 180-27-050(1). In the event two or more districts possess an equal percentage of unhoused students, the district with the greatest number of unhoused students shall be ranked the highest.

(2) Priority two: New construction projects in districts with unhoused students due to the need to replace a building. In the event the district is precluded from educating students in a facility due to bona fide condemnation procedures, such related space requirement shall be treated as unhoused students in priority one. Projects with this priority shall be ranked as follows: The project with the highest percentage of unhoused students in the district by grade level on the date of project approval pursuant to WAC 180-25-040 shall be ranked highest. In the event two or more districts possess an equal percentage of unhoused students, the district with the greatest number of unhoused students shall be ranked the highest.

(3) Priority three: All projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985, which are not included in priority one or two pursuant to this section. Projects within this priority shall be ranked pursuant to the priority system in effect as of September 30, 1985.

(4) Priority four: New construction of vocational-technical institutes and interdistrict cooperative vocational skill center facilities. Projects within this priority shall be ranked as follows: The project with the earliest date of project approval pursuant to WAC 180-25-040 shall be ranked highest. In the event two or more projects possess the same project approval date, the project with the earliest date of application received in the office of superintendent of public instruction shall be ranked the highest. Funding allocations for this priority shall not exceed ten percent of the available funds remaining after funding eligible projects in priorities one and two or for one vocational-technical institute or interdistrict skill center project, whichever is greater.

(5) Priority five: Modernization projects in districts with no unhoused students and not funded under priority three. Projects within this priority shall be ranked as follows: The project with the highest percentage of projected student occupancy shall be ranked the highest—i.e., projected enrollment times authorized space allocation as calculated pursuant to WAC 180-27-035 divided by capacity of existing buildings as calculated pursuant to WAC 180-27-050(1). In the event two or more projects possess an equal percentage, the highest ranking shall be given to the project with the earliest date of project approval pursuant to WAC 180-25-040. For the purpose of ranking within this subsection vocational technical institute and interdistrict cooperative facilities other than interdistrict transportation cooperatives shall be considered as independent school district projects: PROVIDED, That under no circumstances should this priority receive less than sixty percent of funds available for priorities four and five.

(6) Priority six: New construction of interdistrict cooperative facilities which are not included in priority three, four, or seven. The project with the earliest date of project approval pursuant to WAC 180-25-040 shall be ranked the highest. In the event two or more projects possess the same project approval date, the project with the earliest date of application received in the office of superintendent of public instruction shall be ranked the highest.

(7) Priority seven: Interdistrict transportation cooperatives. Projects within this priority shall be ranked as follows: The project with the earliest date of project approval pursuant to WAC 180-25-040 shall be ranked the highest. In the event two or more projects possess the same project approval date, the project with the earliest date of application received in the office of superintendent of public instruction shall be ranked the highest.

NEW SECTION

WAC 180-27-425 REMOVAL FROM INSTRUCTIONAL SPACE INVENTORY—REPLACEMENT. A school facility shall be removed from the superintendent of public instruction's active instructional space inventory after it has been replaced with a school facility on a square footage basis through one of the following actions:

- (1) The replacement school facility is wholly financed with local district funds; or
- (2) The replacement school facility is constructed with state funding assistance authorized under the authority of chapter 180-33 WAC.

WSR 90-04-032
PERMANENT RULES
STATE BOARD OF EDUCATION
 [Filed January 30, 1990, 4:19 p.m.]

Date of Adoption: January 26, 1990.

Purpose: To repeal school construction moratorium.

Citation of Existing Rules Affected by this Order:

Repealing WAC 180-25-300 and 180-29-300.

Statutory Authority for Adoption: RCW 28A.47.803, 28A.47.060 and 28A.47.802.

Other Authority: RCW 28A.47.105.

Pursuant to notice filed as WSR 90-01-136 on December 20, 1989.

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

January 29, 1990
 Monica Schmidt
 Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-25-300 PROJECT APPROVAL MORATORIUM.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-29-300 PROJECT APPROVAL MORATORIUM.

WSR 90-04-033
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2938—Filed January 31, 1990, 9:10 a.m.]

Date of Adoption: January 29, 1990.

Purpose: To include in the rules that an individual in a public institution is not eligible for Medicaid.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-010 Persons eligible for medically needy assistance.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-24-034 on December 1, 1989.

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

January 31, 1990

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2722, filed 11/7/88)

WAC 388-99-010 PERSONS ELIGIBLE FOR MEDICALLY NEEDY ASSISTANCE. The department shall determine as medically needy a resident of the state of Washington who meets the income and resource ((standards)) levels in WAC 388-99-020 and 388-99-035 and is:

(1) Categorically needy as defined under WAC 388-82-010 but for income and/or resources; or

(2) The aged, blind, or disabled ineligible spouse of an SSI beneficiary ((if:

(a) ~~The ineligible spouse is aged, blind, or disabled~~); ((and

(b) ~~The total income of the SSI beneficiary is excluded~~);) or

(3) A child under ((seven)) eight years of age, born after September 30, 1983((-)); or

(4) A pregnant woman who the department considers categorically needy but for income((-)) and resource((-; and/or deprivation)) requirements. For the purposes of this subsection, the department shall increase the number in the household by one before comparing the pregnant woman's:

(a) ((The pregnant woman's)) Income to the medically needy income level in WAC 388-99-020; and

(b) ((The pregnant woman's)) Resources to the resource level in WAC 388-99-035.

(5) Not an inmate of a public institution.

WSR 90-04-034
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2929—Filed January 31, 1990, 9:11 a.m.]

Date of Adoption: January 31, 1990.

Purpose: To change spenddown rules to allow hospital bills incurred during the base period to be considered before other medical bills.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-030.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 89-24-086 on December 6, 1989.

Changes Other than Editing from Proposed to Adopted Version: In subsection (3) a beginning date was included to clarify at what point in time the changes in these rules apply. In subsection (3)(c) the words "the applicant or" are deleted to only have one issue addressed in this subsection. The applicant's expenses are now addressed in subsection (3)(e). The last phrase of subsection (3)(e) is deleted to reflect the change made in (3)(c). The words, "by the applicant" are added to subsection (4) for clarification.

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

January 31, 1990

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

- (a) The medical expense shall be a current liability:
 - (i) Of the applicant or financially responsible relative in the same household; or
 - (ii) Subject to payment during or after the base period, by a public program of the state, county, or city other than Medicaid.
- (b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;
- (c) The department shall not consider toward spenddown the portion of the medical expense paid or covered by third-party liability.
 - (i) The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

- (ii) When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown.

(d) The department shall consider toward spenddown a medical expense incurred and paid for:

- (i) By the applicant during the base period; or
- (ii) Subject to payment by a public program of the state, county, or city other than Medicaid; and
- (e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the applicant is eligible.

(3) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely spentdown. For base periods beginning on or after February 1, 1990, the department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which ~~((the applicant or))~~ a public program of the state, county, or city other than Medicaid has paid; ~~((and))~~

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered ~~((, but not yet paid for,))~~ by the limited casualty program, but remaining an applicant's liability; and

(e) Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:

(a) The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(5) The applicant is liable for any expenses incurred before the date the applicant is eligible.

WSR 90-04-035
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2930—Filed January 31, 1990, 9:12 a.m.]

Date of Adoption: January 31, 1990.

Purpose: To change spenddown rules to allow hospital bills incurred during the base period to be considered before other medical bills.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-030.

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: This rule is necessary to change spenddown policy.

Effective Date of Rule: February 1, 1990, 12:01 a.m.

January 31, 1990

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2798, filed 5/17/89)

WAC 388-99-030 ALLOCATION OF EXCESS INCOME—SPENDDOWN. (1) *On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:*

(a) *The medical expense shall be a current liability:*

(i) *Of the applicant or financially responsible relative in the same household; or*

(ii) *Subject to payment during or after the base period, by a public program of the state, county, or city other than Medicaid.*

(b) *The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;*

(c) *The department shall not consider toward spenddown the portion of the medical expense paid or covered by third-party liability.*

(i) *The department shall disregard the possible payment as a resource and allow the entire expense for spenddown when a health insurer fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.*

(ii) *When Medicare is the only insurance available and the applicant is hospitalized for the first time in a calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown.*

(d) *The department shall consider toward spenddown a medical expense incurred and paid for:*

(i) *By the applicant during the base period; or*
 (ii) *Subject to payment by a public program of the state, county, or city other than Medicaid; and*

(e) *The department shall consider only medical services provided by practitioners recognized under state law.*

(2) *If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the applicant is eligible.*

(3) *If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the applicant to spenddown the remaining excess countable income. The department shall certify the applicant eligible only when excess countable income has been completely spentdown. For base periods beginning on or after February 1, 1990, the department shall deduct medical expenses incurred during the spenddown period in the following order:*

(a) *Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments;*

(b) *Expenses for necessary medical and remedial care not covered by the limited casualty program;*

(c) *Expenses for necessary medical and remedial care covered by the limited casualty program which ((~~the applicant or~~) a public program of the state, county, or city other than Medicaid has paid; (~~and~~))*

(d) *Inpatient or outpatient hospital expenses for necessary medical and remedial care covered ((~~but not yet paid for~~)) by the limited casualty program, but remaining an applicant's liability, and*

(e) *Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.*

(4) *The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:*

(a) *The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and*

(b) *Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.*

(5) *The applicant is liable for any expenses incurred before the date the applicant is eligible.*

WSR 90-04-036

RULES COORDINATOR

SPOKANE COMMUNITY COLLEGES

[Filed January 31, 1990, 9:13 a.m.]

Pursuant to RCW 34.05.310(3), Washington Community College District 17, the Community Colleges of Spokane, has appointed Richard B. Halvorson, Washington Community College District 17, North

2000 Greene Street, Spokane, WA 99207, (206) 536-7413, 271-7413 scan, to the position of rules coordinator.

Terrance R. Brown
Chief Executive Officer

WSR 90-04-037

**NOTICE OF PUBLIC MEETINGS
WASHINGTON INSTITUTE
OF APPLIED TECHNOLOGY**

[Memorandum—January 31, 1990]

BOARD OF DIRECTORS MEETING
Wednesday, January 31, 1990, 7:30 a.m.
WIAT Sixth Floor Boardroom

WSR 90-04-038

**PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed January 31, 1990, 9:53 a.m.]

Date of Adoption: January 31, 1990.

Purpose: To revise and update this section by amendments incorporating legislative tax rate changes, clerical corrections, and explanations of departmental procedural changes.

Citation of Existing Rules Affected by this Order:
Amending WAC 458-20-185.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 90-01-149 on December 20, 1989.

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

January 31, 1990
Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-15, filed 3/15/83)

WAC 458-20-185 TAX ON TOBACCO PRODUCTS(~~DEFINITIONS~~). (1) Definitions. (a) "Tobacco products" means all tobacco products except cigarettes (see WAC 458-20-186 for cigarette excise taxes). The term includes cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed or other smoking tobacco; snuff, snuff flour, cavendish, plug, twist, fine cut, or other chewing tobacco; shorts, refuse scraps, clippings, cuttings, sweepings, or other kinds or forms of tobacco.

(b) "Distributor" means

~~((a))~~ (i) Any person engaged in the business of selling tobacco products in this state who brings or causes to be brought into this state from without state any tobacco products for sale, or

~~((b))~~ (ii) Any person who makes, manufactures, or fabricates tobacco products in state for sale in this state, or

~~((c))~~ (iii) Any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state.

(c) "Subjobber" means any person, other than a tobacco manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers.

(d) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever by any person for a consideration. It includes all gifts by persons selling tobacco products.

(e) "Wholesale sales price" means the established manufacturer's price to the distributor, exclusive of any discount or other reduction.

(f) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(2) NATURE OF TAX. (~~RCW 82.26.020(1) levies a~~) An excise tax is levied at the combined rate of (~~48.15~~) 64.90% of the wholesale sales price on all tobacco products sold, used, consumed, handled, or distributed within the state, pursuant to the following statutes: RCW 82.26.020(1) which levies a general fund tax at the rate of 48.15% and RCW 82.26.025 which levies an additional tax of 16.75% payable into the water quality fund. The tax is to be paid by the distributor at the time the distributor brings or causes to be brought into this state from without the state tobacco products for sale.

(3) BOOKS AND RECORDS. Since the tobacco products tax is paid on returns as computed by the taxpayer rather than by affixing of stamps or decals, the law contains stringent provisions requiring that accurate and complete records be maintained and preserved for 5 years for examination by the department of revenue.

(a) The records to be kept by distributors include itemized invoices of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state or shipped or transported to retailers in this state, and of all sales (including customers' names and addresses) of tobacco products except retail sales. All other pertinent papers and documents relating to purchase, sale, or disposition of tobacco products must likewise be so retained.

(b) Retailers and subjobbers must secure and retain legible and itemized invoices of all tobacco products purchased, showing name and address of the seller and the date of purchase.

(c) Records of all deliveries or shipments (including ownership, quantities) of tobacco products from any public warehouse of first destination in this state must be kept by the warehouse.

(4) REPORTS AND RETURNS. The tax is reported on the combined excise tax return, Form REV 40 2406, to be filed according to the reporting frequency assigned by the department. Detailed instructions for preparation of these returns may be secured from the department.

(a) Out-of-state wholesalers or distributors selling directly to retailers in Washington should apply for a certificate of registration, and the department will furnish returns for reporting the tax.

(5) INTERSTATE AND SALES TO U.S. The tax does not apply to tobacco products sold to federal government agencies, nor to deliveries to retailers or wholesalers

outside the state for resale by such retailers or wholesalers, and a credit may be taken for the amount of tobacco products tax previously paid on such products.

(6) RETURNED OR DESTROYED GOODS. A credit may also be taken for tobacco products destroyed or returned to the manufacturer on which tax was previously paid, but returns on which such credits are claimed must be accompanied by appropriate affidavits or certificates conforming to those illustrated below:

((AFFIDAVIT)) CERTIFICATE OF TAXPAYER
Claim for Credit on Tobacco Products Tax
Merchandise Destroyed

((State of))
County of ss.

)The undersigned ((being first duly sworn, upon oath deposes and says)) certifies under penalty of perjury under the laws of the State of Washington that the following is true and correct to the best of his/her knowledge:

That he/she is ((---(Position)---)) (Title) of the ((---(Company)---)) (Business Name), a dealer in tobacco products; that said dealer has destroyed merchandise unfit for sale, said tobacco products having a wholesale sales price of \$.....; that tobacco tax had been paid on such tobacco products; that said tobacco products were destroyed in the following manner and in the presence of an authorized agent of the department of revenue:

(State date and manner of destruction)

Attested to:

((By Authorized Agent Name of Affiant

DEPARTMENT OF REVENUE
OF THE
STATE OF WASHINGTON))

Date..... By.....
Signature of Taxpayer or
Authorized Representative.
Position with Dealer
Dealer
Address of Dealer

APPROVED:

Authorized Agency of
Department of Revenue of the
State of Washington.

((AFFIDAVIT)) CERTIFICATE OF MANUFACTURER
Claim for Credit on Tobacco Products Tax
Merchandise Returned

((State of))
County of ss.

)The undersigned ((being first duly sworn, upon oath deposes and says)) certifies under penalty of perjury under the laws of the State of Washington that the following is true and correct to the best of his/her knowledge:

That he/she is ((---(Position)---)) (Title) of the ((---(Name of Manufacturer)---)) (Business Name), a manufacturer of tobacco products; that the said manufacturer has received from (Dealer), (Address) a dealer in tobacco products within the State of Washington, certain tobacco products which were unfit for sale, said tobacco products having a wholesale sales price of \$.....; that said tobacco products were destroyed in the following manner:

(State date and manner of destruction)

Credit issued on Memo No.
((Name of Affiant))
credit approved by: Signature of Taxpayer or
Authorized Representative

on behalf of the Department Name of Manufacturer
of Revenue - State of
Washington Address

((Subscribed and sworn to before me this day of
....., 19...
Date

Notary Public in and for the state of, resid-
ing at

WSR 90-04-039
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed January 31, 1990, 9:54 a.m.]

Date of Adoption: January 31, 1990.

Purpose: To revise and update this section by amend-
ments incorporating legislative tax rate changes, clarifi-
cation of civil and criminal penalty provisions, clerical
corrections, and explanations of departmental tax ad-
ministrative changes.

Citation of Existing Rules Affected by this Order:
Amending WAC 458-20-186.

Statutory Authority for Adoption: RCW 82.32.300.
Pursuant to notice filed as WSR 90-01-150 on
December 20, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 31, 1990
Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 87-5, filed 9/8/87)

WAC 458-20-186 TAX ON CIGARETTES. (1) The Washington state cigarette tax is imposed in the total amount of 1.7 cents per cigarette or ~~((31))~~ 34 cents upon each package of 20 cigarettes or ~~((38.75¢))~~ 42 and 1/2 cents per package of 25. ~~((by the following statutes:))~~ The cigarette tax provides funds to drug enforcement and education, water quality and the general fund accounts in the amount of 3, 8, and 23 cents respectively upon each package of 20 cigarettes.

~~((a) RCW 82.24.020, which imposes a tax of 11 mills per cigarette, or 22 cents upon each package of 20 (27.5¢ per package of 25).~~

~~((b) RCW 82.24.027, which imposes a tax of 4 mills per cigarette, or 8 cents upon each package of twenty (10¢ per package of 25), to provide funding for the water quality account.))~~

(2) This tax is due and payable by the first person who sells, uses, consumes, handles, possesses or distributes the cigarettes in this state. For purposes of this rule, a possessor is anyone who personally or through an agent, employee, or designee has possession of cigarettes in this state. Payment is made through the purchase of stamps from ~~((the department of revenue or its authorized agent))~~ authorized banks.

(3) EXEMPTIONS. The cigarette tax does not apply upon cigarettes sold to persons licensed as cigarette distributors in other states when, as a condition of the sale, the seller either delivers the cigarettes to such a buyer at a point outside this state, or delivers the same to a common carrier with the shipment consigned by the seller to such a buyer at a location outside this state. Any person engaged in making sales to licensed distributors in other states or making export sales (see WAC 458-20-193A and 458-20-193C) or in making sales to the federal government ~~((or to the established governing bodies of an Indian tribe recognized as such by the United States Department of the Interior and who are authorized by Rule 192 WAC 458-20-192 to receive unstamped cigarettes who))~~ must furnish~~((es))~~ a surety bond in a sum ~~((satisfactory to the department of revenue, may set aside such part of the person's stock as may be necessary))~~ equal to twice the amount of tax which would be affixed to the cigarettes that are set aside for the conduct of such business without affixing cigarette tax stamps. Such unstamped stock must be kept separate and apart from any stamped stock.

(4) Cigarettes, other than those above mentioned, which are ~~((not))~~ stamped and exempt from the tax by reason of their sale either to an Indian or ~~((for resale on an Indian reservation (see WAC 458-20-192)))~~ an Indian tribe for resale must follow the provisions of WAC 458-20-192. ~~((Permission to maintain an unstamped stock of cigarettes for sale to a specified Indian tribe may be revoked when it appears that sales to unauthorized purchasers are being, or have been, made.))~~

(5) COLLECTION. Every person unlawfully in possession of unstamped cigarettes in this State shall be liable for the cigarette tax provided for herein. Ordinarily, the

tax obligation is imposed and collected on the first possessor of such unstamped cigarettes. However, failure by the first possessor to pay such tax does not excuse any subsequent possessor of unstamped cigarettes. Stamps indicating the payment of the cigarette tax must be affixed prior to any sale, use, consumption, handling, possession or distribution ~~((of the))~~ for all cigarettes other than those mentioned in (3) above. The stamp must be applied to the smallest container or package, unless the department determines that it is impractical to do so.

(6) Every licensed stamping wholesaler ~~((or retailer in the state))~~ shall stamp those cigarettes that require stamping within 72 hours after receipt, ~~((any of the articles taxed herein))~~ but in any event, on or before sale or transfer to another party. Stamps ~~((must))~~ shall be of the type authorized by the Department which at present is only the heat applied "fuson" type. The use of meter stamping machines for use in imprinting packages, in lieu of attaching stamps, is not authorized by the department. The use of water "decalomania" type stamps by such vendors is not authorized.

(7) Persons other than licensed stamping wholesalers ~~((or retailers, upon holding, owning, possessing or controlling cigarettes in this state, must affix stamps on or before the close of the first business day following receipt of the cigarettes.~~

~~((8) Prior to the receipt or transportation of cigarettes in this state such persons))~~ must file with ~~((a district office of))~~ the department of revenue, prior to receipt, a notice of intent to possess unstamped cigarettes in the state of Washington. A copy of this notice, validated by an agent of the department of revenue, must be in the possession of any such person who is in possession of unstamped cigarettes in this state.

~~((9))~~ (8) Persons who have filed the aforementioned notice must bring the cigarettes to a ~~((district))~~ department office ~~((of the department of revenue and there affix the required stamps within the time limitation provided above))~~ for payment of the tax within 72 hours of receipt, but in any event, on or before sale or transfer to another party. Persons who have failed to file the notice of intent, as provided above, must bring the cigarettes to a department office for payment of the tax before the end of business on the day of receipt, if such is a department business day, but if not, then on or before the close of the next department business day following receipt. In any event such persons shall bring the cigarettes in and pay the tax on or before the sale or transfer thereof to another party. Failure so to act will subject the person in possession of such cigarettes to criminal sanctions as set forth in subparagraphs 17) and 18) below.

~~((10))~~ (9) Any unstamped cigarettes in the possession of persons (other than licensed stamping wholesalers ~~((or retailers)))~~ who have ~~((either))~~ failed to file a notice of intent to possess unstamped cigarettes in the state of Washington or who have failed to affix stamps ~~((within the time limitation provided above))~~ and/or who have failed to pay the tax as required herein, will be deemed contraband and subject to seizure and forfeiture under the provisions of RCW 82.24.130.

~~((+1))~~ (10) ~~((The "fuson" type stamps are available, in rolls of 12,000, 19,000, and 30,000 stamps, from an))~~ State approved cigarette stamps are available from authorized banks. Payment for stamps may be made either at the time of sale, or deferred until later, although the latter form of payment is available only to vendors who meet the requirements of the department and who have furnished a surety bond equal to the proposed total monthly credit limit. In addition, purchases on a deferred payment plan may be made only by the cigarette seller himself or by an agent authorized by him to do so. This authorization may be in the form of a signature card, filed with the bank, from which stamps are usually obtained, and kept current by the vendor. Payments under a deferred plan are due within 30 days following the purchase, and are to be paid at the outlet from which the stamps were obtained, and may be paid by check payable to the department of revenue. Cigarette ~~((dealers, either retail or wholesale,))~~ wholesalers who purchase stamps under either plan are allowed, as compensation for their services in affixing stamps, an amount equal to \$4.00 per thousand stamps affixed, which ~~((may be))~~ is offset against the purchase price.

~~((+2))~~ (11) BOOKS AND RECORDS. An accurate set of records ~~((;))~~ showing all transactions had with reference to the purchase, sale or distribution of ~~((articles subject to the cigarette tax))~~ cigarettes must be retained. These records may be combined with those required in connection with the tobacco products tax, by WAC 458-20-185, provided there is a segregation therein of the amount involved. All such records must be preserved for 5 years from the date of the transaction.

~~((+3))~~ (12) In particular, persons shipping or delivering any ~~((of the articles taxed herein))~~ cigarettes to a point outside of this state shall transmit to the ~~((m))~~ Miscellaneous ~~((t))~~ Tax ~~((section))~~ and Unclaimed Property Division, not later than the 15th of the following calendar month, a true duplicate invoice showing full and complete details of the interstate sale or delivery.

~~((+4))~~ (13) REPORTS AND RETURNS. The department of revenue may require any person dealing with cigarettes, in this state, to complete and return forms, as furnished, setting forth sales, inventory and other data required by the department to maintain control over trade in ~~((the articles taxed herein))~~ cigarettes.

~~((+5))~~ (14) Manufacturers and wholesalers selling ~~((these articles))~~ stamped, unstamped or untaxed cigarettes shall, before the 15th day of each month, transmit to the ~~((m))~~ Miscellaneous ~~((t))~~ Tax ~~((section))~~ and Unclaimed Property Division a complete record of sales of cigarettes in this state during the preceding month.

~~((+6))~~ (15) REFUNDS. Any person may request a refund of the face value of the stamps ~~((, less the affixing discount when cigarettes to which they are affixed))~~ Refunds for stamped untaxed cigarettes sold to Indians or Indian Tribes will include the stamping allowance and will be approved by an agent of the department. Refunds for stamped cigarettes will not include the stamping allowance if the stamps are:

(a) Damaged, or unfit for sale, and as a result are destroyed or returned to the manufacturer or distributor.

(b) ~~((Sold and shipped to a registered dealer regularly making sales of cigarettes in another state.))~~ Improperly or partially affixed through burns, jams, double stamps, stamped on carton flaps, or improper removal from the stamp roll.

~~((+7))~~ (16) ~~((In either case, t))~~ The claim for refund ~~((; t))~~ must be filed on a form which is provided by the department, Form REV 37-2063 ~~((; must be accompanied by))~~ :(a) An affidavit ~~((in the first instance, of the receipt by the manufacturer and, in the second instance, of the receipt by the buyer of cigarettes bearing stamps from this state.))~~ or a certificate from the manufacturer claiming refund, or by the agent of the department verifying the voiding of stamps and authorizing the refund, shall accompany the form.

~~((+8))~~ (17) CRIMINAL PROVISIONS. RCW 82.24.110(1) prohibits certain specified criminal activities with respect to cigarettes and ~~((prescribes criminal sanctions for such))~~ makes such activities gross misdemeanors. Also, RCW 82.24.100 and RCW 82.24.110(2) prohibit ~~((s))~~ alteration or fabrication of stamps and transportation and/or possession of 300 or more cartons of unstamped cigarettes ~~((under certain conditions and prescribes criminal sanctions for such class C))~~ and makes those activities felonies. Persons commercially handling cigarettes in this state must refer to these statutes.

(18) SEARCH, SEIZURE AND FORFEITURE. The department of revenue may search for, seize and subsequently dispose of unstamped cigarette packages and containers, vehicles of all kinds utilized for the transportation thereof, and vending machines utilized for the sale thereof. Persons handling unstamped cigarettes in this state must refer to RCW 82.24.130 and subsequent sections for provisions relating to search, seizure and forfeiture of such property, for possible redemption thereof, and for treatment of such property in the absence of redemption.

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 90-04-040

Reviser's note: WSR 90-04-040 was withdrawn from publication by the Code Reviser's Office, as it was inadvertently filed by the agency on the incorrect date. The agency will refile it on the appropriate date.

WSR 90-04-041

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 90-07—Filed January 31, 1990, 10:00 a.m.]

Date of Adoption: January 29, 1990.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-38000G.

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 limited numbers of oysters at Twanoh State Park. In order to limit the harvest of oysters to 170,000 in 1990, harvest must be restricted to Thursday through Sunday. A permanent regulation will become effective April 1, 1990.

Effective Date of Rule: Immediately.

January 29, 1990
Joseph R. Blum
Director

NEW SECTION

WAC 220-56-38000H OYSTERS SEASON AND AREA Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to take or possess oysters at Twanoh State Park except Thursday through Sunday of each week.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-38000G OYSTERS SEASON AND AREA. (90-03)

WSR 90-04-042

PERMANENT RULES

INSURANCE COMMISSIONER

[Order R 90-2—Filed January 31, 1990, 11:09 a.m.]

Date of Adoption: January 31, 1990.

Purpose: To clarify and limit how disbursements or withdrawals may be made from the producer's separate account. In addition, these amendments clarify how "clustered agents" may operate separate accounts.

Citation of Existing Rules Affected by this Order: Amending WAC 284-12-080.

Statutory Authority for Adoption: RCW 48.02.060, 48.30.010, 48.17.480 and 48.17.600.

Pursuant to notice filed as WSR 90-01-036 on December 12, 1989.

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

January 31, 1990
Dick Marquardt
Insurance Commissioner
By David H. Rodgers
Chief Deputy
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-8, filed 8/24/88)

WAC 284-12-080 REQUIREMENTS FOR SEPARATE ACCOUNTS. (1) The purpose of this section

is to effectuate RCW 48.17.600 and 48.17.480 with respect to the separation and accounting of premium funds by agents, brokers, solicitors, general agents and surplus line brokers, hereinafter called "producers." Pursuant to RCW 48.30.010, the commissioner has found and hereby defines it to be an unfair practice for any producer, except as allowed by statute, to conduct insurance business without complying with the requirements of RCW 48.17.600 and this section. As provided in RCW 48.17.600, agents for title insurance companies or insurance brokers whose average daily balance for premiums received on behalf of insureds in the state of Washington equals or exceeds one million dollars, are exempt from subsections (1) through ~~((5))~~ (6) of this section, except with respect to premiums and return premiums received in another licensing capacity.

(2) All funds representing premiums and return premiums received on Washington business by a producer in his or her fiduciary capacity on or after January 1, 1987, shall be deposited in one or more identifiable separate accounts which may be interest bearing.

(a) A producer may deposit no funds other than premiums and return premiums to the separate account except as follows:

(i) Funds reasonably sufficient to pay bank charges;

(ii) Funds a producer may deem prudent for advancing premiums, or establishing reserves for the paying of return premiums; and

(iii) Funds for contingencies as may arise in the business of receiving and transmitting premiums or return premiums.

(b) A producer may commingle Washington premiums and return premiums with those produced in other states, but there shall be no commingling of any funds which would not be permitted by this section.

(3)(a) The separate account funds may be:

(i) Deposited in a checking account, demand account, or a savings account in a bank, national banking association, savings and loan association, mutual savings bank, stock savings bank, credit union, or trust company located in the state of Washington. Such an account must be insured by an entity of the federal government; or

(ii) Invested in United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States government is pledged for payment of principal and interest, repurchase agreements collateralized by securities issued by the United States government, and bankers acceptances. Insurers may, of course, restrict investments of separate account funds by their agent.

(b) A nonresident licensee, or a resident producer with affiliated operations under common ownership in two or more states, may utilize comparable accounts in another state provided such accounts otherwise meet the requirements of RCW 48.17.600 and this rule, and are accessible to the commissioner for purposes of examination or audit at the expense of the producer.

(4) Disbursements or withdrawals from a separate account shall be made for the following purposes only, and in the manner stated:

(a) For charges imposed by a bank or other financial institution for operation of the separate account;

(b) For payments of premiums, directly to insurers or other producers entitled thereto;

(c) For payments of return premiums, directly to the insureds or other persons entitled thereto;

(d) For payments of commissions and other funds belonging to the separate account's producer, directly to another account maintained by such producer as an operating or business account; and

(e) For transfer of fiduciary funds, directly to another separate premium account which meets the requirements of this section.

(5)(a) The entire premium received (including a surplus lines premium tax if paid by the insured) must be deposited into the separate account. Such funds shall be paid promptly to the insurer or to another producer entitled thereto, in accordance with the terms of any applicable agreement between the parties.

(b) Return premiums received by a producer and the producer's share of any premiums required to be refunded, must be deposited promptly to the separate account. Such funds shall be paid promptly to the insured or person entitled thereto.

~~((5))~~ (6)(a) Where a producer receives a premium payment in the form of an instrument, such as a check, which is made payable to an insurer, general agent or surplus line broker, the producer may forward such instrument directly to the payee if that can be done without endorsement or alteration. In such a case, the producer's separate account is not involved because the producer has not "received" any funds.

(b) If the producer receives a premium payment in the form of cash or an instrument requiring endorsement by the producer, such premium must be deposited into the producer's separate account, unless the insurer entitled to such funds has established other procedures by written direction to a producer who is its appointed agent, which procedures:

(i) Recognize that such agent is receiving premiums directly on behalf of the insurer; and

(ii) Direct the producer to give adequate receipts on behalf of the insurer; and

(iii) Require deposit of the proceeds into the insurer's own account or elsewhere as permitted by the insurer's direction.

Thus, for example, an insurer may utilize the services of a licensed agent, known in the industry as a "captive agent," in the sale of its insurance and in the operation of its places of business, and directly receive payments intended for it without such payments being deposited into and accounted for through the licensed agent's separate account. In such cases, for purposes of this rule, the insurer, as distinguished from the agent, is actually "receiving" the funds and is immediately responsible therefor.

(c) When a producer receives premiums in the capacity of a surplus line broker, licensed pursuant to chapter 48.15 RCW, after a binder or other written evidence of insurance has been issued to the insured, subject to the express written direction of the insurer involved, such premiums may be removed from the separate account.

~~((6))~~ (7) The commissioner recognizes the practical problems of accounting for the small amounts of interest

involved spread over a large number of insurers and insureds. Therefore, absent any agreement between the producer and the insured or insurer to the contrary, interest earned on the deposits held in the separate account may be retained by the producer and used to offset bank charges, establish reserves, pay return premiums, or for any of the purposes listed in subsection (2) of this section, or the interest may be removed to the operating account.

~~((7))~~ (8) A producer shall establish and maintain records and an appropriate accounting system for all premiums and return premiums received by the producer, and shall make such records available for inspection by the commissioner during regular business hours upon demand during the five years immediately after the date of the transaction.

~~((8))~~ (9) The accounting system used must effectively isolate the separate account from any operating accounts. All recordkeeping systems, whether manual or electronic must provide an audit trail so that details underlying the summary data, such as invoices, checks, and statements, may be identified and made available on request. Such a system must provide the means to trace any transaction back to its original source or forward to final entry, such as is accomplished by a conventional double-entry bookkeeping system. When automatic data processing systems are used, a description of the system must be available for review by the commissioner. A balance forward system (as in an ordinary checking account) is not acceptable.

~~((9))~~ (10)(a) A producer that is a firm or corporation may utilize one separate account for the funds received by its affiliated persons operating under its license, and such affiliated persons may deposit the funds they receive in such capacity directly into the separate account of their firm or corporation.

(b) Funds received by a solicitor may be deposited into and accounted for through the separate account of the agent or broker represented by the solicitor.

(c) Funds received by an agent who is employed by and offices with another agent may be deposited into and accounted for through the separate account of the employing agent. This provision does not, however, authorize the agent-employee to represent an insurer as to which he or she has no appointment.

WSR 90-04-043

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 90-01—Filed January 31, 1990, 4:08 p.m.]

Date of Adoption: January 12, 1990.

Purpose: To update publishing requirement for state board elections by removing title of defined agency publication.

Citation of Existing Rules Affected by this Order: Amending WAC 392-109-117.

Statutory Authority for Adoption: RCW 28A.04.020.

Pursuant to notice filed as WSR 89-23-120 on November 22, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 31, 1990
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 81-10,
filed 8/7/81)

WAC 392-109-117 PUBLISHING OF NAMES.
As soon as reasonably possible after each annual election
the superintendent of public instruction shall publish the
names of the directors and private schools who voted in
the election ((in "Your Public Schools.")).

WSR 90-04-044

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Order 90-02—Filed January 31, 1990, 4:09 p.m.]

Date of Adoption: January 12, 1990.

Purpose: To clarify the definition of "residence" as
used in rules that establish criteria for attendance in
preschool through twelfth grade programs of any public
school.

Citation of Existing Rules Affected by this Order:
Amending WAC 392-137-010.

Statutory Authority for Adoption: RCW 28A.58.240.

Pursuant to notice filed as WSR 89-24-073 on
December 6, 1989.

Effective Date of Rule: Thirty-one days after filing.
January 31, 1990
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 83-11
[15], filed 8/18/83 [11/2/89])

WAC 392-137-010 DEFINITIONS. As used in
this chapter, the term: (1) "Residence" shall mean the
physical location of a student's principal abode—i.e., the
home, house, apartment, facility, structure, etc., within
which the student lives the majority of the time. The
mailing address of the student—e.g., parent's address or
post office box—may be different than the student's
principal abode. The lack of a mailing address does not
preclude residency under this section.

(2) "Resident student" shall mean a student:

(a) Whose residence is within the school district of
attendance; or

(b) Whose residence is within the boundaries of any
military, naval, lighthouse, other United States reserva-
tion, national park, national forest, or Indian reservation
(provided the student resides upon rented or leased un-
deeded lands within the Indian reservation) which is
contiguous to the school district of attendance; or

(c) Whose residence is within a school district which
does not carry the grades for which the student is eligi-
ble to enroll (e.g., a non-high school district).

(3) "Nonresident student" shall mean any student
other than a resident student whose residence is within
the state of Washington.

(4) "Resident district" shall mean the Washington
state school district or districts of which a student is
considered to be a resident.

(5) "Nonresident district" shall mean any school dis-
trict other than a resident school district.

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

WSR 90-04-045

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed January 31, 1990, 4:10 p.m.]

Original Notice.

Title of Rule: WAC 392-171-800 Aversive therapy.

Purpose: State legislation proposed in 1989 and a
number of articles and position papers from other parts
of the nation urge that schools guard against the misuse
of aversive therapy or negative behavior conditions. The
extent of the use in Washington's public schools of vari-
ous forms of aversive therapy is not known. Available
information does indicate that the use of extreme forms
of aversive therapy such as those specified in these pro-
posed rules is infrequent to nonexistent. The purpose of
these rules is to assure that the use of inappropriate ex-
treme forms of aversive therapy remains nonexistent,
and to assure that less extreme forms which may consti-
tute an appropriate component of the educational pro-
gram of students with handicapping conditions are sub-
ject to procedural safeguards against their misuse.

Statutory Authority for Adoption: RCW 28A.03.030,
28A.13.010 and 28A.13.070(7).

Statute Being Implemented: Same as above.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting:
Richard M. Wilson, Old Capitol Building, (206) 753-
2298; Implementation: Bridget Cullerton, Old Capitol
Building, (206) 568-6394; and Enforcement: Robert
LaGarde, Old Capitol Building, (206) 753-6735.

Name of Proponent: Superintendent of Public In-
struction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Ef-
fects: See Purpose above.

Proposal Changes the Following Existing Rules: Same
Purpose above.

No small business economic impact statement is re-
quired for this proposal by chapter 19.85 RCW.

Hearing Location: Preston Conference Room, 3rd
Floor, Old Capitol Building, Olympia, WA 98504, on
March 16, 1990, at 9:00 a.m.

Submit Written Comments to: Richard M. Wilson,
Legal Services, Old Capitol Building, by March 13,
1990.

Date of Intended Adoption: March 21, 1990.

January 31, 1990
Judith A. Billings
Superintendent of
Public Instruction

NEW SECTION

WAC 392-171-800 AVERSIVE THERAPY—PURPOSE. The purpose of WAC 392-171-800 through 392-171-830 is to assure that students with a handicapping condition are safeguarded against the use and misuse of various forms of aversive therapy.

NEW SECTION

WAC 392-171-805 AVERSIVE THERAPY—DEFINITION. For the purpose of WAC 392-171-800 through 392-171-830, the term "aversive therapy" means the systematic use of stimuli or other treatment which a student is known to find painful or unpleasant for the purpose of discouraging undesirable behavior on the part of the student. The term does not include the use of reasonable force, restraint, or other treatment to control unpredicted spontaneous behavior which poses one of the following dangers:

- (1) A clear and present danger of serious harm to the student or another person.
- (2) A clear and present danger of serious harm to property.
- (3) A clear and present danger of seriously disrupting the educational process.

NEW SECTION

WAC 392-171-810 AVERSIVE THERAPY—DEFINITION OF STUDENT WITH A HANDICAPPING CONDITION. The terms "student with a handicapping condition" and "student" as used in WAC 392-171-800 through 392-171-830 mean the same as "handicapped student" and "student" as defined in WAC 392-171-310(3).

NEW SECTION

WAC 392-171-815 AVERSIVE THERAPY—PROHIBITED FORMS. There are certain forms of aversive therapy that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or both. The purpose of this section is to uniformly prohibit their use respecting students with a handicapping condition, as follows:

- (1) Electric current. No student may be stimulated by contact with electric current as a means of aversive therapy.
- (2) Food services. No student who is willing to consume subsistence food or liquid when the food or liquid is customarily served may be denied or subjected to an unreasonable delay in the provision of the food or liquid as a means of aversive therapy.
- (3) Force and restraint in general. No force or restraint which is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law may be used as a means of aversive therapy. See RCW 9A.16.100 which cites the following uses of force or restraint as uses which are presumed to be unreasonable and therefore unlawful:
 - (a) Kicking, burning, or cutting a student.
 - (b) Striking a student with a closed fist.
 - (c) Shaking a student under age three.
 - (d) Interfering with a student's breathing.
 - (e) Threatening a student with a deadly weapon.
 - (f) Doing any other act that is likely to cause and which does cause bodily harm to a student greater than transient pain or minor temporary marks. Note: This statutory listing of worst case uses of force or restraint may not be read as implying that all unlisted uses (e.g., shaking a four year old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances.
- (4) Hygiene care. No student may be denied or subjected to an unreasonable delay in the provision of common hygiene care as a means of aversive therapy.
- (5) Isolation. No student may be excluded from his or her regular instructional or service area and isolated within a room or any other

form of enclosure as a means of aversive therapy, except under the conditions set forth in WAC 392-171-820.

(6) Medication. No student may be denied or subjected to an unreasonable delay in the provision of oral medication as a means of aversive therapy.

(7) Noise. No student may be forced to listen to noise or sound which the student obviously finds painful as a means of aversive therapy.

(8) Noxious sprays. No student may be forced to smell or be sprayed in the face with a noxious or potentially harmful substance as a means of aversive therapy.

(9) Physical restraints. No student may be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object as a means of aversive therapy, except under the conditions set forth in WAC 392-171-820.

(10) Taste treatment. No student may be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration as a means of aversive therapy.

(11) Water treatment. No student's head may be partially or wholly submerged in water or any other liquid as a means of aversive therapy.

NEW SECTION

WAC 392-171-820 AVERSIVE THERAPY—OTHER FORMS—CONDITIONS. Various forms of aversive therapy which are not prohibited by WAC 392-171-815 nevertheless warrant close scrutiny. Accordingly, the use of aversive therapy involving bodily contact, isolation, or physical restraint not prohibited by WAC 392-171-815 is conditioned upon compliance with certain procedural and substantive safeguards, as follows:

(1) Bodily contact. The use of any form of aversive therapy not prohibited by WAC 392-171-815 which involves contacting the body of a student with a handicapping condition shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-171-825.

(2) Isolation. The use of aversive therapy which involves excluding a student with a handicapping condition from his or her regular instructional area and isolation of the student within a room or any other form of enclosure is subject to each of the following conditions:

(a) The isolation, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-171-825.

(b) The enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.

(c) The enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the enclosure or the student shall continuously remain within view of an adult responsible for supervising the student.

(3) Physical restraint. The use of aversive therapy which involves physically restraining or immobilizing a student with a handicapping condition by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object is subject to each of the following conditions:

(a) The restraint shall only be used when and to the extent it is reasonably necessary to protect the student, other persons, or property from serious harm.

(b) The restraint, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-171-825.

(c) The restraint shall not interfere with the student's breathing.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the restraint or the student shall continuously remain within view of an adult responsible for supervising the student.

NEW SECTION

WAC 392-171-825 AVERSIVE THERAPY—INDIVIDUALIZED EDUCATION PROGRAM REQUIREMENTS. The terms of a student's individualized education program (hereafter IEP) respecting the use of an aversive therapy involving bodily contact, isolation, or physical restraint shall meet each of the following requirements:

(1) The IEP shall be based upon and consistent with the recommendations of a multidisciplinary team which includes a school psychologist or other certificated employee who understands the appropriate use of the aversive therapy and who concurs with the recommended use of the aversive therapy.

(2) The IEP shall specify the aversive therapy that may be used.

(3) The IEP shall state the reason the aversive therapy is judged to be appropriate and the behavioral objective sought to be achieved by its use.

(4) The IEP shall describe the circumstances under which the aversive therapy may be used.

(5) The IEP shall describe or specify the maximum duration of any isolation or restraint.

(6) The IEP shall specify any special precautions that must be taken in connection with the use of the aversive therapy technique.

(7) The IEP shall specify the person or persons permitted to use the aversive therapy or the qualifications of the personnel permitted to use the aversive therapy.

(8) The IEP shall establish a means of evaluating the effects of the use of the aversive therapy and a schedule for periodically conducting the evaluation.

NEW SECTION

WAC 392-171-830 AVERSIVE THERAPY—PARENT COMPLAINT PROCESS. A parent of a student with a handicapping condition may file a complaint alleging a violation of WAC 392-171-815, 392-171-820, or 392-171-825 involving the student. Each such complaint shall be investigated and addressed by a school district, educational service district, and the superintendent of public instruction in accordance with the terms of chapter 392-168 WAC respecting citizen complaints. The terms of chapter 392-168 WAC are hereby incorporated into this section for such purposes.

WSR 90-04-046

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 90-08—Filed January 31, 1990, 4:24 p.m.]

Date of Adoption: January 31, 1990.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-32-05100X.

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 fish are available during February and March in the area between Bonneville Dam and McNary Dam. This regulation is adopted at the recommendation of the January 24, 1990, Columbia River Compact.

Effective Date of Rule: 12:01 a.m., February 1, 1990.

January 31, 1990

Judith Merchant

Deputy

for Joseph R. Blum

Director

NEW SECTION

WAC 220-32-05100Y COLUMBIA RIVER SALMON SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-051

and 220-32-052, 220-32-053, 220-32-056, 220-32-057, and 220-32-058, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G or 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may fish from 12:01 AM February 1 through 11:59 PM March 21, 1990.

(2) Notwithstanding the provisions of WAC 220-32-058, during the season specified in subsection 1 the following areas are closed.

(a) at Hood River, those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

(b) at Herman Creek those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of of the boat ramp.

(c) at Deschutes River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) at Umatilla River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) at Big White Salmon River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located one-half mile downstream from the west bank upstream to light "35".

(f) at Wind River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2-mile upstream from the east bank.

(g) at Klickitat River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

(h) at Little White Salmon River those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately one-half mile upstream from the eastern shoreline.

(3) Notwithstanding the provisions of WAC 220-22-010, during the open period in subsection (1):

(2) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids located approximately 1.8 miles below the Dalles Dam.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 mile above the Dalles Dam fishway exit, thence at a right angle to the the thread of the river to a point in midriver, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

Reviser's note: The spelling 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.

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05100X COLUMBIA RIVER
SALMON SEASONS ABOVE BONNEVILLE.

WSR 90-04-047

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 90-09—Filed January 31, 1990, 4:27 p.m.]

Date of Adoption: January 31, 1990.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-44-05000B.

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 Pacific Fishery Management Council has established a quota of groundfish. This regulation provides for harvest of the quota without impacting nonharvestable stocks. This change in regulation is necessary because of revocation of a federal nontrawl gear trip limit by National Marine Fisheries Service.

Effective Date of Rule: Immediately.

January 31, 1990

Judith Merchant

Deputy

for Joseph R. Blum

Director

NEW SECTION

WAC 220-44-05000C COASTAL BOTTOM-FISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 A.M. January 1, 1990 until further notice it is unlawful to possess, transport through the waters of the state, or land in any Washington State port bottomfish taken for commercial purposes from Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B,, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated:

(1) Widow Rockfish (*Sebastes entomelas*) – 15,000 pounds per vessel trip per week, Wednesday through the following Tuesday. A fisherman may choose to make one landing of 25,000 pounds per vessel trip biweekly, defined as Wednesday through the second Tuesday following, by filing a declaration of intent. There is no limit on the number of landings less than 3000 pounds.

(2) Shortbelly rockfish (*Sebastes alutus*) – no maximum poundage per vessel trip; no minimum size. poundage per vessel trip; no minimum size.

(3) Pacific ocean perch (*Sebastes alutus*) – No restrictions on landings up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of the total weight of fish on board. Under no circumstances may a vessel land more than 3,000 pounds of Pacific ocean perch in any one vessel trip.

(4) All other species of rockfish includes all rockfish except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*Sebastes entomelas*), shortbelly rockfish (*Sebastes jordani*) and idiot rockfish (*Sebastolobus spp.*) – 25,000 pounds of all other species of rockfish combined per vessel trip per calendar week, defined as Wednesday through the following Tuesday, of which no more than 7,500 pounds may be yellowtail rockfish (*Sebastes flavidus*) except that a fisherman having made a 1990 declaration of intent, may make either one landing of no more than 50,000 pounds of all other species of rockfish combined per vessel trip biweekly, defined as Wednesday through the second Tuesday following of which no more than 15,000 pounds, may be yellowtail rockfish or two landings of not more than 12,500 pounds of all other species of rockfish in any one calendar week of which no more than 3,750 pounds in any one landing may be yellowtail rockfish. It is unlawful for any vessel to make other than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land other species of rockfish twice weekly has been made.

(5) Sablefish

(a) Trawl Vessels – No trip limit. No restrictions on landings up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if sablefish represent

25 percent or less of total combined round weight of sa-blefish, dover sole, arrowtooth flounder, and thornyhead rockfish on board. To convert from round weight to dressed weight multiply the dressed weight by 1.75. Minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. Trawl vessels are allowed an incidental catch less than the minimum size of 1,000 pounds or 25 percent of the total combined round weight of the deep water complex on board but not to exceed 5,000 pounds per trip.

(b) Non-Trawl Vessels - No trip limit

(6) 1990 Declarations of Intent - A 1990 Declaration of Intent must be made to make other than one vessel trip per week and land in excess of the minimum amounts as provided for in this section. The new declaration form must be completed as provided for in this subsection. The 1990 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building Olympia, Wa., 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fishermen, the name and registration number of the vessel, the date on which such fishing will commence and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly with the department in the above manner. The declaration to stop such fishing and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. The date of first landing will determine the beginning of bi-weekly periodicity. Biweekly periodicity will restart after a landing that occurs more than four calendar weeks after the immediate prior landing. A calendar week is defined as Wednesday through the following Tuesday.

(7) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.

(8) For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.

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 section of the Washington Administrative Code is repealed:

WAC 220-44-05000B COASTAL BOTTOMFISH CATCH LIMITS. (89-149)

WSR 90-04-048
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed January 31, 1990, 4:31 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-66-150; and new section WAC 308-66-152.

Purpose: To revise advertising regulations for vehicle dealers.

Statutory Authority for Adoption: RCW 46.70.160.

Statute Being Implemented: RCW 46.70.180.

Summary: RCW 46.70.180(1) prohibits certain advertising and pricing practices. These rules clarify what constitutes unlawful advertising and pricing practices.

Reasons Supporting Proposal: The vehicle industry uses advertising very intensively. Due to the value of the commodities being marketed, deceptive advertising or pricing can have a significant impact on consumers.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Marv Ryser, Olympia, 321-5373 scan, 586-5373.

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: These advertising rules clarify and support the legal prohibitions against deceptive vehicle industry advertising and pricing practices which fall under the provisions of RCW 46.70.180. The effects of these rules will be to require clear disclosure of vehicles offered in advertisements, vehicle prices and financing charges. Workable standards for the clarity of the advertisements themselves are also established.

Proposal Changes the Following Existing Rules: The fair business practices division of the Attorney General's Office has contributed language which will help prevent various types of misrepresentation and other unfair practices which have become apparent since the existing advertising rules were formulated. Details concerning standards for printed material, disclosing of financial information such as rebates and qualifications for financing have been contributed by that office. Other changes are to reformat the present advertising rules to eliminate repetition and to achieve a more logical organization of the rules.

Small Business Economic Impact Statement

Summary: The proposed regulation will not have an economic impact on more than 20% of all industries or more than 10% of the businesses in any one industry. Therefore it does not need review or alterations to minimize impact upon small businesses.

Background: The proposed regulations would update and clarify administrative rules governing advertising which are currently in effect. However, there are significant changes which will affect how vehicle dealers do conduct their advertising. There are also changes which will affect how some advertisers do the advertising of vehicle dealers. The most significant of those changes

will have the effect of simplifying advertising, particularly for the broadcast industry. Most of the changes from present rules are designed to clarify portions of the original advertising rules. Other provisions have been written in order to provide a basis for enforcement action against advertising or pricing practices which have come into use since the original advertising rules went into effect. These are provisions which effect the way some dealers do business some of the time, but those business practices have also been identified as activities which cause harm to unwary consumers. Consequently, with input from the fair business practices division of the Office of the Attorney General, various vehicle industry organizations such as the New Car Dealers Association, the Independent Automobile Dealers Association and personnel of the Department of Licensing, these proposed rules have been drafted.

Impact Analysis: Present rules require that the full seventeen digit vehicle identification number be disclosed in all advertising. This is particularly cumbersome for radio broadcasters. The new proposed rules offer an alternative to that requirement. Rather than place the full vehicle identification number in the advertisement, the dealer may have the advertisement state that the VIN is available from the dealer. The trade-off is that any dealer using that alternative must post a copy of the ad in a conspicuous place at their dealership during the effective period of the ad, and must maintain a record of the vehicles advertised in such manner for one year following the ad. If there is any cost impact at all, the savings in advertising costs should easily offset any added cost in maintaining the required records for one year. These rules should not have any significant impact on the cost of doing business for vehicle dealers. There may be some small beneficial impact on the cost of advertising for many dealers.

Hearing Location: 421 Black Lake Boulevard, Building 1, Training Room (park in stalls 210-233), Olympia, WA 98504, on March 28, 1990, at 9:00 a.m.

Submit Written Comments to: Marv Ryser, Dealer/Manufacturer Services, Highways-Licenses Building, Olympia, Washington 98504, by March 26, 1990.

Date of Intended Adoption: April 6, 1990.

January 31, 1990

Mary Faulk

Director

AMENDATORY SECTION (Amending Order MV-446, filed 9/16/77)

WAC 308-66-150 ((UNLAWFUL)) **WARRANTY PRACTICES.** ((1) Examples of unlawful acts or practices, as defined by RCW 46-70-180 (1)(a) shall include but not be limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," and "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount in excess of that represented is required from the purchaser. A dealer's plan to have all or a portion of the selling price financed by a third party does not relieve him of his obligation to refrain from this prohibited type of advertising.

(2) Examples of unlawful acts or practices as defined by RCW 46-70-180 (1)(b), shall include but not be limited to representations such as "one hundred percent financing" if the terms of the purchase involve

more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it shall be listed on the security agreement containing the vehicle's description, not on a separate agreement. If a dealer advertises "collateral financing" or that collateral will be required, the dollar value of the required collateral shall be stated in the advertisement.

(3) It shall be considered misleading within the meaning of RCW 46-70-180(1) to advertise with words, phrases or initials not easily seen and comprehended by persons other than those closely allied with the vehicle industry, for example, the initials "o.a.c.," or "c.f." or "f.o.b.," without explaining the meaning thereof within the same advertisement or instrument. The word "reprocessed" shall not be used unless the vehicle has actually been rebuilt in a factory-type process.

(4) It shall be considered false or deceptive within the meaning of RCW 46-70-180(1):

(a) To advertise a used vehicle for sale that is not available.

(b) To advertise a new vehicle as available for immediate delivery if it is available only on order.

(c) To sell a particular vehicle at a higher price than advertised.

(i) The only addition to the advertised price shall be the selling price of additional equipment ordered by the purchaser, sales tax, and license fees.

(ii) "Additional equipment ordered by the purchaser" shall not include options installed on the vehicle at the time of advertising.

(iii) "Advertised price" shall not be expressed as a combination of

(A) Dollar figures and words, or

(B) Dollar figures and dollar figures unless the total dollar figure is expressed.

(d) To advertise that "any deal will be accepted" or words to that effect.

(e) To cause an advertisement to be placed by a dealer or salesman that does not identify the dealer by his complete business name, or by the word "dealer."

(f) For a dealer to incorporate in his name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail, or "discount," when the price and policy of a dealer does not provide actual discounts.

(g) To advertise a not-new vehicle manufactured less than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "executive," "lease," "rental," may be used in conjunction therewith, but not so as to create ambiguity as to whether a said vehicle is new, is used, or is a demonstrator.

(h) To advertise a specific price for a model or type of vehicle without:

(i) Designating the number of vehicles available at that price, and

(ii) Clearly identifying the vehicles available by vehicle identification number or license plate number.

PROVIDED, HOWEVER, That a dealer need not designate the number available or identify the vehicles available if, in fact, an unlimited supply of such vehicles are available for immediate delivery.

(5) It shall be considered false, misleading and deceptive for the seller to act or fail to act in violation of any disclosure provision of Title I of the "Federal Consumer Credit Protection Act" [P.L. 90-321, 82 Stat. 146, 15 USC 1601], popularly known as the "Truth in Lending Act," or in violation of the regulations prescribed by the Board of Governors of the Federal Reserve System to carry out the purposes of that title [12 CFR 226], or in violation of chapter 63.14 RCW, "Retail Installment Sales of Goods and Services."

(6) It shall be considered false, deceptive, or misleading within the meaning of RCW 46-70-180(1) to advertise in violation of any of the following provisions:

(a) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(i) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(ii) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(b) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state:

~~(i) The rate of a finance charge unless it states the rate of that charge expressed as an "annual percentage rate," using that term.~~

~~(ii) The amount of the down payment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it states all of the following items:~~

~~(A) The cash price or the amount of the loan, as applicable.~~

~~(B) The amount of the down payment required or that no down payment is required, as applicable.~~

~~(C) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.~~

~~(D) The amount of the finance charge expressed as an annual percentage rate.~~

~~(E) The deferred payment price or the sum of the payments, as applicable.~~

~~(c) No advertisement for the lease of a vehicle containing an option to purchase in which one of the following is used shall be made unless all of the following are disclosed:~~

~~(i) The full term of the lease;~~

~~(ii) The amount of each lease payment;~~

~~(iii) The number of lease payments;~~

~~(iv) The total amount of lease payments, and~~

~~(v) The residual balance due at the end of the lease necessary to purchase the vehicle.~~

~~(d) No advertisement to aid, promote or assist directly or indirectly in providing financing for a residual balance may be used unless it contains all the items required by (b).~~

~~(77) (1) It shall not be considered unlawful under the provisions of RCW 46.70.180 ((77)) (1)(f) for a vehicle manufacturer to provide under the terms of any warranty that a purchaser of a vehicle must make warranty claims against only the manufacturer of an integral part of a vehicle if the manufacturer of that integral part has assumed a direct warranty obligation thereon to the purchaser and does, in fact, provide facilities or agencies within the states of Washington, Oregon or Idaho to discharge such warranty obligation.~~

~~((78)) (2) No manufacturer need make reimbursement under RCW 46.70.101 ((78)) (2)(j) except to dealers selling its product at retail or to the dealers holding units purchased from the manufacturer for resale at retail: PROVIDED, HOWEVER, That if the warranty agreement between the dealer and the manufacturer requires prior approval by the manufacturer, such approval must be given within a reasonable time and in no event later than ten days, except in emergency situations where the life, health, or safety of the occupant or owner requires immediate action.~~

NEW SECTION

WAC 308-66-152 UNLAWFUL PRACTICES. (1) Examples of unlawful acts or practices, as defined by RCW 46.70.180 (1)(a), shall include but not be limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," "no cash out of your pocket," "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount, including factory rebates or dealer incentives, in excess of that represented is required from the purchaser. A dealer's plan to have all or a portion of the selling price financed by a third party does not relieve the dealer of an obligation to refrain from this prohibited type of advertising. When any of these representations are made a payment disclosure shall be made as contained in subsection (6) of this section.

(2) Examples of unlawful acts or practices as defined by RCW 46.70.180 (1)(b), shall include but are not limited to representations such as "one hundred percent financing" if the terms of the purchase involve more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it shall be listed on the security agreement containing the vehicle's description, not on a separate agreement. If a dealer advertises "collateral financing" or that collateral will be required, the dollar value of the required collateral shall be stated in the advertisement.

(3) It shall be considered false, deceptive or misleading, and thereby unlawful, to advertise with words, phrases, or initials which are not clear and conspicuous and easily comprehended by persons other than those closely allied with the vehicle industry.

(a) Clear and conspicuous within an advertisement shall mean:

(i) In the case of a television advertisement, the information required to be disclosed shall be completely disclosed audibly, or completely disclosed visually, but need not be disclosed both audibly and visually.

(A) If made visually, shall be made in a type size sufficiently large to be read with reasonable ease; shall appear on the television screen for at least ten seconds; shall be in print type of a color or shade that contrasts readily with the background; shall not be obscured by other words or images appearing on the television screen; and

(B) If made audibly, shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average television listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(ii) In the case of a radio advertisement, the information required to be disclosed shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average radio listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(iii) In the case of a printed advertisement, the information required to be disclosed shall be made in a type size which shall be sufficiently large to be read with reasonable ease and shall be made in relatively close proximity to each of the terms which requires that the disclosures be made; disclosures shall be made in such color and contrast so as not to be obscured by other words or pictures appearing in the advertisement.

(b) Examples of words, phrases, or initials which are not easily comprehended by persons other than those closely allied with the vehicle industry, and that may not be used without explaining their meaning in the same advertisement, include but are not limited to: Executive; capitalized cost reduction, o.a.c., c.f., f.o.b. The words annual percentage rate may be abbreviated to read A.P.R. or apr.

(4) Examples of false, deceptive or misleading, and thereby unlawful statements or representations within the meaning of RCW 46.70.180(1) include, but are not limited to:

(a) Advertising a used vehicle for sale that is not available;

(b) Advertising a new vehicle as available for immediate delivery if it is available only on order;

(c) Advertising any offer in connection with the sale of a vehicle or model or type of vehicle without disclosing the time limit, or that there is no time limit, on the offer;

(d) Advertising using a picture:

(i) Of a new vehicle which does not substantially show the same vehicle offered for sale; or

(ii) Of a used vehicle which is not the same vehicle offered for sale;

(e) Causing an advertisement to be placed by a dealer or salesperson that does not identify the dealer by his/her complete business name, or by the word "dealer" or abbreviation "DLR";

(f) Incorporating in the dealer's name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail, or "discount" when the price and policy of a dealer does not provide substantial discounts;

(g) Advertising a used vehicle or a new vehicle demonstrator manufactured less than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "lease," or "rental," may be used in conjunction therewith, but not so as to create ambiguity as to whether a said vehicle is new, is used, or is a demonstrator;

(h) With knowledge, advertising a "rebuilt vehicle" for sale without clearly and conspicuously disclosing "rebuilt" in the advertisement;

(i) Advertising a specific price for a particular vehicle or model or type of vehicle without designating the number of vehicles available at that price, and;

(i) Without clearly identifying the vehicles available by complete vehicle identification number, license plate number; or

(ii) Without clearly and conspicuously stating in the advertisement that such vehicle identification or license plate number for each advertised vehicle is available from the dealer upon request, and requiring that the dealer using this method of identifying vehicles keep the media advertising copy along with the vehicle identification number or license plate number of each advertised vehicle offered for a specific price. Such records shall be retained for one year following the advertisement. Dealers using this method of identifying vehicles are also required to date and post a written copy of the advertisement text and list of vehicle identification numbers or license plate numbers in a conspicuous public area at their place of business for the duration of the vehicle's availability at the advertised price;

(j) Selling a particular vehicle at a higher price than advertised, regardless of trade-in;

(k) Adding charges, costs, or items to the advertised price other than the selling price of additional equipment ordered by the purchaser, sales tax, and license fees. "Additional equipment ordered by the purchaser" shall not include options already installed on the vehicle at the time of advertising;

(l) Expressing "advertised price" as a combination of:

(i) Dollar figures and words; or

(ii) Dollar figures and dollar figures unless the total dollar figure is expressed;

(m) Advertising that a new vehicle or model or type of vehicle will be sold for a certain amount above or below invoice or cost without:

(i) Computing invoice or cost as the actual cost to the dealer to get each vehicle from the manufacturer; and

(ii) Disclosing the actual dollar amount being referred to as "invoice" or "cost"; and

(iii) Stating the final, total price for each vehicle, which may exclude sales taxes and license fees.

(iv) In calculating "invoice" or "cost" the dealer may include the actual cost of transportation of the vehicle from the manufacturer to the dealer, but must exclude dealer holdbacks, optional advertising fees, dealer overhead expenses, and other similar expenses;

(n) Advertising that a new or used vehicle is reduced in price from a former price, or that the advertised price is a percentage of dollar amount savings from a former price, or words to that effect, unless the seller actually recently advertised or offered that vehicle for sale at the former price;

(o) Advertising or offering:

(i) Any rebate that is not an authorized manufacturer's rebate paid directly to the consumer, which the consumer may apply to the purchase; and

(ii) Any manufacturer's rebate for which the manufacturer requires any financial participation by the dealer, without also clearly and conspicuously stating the following disclosure: "Dealer participation in this rebate program may increase vehicle price before rebate";

(p) Advertising that "any written price quote will be beaten," "any deal will be accepted," or that a dollar amount is guaranteed on any "push, pull or drag," "trade-in, or words to that effect;

(q) Advertising a vehicle or model or type of vehicle as being available at "lowest cost," "best deal" or other words to that effect;

(r) Advertising an interest rate that is adjustable without clearly and conspicuously disclosing that the loan rate is adjustable;

(s) Advertising a vehicle or model or type of vehicle for sale at a financing rate which has been brought down by the dealer, without disclosing the actual annual percentage rate.

(5) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(a) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(b) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(6) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state the amount or percentage of the down payment required, or that no down payment is required, the amount of annual percentage rate of any finance charge, that there is no charge for credit, the amount of any payment or the number of payments or the period of repayment, unless it states clearly and conspicuously all of the following items:

(a) The cash price or the amount of the loan as applicable;

(b) The amount or percentage of the down payment required, or that no down payment is required, as applicable;

(c) The number, amount, and frequency of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate, using that term;

(e) The deferred payment price or the sum of the payments as applicable;

(f) The specific model or type of vehicle(s) to which the advertised offer applies;

(g) Any other conditions material to the advertised offer such as the sales tax and licensing fees paid by the purchaser and remitted to the dealer at the time of sale.

(7) No advertisement to aid, promote, or assist directly or indirectly any consumer lease shall state the amount of any payment, the number

of required payments, or that any or no-down payment or other payment is required at the inception of the lease unless the advertisement also states clearly and conspicuously each of the following items of information as applicable:

(a) That the transaction advertised is a lease;

(b) The total amount of any payment required at the inception of the lease, or that no such payment is required;

(c) The number, amounts, and frequency of payments required on the lease, and the total of such payments under the lease;

(d) A statement of whether or not lessee has the option to purchase the vehicle, and at what price and time. The method of determining the price may be substituted for disclosure of the price;

(e) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term, if the lessee has such liability.

(8) It shall be considered false, deceptive, or misleading within the meaning of RCW 46.70.180 (1) and (2) for the seller to act, or fail to act, in violation of any disclosure provision to Title I of the "Federal Consumer Credit Protection Act" (P.L. 90-321, 82 Stat. 146, 15 U.S.C. 1601), known as the "Truth in Lending Act," or in violation of the regulations prescribed by the Board of Governors of the Federal Reserve System to carry out the purposes of that title (12 CFR 226), or in violation of chapter 63.14 RCW, "Retail installment sales of goods and services."

WSR 90-04-049

RULES COORDINATOR

INSURANCE COMMISSIONER

[Filed January 31, 1990, 4:37 p.m.]

In accordance with RCW 34.05.310, the rules coordinator for the Insurance Commissioner is Arloween Manley, 200 Insurance Building, Mailstop AQ-21, Olympia, Washington 98504-0321, phone (206) 753-2406 or 234-2406 scan.

Dick Marquardt
Insurance Commissioner
By Robert E. Johnson
Deputy Commissioner

WSR 90-04-050

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed February 1, 1990, 1:04 p.m.]

Date of Adoption: January 31, 1990.

Purpose: To allow the counties to bring the fee schedule of county uniform commercial code fees into conformity with the county fee schedule already existing under chapter 36.18 RCW, Fees of county officers.

Citation of Existing Rules Affected by this Order: Amending WAC 308-400-042 and 308-400-095.

Statutory Authority for Adoption: RCW 62A.9-409(1).

Other Authority: RCW 36.18.010.

Pursuant to notice filed as WSR 90-01-122 on December 20, 1989.

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

January 31, 1990

Mary Faulk
Director

AMENDATORY SECTION (Amending Order 669-
DOL, filed 3/30/82, effective 7/1/82)

WAC 308-400-042 UCC-2 FIXTURE FILING
FORM. Effective July 1, 1982, the following form shall
be the standard UCC-2 Fixture Filing Form prescribed
by the department of licensing:

PLEASE TYPE FORM.
 This FIXTURE FILING is presented pursuant to the WASHINGTON UNIFORM COMMERCIAL CODE.
 LEASE - This filing is for informational purposes only. The terms debtor and secured party are to be construed as LESSEE and LESSOR.
 CONSIGNMENT - This filing is for informational purposes only. The terms debtor and secured party are to be construed as CONSIGNEE and CONSIGNOR.

1. DEBTOR(S) (or assignor(s)) (last name first, and address(es))	2. FOR OFFICE USE ONLY
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3. NUMBER OF ADDITIONAL SHEETS ATTACHED:

4. SECURED PARTY(IES) (or assignee(s)) (name and address)	5. ASSIGNEE(S) OF SECURED PARTY(IES) (if applicable) (last name first, and address(es))
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6. This FIXTURE FILING covers the following types or items of property:
- The goods are to become fixtures on...
 - The property is timber standing on...
 - The property is minerals or the like (including gas and oil) or accounts to be financed at the wellhead or minehead of the well or mine located on...
 (Describe real estate. Use legal description.)

This fixture filing is to be filed for record in the real estate records. If the debtor does not have an interest of record in the realty, the name of a record owner is _____
 Products of collateral are also covered.

7. RETURN ACKNOWLEDGMENT COPY TO:	FILE FOR RECORD WITH: COUNTY AUDITOR OF COUNTY IN WHICH REAL PROPERTY IS LOCATED
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8. This statement is signed by the Secured Party(ies) instead of the Debtor(s) to perfect a security interest in collateral (Please check appropriate box)

(a) already subject to a security interest in another jurisdiction when it was brought into this state, or when the debtor's location was changed to this state, or

(b) which is proceeds of the original collateral described above in which a security interest was perfected, or

(c) as to which the filing has lapsed, or

(d) acquired after a change of name, identity, or corporate structure of the debtor(s).

Complete fully if box (d) is checked; complete as applicable for (a), (b), and (c):

Original recording number _____

Filing office where filed _____

Former name of debtor(s) _____

9. USE IF APPLICABLE:

TYPE NAME(S) OF DEBTOR(S) (or assignor(s)) _____	TYPE NAME(S) OF SECURED PARTY(IES) (or assignee(s)) _____
SIGNATURE(S) OF DEBTOR(S) (or assignor(s)) _____	SIGNATURE(S) OF SECURED PARTY(IES) (or assignee(s)) _____

10. TERMINATION STATEMENT: The SECURED PARTY(IES) certifies that the SECURED PARTY(IES) no longer claims a security interest under the fixture filing bearing the recording number shown above.

DATE: _____ DATE: _____

SIGNATURE: _____ SIGNATURE: _____

Return to: COUNTY AUDITOR of County where original filing/recording was made.

Note: All other information will be the same on plies 2 and 3 as is on ply 1. The ply legend is as follows:
COPY 2 - DEBTOR
COPY 3 - SECURED PARTY
Plies 1 and 2 will each have a carbon behind them which must end at the bottom of box 9.
Instructions will appear on the back of copy 3.

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INSTRUCTIONS UCC-2 FIXTURE FILING

1. PLEASE TYPE THIS FORM.
2. If the space provided for any item on the form is inadequate, the item should be identified and continued on additional sheets, preferably 8 1/2" X 11". The name of the debtor should appear as the first item on each additional sheet. Only one copy of such additional sheets need be presented to the filing officer with one copy of the financing statement. Indicate the number of sheets attached in the space provided.
3. At the time of original filing, the filing officer will return copy (1) as an acknowledgment. Indicate in box 7 to whom the acknowledgment should be returned.
4. The filing/recording fee ~~((for a standard form is \$4.00. The fee is \$7.00 if any other form is used or if any additional sheets or documents are attached to the standard UCC-2))~~ shall be in accordance with the schedule of fees contained in RCW 36.18.010. Proper filing fees must accompany each form.
5. When a copy of the security agreement is used as a financing statement, it should be accompanied by a completed but unsigned set of these forms. ~~((The \$7.00 fee applies.))~~
6. Typed name of debtor and/or secured party must appear with signature.
7. DO NOT WRITE IN BOX 2.
8. REMOVE and retain copies (2) and (3). SEND copy (1) to the county auditor of the county in which the real property is located.

TERMINATION STATEMENT

When the filing is to be terminated the acknowledgment copy (1) may be sent to the filing officer with the termination statement signed by the secured party of record, or the UCC-3 form may be used as a termination statement. If a partial assignment has been made, signatures of both the secured party and assignee are required to terminate. Typed name of secured party of record must appear with the signature. No fee is required for a termination statement.

AMENDATORY SECTION (Amending WSR 89-24-022, filed 11/30/89, effective 12/31/89)

WAC 308-400-095 FEES. (1) Beginning January 1, 1990, the following fees shall be charged for filing information with ~~((;))~~ and for obtaining information from ~~((, filing officers are adopted by))~~ the department of licensing:

~~((1))~~ (a) For filing, indexing, and furnishing data pursuant to a security interest created by a deed of trust or mortgage under provisions of RCW 62A.9-302, the fee shall be seven dollars.

~~((2))~~ (b) For filing and indexing an original financing statement or a continuation statement pursuant to RCW 62A.9-403, and for stamping a copy furnished by the secured party showing the date and place of filing, the fee shall be seven dollars if the statement is in the standard form prescribed by the department of licensing, but if the form of the statement does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be fourteen dollars.

~~((3))~~ (c) For filing, indexing, and furnishing filing data for a financing statement indicating an assignment or a separate statement of assignment, under provisions of RCW 62A.9-405, on a form conforming to standards prescribed by the department of licensing shall be seven dollars, but if the form of the financing statement or separate statement of assignment does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be fourteen dollars.

~~((4))~~ (d) For filing and noting a statement of release pursuant to RCW 62A.9-406 on a form conforming to standards prescribed by the department of licensing, the fee shall be seven dollars, but if the form of the statement does not conform to the standards prescribed by the department, or if attached pages are added, the fee shall be fourteen dollars.

~~((5))~~ (e) For a certificate of information pursuant to RCW 62A.9-407, the fee shall be seven dollars. For a certificate of information pursuant to RCW 62A.9-407 and for a copy of any filed financing statements or statements of assignment the fee shall be twelve dollars for each particular debtor's statements requested.

(2) Beginning January 1, 1990, the fees for filing/recording uniform commercial code information with, and obtaining uniform commercial code information or copies from county auditors or county recording officers shall be in accordance with the schedule of fees contained in RCW 36.18.010.

WSR 90-04-051
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
 [Memorandum—February 1, 1990]

The March 22-23, 1990, regular meeting of the Interagency Committee for Outdoor Recreation (IAC) will be held at the Tye Motor Inn, 500 Tye Drive, Coho Annex, Tumwater, Washington, beginning at 9:00 a.m. on Thursday, March 22. The meeting may continue on Friday, March 23, depending upon agenda items.

Agenda items include consideration and adoption of the 1990 assessment and policy plan in relation to the Washington Statewide Comprehensive Outdoor Recreation Plan (SCORP); the 1990-92 action program in relation to SCORP; modifications to traditional grants-in-aid participation manuals #4 (Development Projects) and #6 (Open Project Selection Process); and an off-road vehicle manual.

At 10:00 a.m., March 22, Thursday, the committee will review and consider for funding from the nonhighway and off-road vehicle activities grants program certain education and enforcement projects and maintenance and operation projects.

The meeting site is barrier free.

WSR 90-04-052
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
 [Memorandum—January 30, 1990]

The board of directors of the Washington State Convention and Trade Center will hold a regular meeting at 2:00 p.m. on Wednesday, February 7, 1990, at the Convention Center, 800 Convention Place, Room 601, Seattle, Washington.

If you have questions regarding this meeting, please call 447-5000.

WSR 90-04-053

**NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS**
[Memorandum—January 29, 1990]

The following is a schedule of Commission on Hispanic Affairs regular public meetings for 1990:

March 10	Othello
May 17-19	Tri-cities
July 14	Mt. Vernon
September 8	Wenatchee
November 3	Tacoma

WSR 90-04-054

**NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON**
[Memorandum—January 26, 1990]

The following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Student Union Building Advisory Board, ASUW Governance, ASUW Student Assembly, ASUW Constitution, ASUW Budget and Finance.

SUFAB*

Meeting Dates	Location	Time
January 10, 1990	Room 304 CD-HUB	2:00
January 31, 1990	Room 209 B-HUB	2:00
February 21, 1990	Room 322-SCC	2:00
March 7, 1990	Room 304 CD-HUB	2:00
April 4, 1990	Room 304 CD-HUB	2:00
May 2, 1990	Room 209 B-HUB	2:00
May 30, 1990	Room 322-SCC	2:00
June 13, 1990	Room 304 CD-HUB	2:00
September 26, 1990	Room 304 CD-HUB	2:00
October 17, 1990	Room 209 B-HUB	2:00
November 7, 1990	Room 322-SCC	2:00
December 5, 1990	Room 304 CD-HUB	2:00

ASUW Governance

Wednesdays	HUB 304 F	3:30
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ASUW Student Assembly

January 3, 1990	HUB Room 310	6:30 p.m.
January 10, 1990	HUB Room 310	6:30 p.m.
January 17, 1990	HUB Room 310	6:30 p.m.
January 24, 1990	HUB Room 310	6:30 p.m.
January 31, 1990	HUB Room 310	6:30 p.m.
February 7, 1990	HUB Room 310	6:30 p.m.
February 14, 1990	HUB Room 310	6:30 p.m.

February 21, 1990	HUB Room 310	6:30 p.m.
February 28, 1990	HUB Room 310	6:30 p.m.
March 7, 1990	HUB Room 310	6:30 p.m.
March 14, 1990	HUB Room 310	6:30 p.m.

ASUW Constitution and Bylaws

January 3, 1990	HUB 204 M	5:00
January 10, 1990	HUB 204 M	5:00
January 17, 1990	HUB 204 M	5:00
January 24, 1990	HUB 204 M	5:00
January 31, 1990	HUB 204 M	5:00
February 7, 1990	HUB 204 M	5:00
February 14, 1990	HUB 204 M	5:00
February 21, 1990	HUB 204 M	5:00
February 28, 1990	HUB 204 M	5:00
March 7, 1990	HUB 204 M	5:00

ASUW Finance and Budget Committee

January 17, 1990	HUB 204 M	1:30 p.m.
January 24, 1990	HUB 204 M	1:30 p.m.
January 31, 1990	HUB 204 M	1:30 p.m.
February 7, 1990	HUB 204 M	1:30 p.m.
February 14, 1990	HUB 204 M	1:30 p.m.
February 21, 1990	HUB 204 M	1:30 p.m.
February 28, 1990	HUB 204 M	1:30 p.m.

WSR 90-04-055

**WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed February 1, 1990, 3:07 p.m.]

This memorandum is sent pursuant to WAC 1-21-060 as a notice of withdrawal, withdrawing WUTC Docket No. U-89-3212-R, in the matter of amending WAC 480-120-081 relating to disconnection of telephone utility service. The rule was noticed under WSR 89-23-047 filed November 13, 1989, and continued under WSR 90-02-027 filed December 28, 1989.

Paul Curl
Secretary

WSR 90-04-056

**WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed February 1, 1990, 3:08 p.m.]

This memorandum is sent pursuant to WAC 1-21-060 as a notice of withdrawal, withdrawing WUTC Docket No. U-88-2014-R, in the matter of amending WAC 480-110-066 and 480-110-081 relating to water companies. The rule was noticed under WSR 89-20-050 filed October 3, 1989.

Paul Curl
Secretary

WSR 90-04-057
PERMANENT RULES
DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 2, 1990, 8:03 a.m.]

Date of Adoption: February 2, 1990.

Purpose: To clarify rules relating to utilization management and corrective action programs.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Pursuant to notice filed as WSR 89-23-119 on November 22, 1989.

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

February 2, 1990

Joseph A. Dear
 Director

AMENDATORY SECTION (Amending Order 87-23, filed 11/30/87, effective 1/1/88)

WAC 296-20-010 GENERAL INFORMATION.

(1) The following rules and fees are promulgated pursuant to RCW 51.04.020. This fee schedule is intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. IF A USUAL AND CUSTOMARY FEE FOR ANY PARTICULAR SERVICE IS LOWER TO THE GENERAL PUBLIC THAN LISTED IN THE FEE SCHEDULE, THE PRACTITIONER SHALL BILL THE DEPARTMENT OR SELF-INSURER AT THE LOWER RATE. The department or self-insurer will pay the lesser of the billed charge or the fee schedule maximum allowable.

(2) The rules contained in the introductory section pertain to all practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section.

(3) The maximum allowable fee for a procedure is determined by multiplying the unit value of a procedure by the appropriate conversion factor, per the conversion factor tables listed in WAC 296-20-135 to 296-20-155.

(4) Initial and follow-up visit charges by practitioners include routine examinations, physical modalities, injections, minor procedures, etc., not otherwise provided for in this schedule. No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(5) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and ((his)) the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(6) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants.

(7) Except as provided in WAC 296-20-055 (temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for ((medically necessary

services)) proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(8) When an injured worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(9) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to Department of Labor and Industries, Claims Administration, MS: HC-241, Olympia, Washington 98504. Accident reports should be sent to Department of Labor and Industries, P.O. Box 9001, Olympia, Washington 98504-9001. Billings should be sent to Department of Labor and Industries, P.O. Box 9002, Olympia, Washington 98504-9002. State fund claims have six digit numbers preceded by a letter other than "S," "T," or "V."

Department of energy claims have seven digit numbers with no letter prefix.

All correspondence and billings pertaining to crime victims claims should be sent to Crime Victims Division, Department of Labor and Industries, 925 Plum Street, MS: HC-720, Olympia, Washington 98504.

Crime victim claims have six digit numbers preceded by a "V."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or ((his)) the service representative as the case may be. A listing of self-insured employers and service representatives can be found in Appendix B.

Self-insured claims are six digit numbers preceded by a "S," or "T."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(10) APPENDIX C is a listing of the department's various local service locations. These facilities should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

AMENDATORY SECTION (Amending Order 87-23, filed 11/30/87, effective 1/1/88)

WAC 296-20-01002 DEFINITIONS. TERMINATION OF TREATMENT: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

UNUSUAL OR UNLISTED PROCEDURE: Value of unlisted services or procedures should be substantiated "by report" (BR).

"BY REPORT": BR (by report) in the value column indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report ~~((should))~~ shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative or narrative report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Major surgical procedure and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to this schedule;
- (5) Estimated follow-up;
- (6) Operative time.

The department or self-insurer may adjust BR procedures when such action is indicated.

"INDEPENDENT OR SEPARATE PROCEDURE": Certain of the listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

SV. ITEMS: Sv (service) procedures are not essentially a single procedure, rather they are comprised of several other procedures. These "Sv" procedures although identified by a specific code number, can be described only in terms of the several services included. Therefore, unit values are not indicated for Sv procedures and total value is derived from the values of the individual services performed. These Sv procedures require "BR" (see above) information to substantiate billing.

MODIFIED WORK STATUS: The injured worker is not able to return to ~~((his))~~ their previous work, but is physically capable of carrying out work of a lighter nature. Injured workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, ~~((his))~~ the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

REGULAR WORK STATUS: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

TOTAL TEMPORARY DISABILITY: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

TEMPORARY PARTIAL DISABILITY: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of at least five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary.

ALL TIME LOSS COMPENSATION MUST BE CERTIFIED BY THE ATTENDING DOCTOR BASED ON OBJECTIVE FINDINGS.

PERMANENT PARTIAL DISABILITY: Any anatomic or functional abnormality or loss after maximum rehabilitation has been achieved, which is determined to be stable or nonprogressive at the time the evaluation is made. When the attending doctor has reason to believe a permanent impairment exists, the department or self-insurer should be notified. Specified disabilities (amputation or loss of function of extremities, loss of hearing or vision) are to be rated utilizing a nationally recognized impairment rating guide. Unspecified disabilities (internal injuries, spinal injuries, mental health, etc.) are to be rated utilizing the category system detailed under WAC 296-20-200 et al. for injuries occurring on or after October 1, 1974. Appendix D contains a schedule of the permanent disability maximum awards. UNDER WASHINGTON LAW DISABILITY AWARDS ARE BASED SOLELY ON PHYSICAL OR MENTAL IMPAIRMENT DUE TO THE ACCEPTED INJURY OR CONDITIONS WITHOUT CONSIDERATION OF ECONOMIC FACTORS.

TOTAL PERMANENT DISABILITY: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, ~~((he))~~ the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

FATAL: When the attending doctor has reason to believe a worker has died as a result of an industrial injury

or exposure, the doctor should notify the nearest department service location (see Appendix C) or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

DOCTOR: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; drugless therapeutics; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and time loss cards except as provided in WAC 296-20-100.

HEALTH SERVICES PROVIDER OR PROVIDER: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, ((osteopaths)) osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, drugless therapeutics, and durable medical equipment dealers.

PRACTITIONER: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; and massage therapy.

PHYSICIAN: For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

ACCEPTANCE, ACCEPTED CONDITION: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

AUTHORIZATION: Notification by a qualified representative of the department or self-insurer that specific medically necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

MEDICALLY NECESSARY: Those health services are medically necessary which, in the opinion of the director or his or her designee, are:

(a) Proper and necessary for the diagnosis and curative or rehabilitative treatment of an accepted condition; and

(b) Reflective of accepted standards of good practice within the scope of the provider's license or certification; and

(c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and

(d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered medically necessary. Services which are controversial, obsolete, experimental, or investigational are presumed not to be medically necessary, and shall be authorized only as provided in WAC 296-20-03002(6).

UTILIZATION REVIEW: The assessment of a claimant's medical care to assure that it is medically necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

EMERGENT HOSPITAL ADMISSION: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the worker's health or treatment outcome.

NONEMERGENT (ELECTIVE) HOSPITAL ADMISSION: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

AMENDATORY SECTION (Amending Order 86-36, filed 10/1/86, effective 11/1/86)

WAC 296-20-015 WHO MAY TREAT. ((Only that treatment which falls within the scope and field of the practitioner's license to practice will be allowed as treatment to an injured worker.)) (1) In order to treat workers under the Industrial Insurance Act, a health care provider must qualify as an approved provider under the department's rules. The department must approve the health care provider through the issuance of a provider number before the health care provider is eligible for payment for services.

(2) Para-professionals, who are not independently licensed, must practice under the direct supervision of a licensed health care professional whose scope of practice and specialty training includes the service provided by the para-professional.

(3) Procedures and evaluations requiring specialized skills and knowledge will be limited to board certified or board qualified physicians, or osteopathic physicians as specified by the American Medical Association or the American Osteopathic Association.

((Practitioners may be formally refused permission to treat cases coming under the jurisdiction of the department for reasons that are, in the opinion of the department, to the best interest of the workers and the funds created for their protection:

Reasons for holding a practitioner ineligible to treat industrial insurance cases include, but are not necessarily limited to any one or a combination of the following:

~~(1) Failure, neglect or refusal to submit complete, adequate and detailed reports:~~

~~(2) Failure, neglect or refusal to respond to requests by the department for additional reports:~~

~~(3) Failure, neglect or refusal to observe and comply with the department's orders and medical aid rules:~~

~~(4) Persistent failure to notify the department immediately and prior to burial in any death where the cause of death is not definitely known or where there is question of death being due to an industrial injury:~~

~~(5) Persistent failure to recognize emotional and social factors impeding recovery of injured workers:~~

~~(6) Persistent unreasonable refusal to comply with the recommendations of board certified or qualified specialists who have examined the worker:~~

~~(7) Submission of false or misleading reports to the department:~~

~~(8) Collusion with any other persons in submission of false or misleading information to the department:~~

~~(9) Submission of inaccurate or misleading bills:~~

~~(10) Persistent submission of false or erroneous diagnosis:~~

~~(11) Knowingly submitting bills to an injured worker for treatment of an industrial condition for which the department has accepted responsibility:~~

~~(12) Persistent use of:~~

~~(a) Treatment of controversial or experimental nature;~~

~~(b) Contraindicated or hazardous treatment measures;~~

~~(c) Continuation of treatment measures past stabilization of the industrial condition or after maximum improvement has been obtained;~~

~~(d) Nonspecific treatment measures;~~

~~(e) Treatment terminating in unsatisfactory results:~~

~~(13) Charging or attempting to charge industrially injured workers fees in addition to the fee paid by the department or self-insurer for care of the industrial injury or billing for difference between the maximum allowable fee set forth in this schedule and usual and customary charges:~~

~~(14) Conviction in any court of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence:~~

~~(15) The use or prescription for use, of narcotic, addictive, habituating or dependency inducing drugs in any way other than for therapeutic purposes:~~

~~(16) Repeated acts of gross misconduct in the practice of the profession:~~

~~(17) Declaration of mental incompetency by a court of competent jurisdiction:~~

~~(18) The finding of any peer group disciplinary board of reason to suspend or revoke a practitioner's practice privilege temporarily or permanently:))~~

(4) The department as a trustee of the medical aid fund has a duty to supervise provision of proper and necessary medical care that is delivered promptly, efficiently, and economically. The department can deny, revoke, suspend, limit, or impose conditions on a health care provider's authorization to treat workers under the Industrial Insurance Act. Reasons for denying issuance of a provider number or imposing any of the above restrictions include, but are not limited to the following:

(a) Incompetence or negligence, which results in injury to a worker or which creates an unreasonable risk that a worker may be harmed.

(b) The possession, use, prescription for use, or distribution of controlled substances, legend drugs, or addictive, habituating, or dependency-inducing substances in any way other than for therapeutic purposes.

(c) Any temporary or permanent probation, suspension, revocation, or type of limitation of a practitioner's license to practice by any court, board, or administrative agency.

(d) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the provider's profession. The act need not constitute a crime. If a conviction or finding of such an act is reached by a court or other tribunal pursuant to plea, hearing, or trial, a certified copy of the conviction or finding is conclusive evidence of the violation.

(e) The failure to comply with the department's orders, rules, or policies.

(f) The failure, neglect, or refusal to:

(i) Provide records requested by the department pursuant to a health care services review or an audit.

(ii) Submit complete, adequate, and detailed reports or additional reports requested or required by the department regarding the treatment and condition of a worker.

(g) The submission or collusion in the submission of false or misleading reports or bills to any government agency.

(h) Billing a worker for:

(i) Treatment of an industrial condition for which the department has accepted responsibility; or

(ii) The difference between the amount paid by the department under the maximum allowable fee set forth in these rules and any other charge.

(i) Repeated failure to notify the department immediately and prior to burial in any death, where the cause of the death is not definitely known and possibly related to an industrial injury or occupational disease.

(j) Repeated failure to recognize emotional and social factors impeding recovery of a worker who is being treated under the Industrial Insurance Act.

(k) Repeated unreasonable refusal to comply with the recommendations of board certified or qualified specialists who have examined a worker.

(l) Repeated use of:

(i) Treatment of controversial or experimental nature;

(ii) Contraindicated or hazardous treatment; or

(iii) Treatment past stabilization of the industrial condition or after maximum curative improvement has been obtained.

(m) Declaration of mental incompetency by a court or other tribunal.

(n) Failure to comply with the applicable code of professional conduct or ethics.

(o) Failure to inform the department of any disciplinary action issued by order or formal letter taken against the provider's license to practice.

(p) The finding of any peer group review body of reason to take action against the provider's practice privileges.

(q) Misrepresentation or omission of any material information in the application for authorization to treat workers. (Chapter 51.04 RCW.)

(5) If the department finds reason to take corrective action, the department may also order one or more of the following:

(a) Recoupment of payments made to the provider, including interest; (Chapter 51.04 RCW.)

(b) Denial or reduction of payment;

(c) Assessment of penalties for each action that falls within the scope of subsection (4) (a) through (q) of this section; (Chapter 51.48 RCW.)

(d) Placement of the provider on a prepayment review status requiring the submission of supporting documents prior to payment;

(e) Requirement to satisfactorily complete remedial education courses and/or programs; and

(f) Imposition of other appropriate restrictions or conditions on the provider's privilege to be reimbursed for treating workers under the Industrial Insurance Act.

(6) The department shall forward a copy of any corrective action taken against a provider to the applicable disciplinary authority.

AMENDATORY SECTION (Amending Order 80-29, filed 12/23/80, effective 3/1/81)

WAC 296-20-02001 PENALTIES. ((RCW 51.48-.060 of the industrial insurance law provides that a civil penalty of \$100.00 may be assessed against any doctor who, "... fails, neglects or refuses to file a report with the director, as required by this title, within five days of treatment showing the condition of the injured worker at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured worker, as required by this title; ..."))

RCW 51.48.080 of the industrial insurance law provides that, "Every person, firm or corporation who violates or fails to obey, observe or comply with any rule of the department promulgated under authority of this title, shall be subject to a penalty of not to exceed two hundred and fifty dollars.") The department has the right to assess penalties against providers. See chapter 51.48 RCW.

AMENDATORY SECTION (Amending Order 86-36, filed 10/1/86, effective 11/1/86)

WAC 296-20-02010 ((CONDUCT OF AUDITS)) REVIEW OF HEALTH SERVICES PROVIDERS.

((1) In order to ensure that the industrially injured worker receives the services paid for by the state of Washington, the department of labor and industries conducts audits of providers of medical, dental, vocational rehabilitation, and other health services furnished to industrially injured workers. Audits may be for cause or at random and may consist of, but not be limited to, an on-site review of any of a provider's files and records related to the provision of services to industrially injured workers or the submission of any bill to the department for payment for such services.

~~(2) In the conduct of such audits, the director or the director's authorized auditors may examine all records, or portions thereof, including patient records, related to services rendered by a health services provider with payment requested of, or made by the department, notwithstanding the provisions of any statute which may make or purport to make such records privileged or confidential. The examination of records may include the utilization of statistical sampling methodologies and projections based upon sample findings.~~

~~(3) No original records shall be removed from the premises of a health services provider by the auditors. The department shall destroy all copies of patient medical records made during an audit, and such records destruction will be accomplished not later than ninety days after completion of the audit, investigation, or proceeding.~~

~~(4) The department will give ten working days written notification to any provider, except as authorized in WAC 296-18-460, that the provider's billing and injured worker claimant records will be reviewed by an auditor at the provider's place(s) of business to determine compliance with medical aid rules and standards.~~

~~(5) A provider, or the provider's designee, will be notified upon the auditor's arrival at the provider's place of business. The notification takes place during an entrance interview attended by the auditor and the provider or the provider's designee. The provider is to furnish the records requested by the auditor and provide a work space adequate and suitable for the auditor to conduct the records review at the provider's place(s) of business.~~

~~(6) A provider, or the provider's designee, will be notified by the auditor upon conclusion of the review of records at the provider's place(s) of business. The auditor will advise the provider, or the provider's designee, that an exit conference can be scheduled. The purpose of the exit conference is to informally review and discuss the preliminary audit findings. The conference is conducted at the provider's place of business. The conference may be waived at the discretion of the provider.~~

~~(7) The provider will be given a draft audit report for review and comment. Upon receipt from the department of a draft audit report, the provider will have fifteen working days to submit written comments on the draft audit report or to request to meet in conference in Olympia with the director's authorized representative(s) to discuss the draft audit report. Written comments by the provider will be incorporated into a final audit report.~~

~~(8) The department will issue a final audit report to each audited provider. If as a result of the audit it is determined that moneys are due the department, the final audit report will be accompanied by an order and notice identifying the amount due and any interest. If as a result of the audit it is determined that no moneys are due to the department, the final audit report will not be accompanied by an order and notice. In either case, the final audit report will tell the provider of the department's process for addressing disputes which might arise as a result of the audit.~~

(9) A provider, upon receipt from the department of a final audit report not accompanied by an order and notice, shall have sixty calendar days to submit to the department a written request for reconsideration of any audit finding or directive which the audited provider believes to be inconsistent with statute, rule or departmental policy. Requests must be submitted to: Director, department of labor and industries. A provider requesting reconsideration shall be granted a conference in Olympia presided over by the director or the director's authorized representative. The director or the director's authorized representative shall issue a final decision within thirty days of concluding the conference. That decision shall become final within sixty days from the date the decision is communicated to the provider unless an appeal is filed with the board of industrial insurance appeals. The conference in response to the final audit report is the final level of appeal within the department.

(10) Based upon the findings of an audit or other proceeding, the director or the director's authorized representative may order repayment by a provider of any excess payments received by the provider under Title 51 RCW to which the provider was not entitled, plus interest on the amount of any excess payments received by a provider to which the provider was not entitled. In the determination of excess payments, the department may use projections based upon sample findings.

(11) A department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational rehabilitation, or other health services rendered to an industrially injured worker, shall become final within twenty days from the date the order or decision is communicated to the provider unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals.

(12) A provider, upon receipt from the department of a final audit report accompanied by an order and notice, and aggrieved by the department order and notice making demand, whether with or without penalty, for repayment of sums paid to that provider, who files with the department in Olympia a timely written request for reconsideration of the order and notice making demand, shall be granted a conference in Olympia presided over by the director or the director's authorized representative. The director or the director's authorized representative shall issue a final decision within thirty days after concluding the conference. That decision shall become final within twenty days from the date the decision is communicated to the provider unless the provider files an appeal with the board of industrial insurance appeals.

(13) ~~The department may conduct or contract for hospital bill review services from time to time. Subsections (4), (5), (6), (7), (8), and (9) of this section shall not apply to hospital bill reviews.~~ (1) The department may review providers' patient and billing related records to ensure workers are receiving proper and necessary medical care and to ensure providers' compliance with the department's medical aid rules, fee schedules, and policies. A records review may be the basis for corrective action against the provider.

(2) The department may review records before, during, or after delivery of health services. Records reviews may be for cause or at random and may include the utilization of statistical sampling methodologies and projections based upon sample findings. Records reviews may be conducted at or away from the provider's places of business, at the department's discretion.

(3) The department will give ten working days' written notification to any provider, except as authorized in WAC 296-18A-460, that the provider's patient and billing related records will be reviewed by an auditor at the provider's place(s) of business to determine compliance with medical aid rules and standards.

(4) The department may request legible copies of providers' records. Providers shall furnish copies of the requested records within thirty calendar days of receipt of the request.

(5) The department will not remove original records from provider's premises.

(6) For information regarding the formal appeals process refer to chapter 51.52 RCW.

AMENDATORY SECTION (Amending Order 87-23, filed 11/30/87, effective 1/1/88)

WAC 296-20-022 PAYMENT OF OUT-OF-STATE PROVIDERS. (1) Beginning February 1, 1987, providers of health services in the bordering states of Oregon and Idaho shall bill and be paid according to the medical aid rules of the state of Washington.

(2) Providers of health services in other states and other countries shall be paid at rates which take into account:

(a) Payment levels allowed under the state of Washington medical aid rules;

(b) Payment levels allowed under workers compensation programs in the provider's place of business; and

(c) The ((reasonableness of the provider's charges)) usual, customary, and reasonable charges in the provider's state of business.

(3) In all cases these payment levels are the maximum allowed to providers of health services to ((injured)) workers. Should a health services provider's charge exceed the payment amount allowed under the state of Washington medical aid rules, the provider is prohibited from charging the injured worker for the difference between the provider's charge and the allowable rate. Providers violating this provision are ineligible to treat injured workers as provided by WAC 296-20-015 and are subject to other applicable penalties.

(4) Only those diagnostic and treatment services authorized under the state of Washington medical aid rules may be allowed by the department or self-insurer. As determined by the department of labor and industries, the scope of practice of providers in bordering states may be recognized for payment purposes, except that in all cases WAC 296-20-03002 (Treatment not authorized) shall apply. Specifically, services permitted under workers compensation programs in the provider's state or country of business, but which are not allowed under the medical aid rules of the state of Washington, may not be reimbursed. When in doubt, the provider

should verify coverage of a service with the department or self-insurer.

(5) Out-of-state hospitals will be paid according to WAC 296-23A-165.

AMENDATORY SECTION (Amending Order 87-23, filed 11/30/87, effective 1/1/88)

WAC 296-20-024 UTILIZATION ((REVIEW AND QUALITY ASSURANCE)) MANAGEMENT. ((To ensure that injured workers receive good quality health care, provided in an efficient manner and in the most appropriate setting, the department has instituted a program of utilization review and quality assurance. This program is designed to monitor and control the use of health care services, and includes, but is not limited to, the following:

(1) Authorization for reimbursement must be obtained from a qualified representative of the department or self-insurer prior to the provision of certain medical treatment, equipment or supplies. This requirement applies to all nonemergent major surgery, diagnostic studies other than routine radiology and laboratory studies; therapy extending beyond a specified number of days or treatments, and to certain other medical treatment, equipment and supplies. Emergency medical services can be provided without prior authorization, but reimbursement may be withheld, or recovery of prior payments made, if utilization review fails to confirm the medical necessity of such services.

(2) Medical treatment, equipment and supplies which are normally reimbursed without prior authorization are nevertheless subject to specific limitations with respect to the duration, frequency, and quantity that may be provided without review. If such services are delivered in excess of the limitations which apply to them, reimbursement will not be made unless prior authorization has been obtained from a qualified representative of the department or self-insurer.

(3) Certain types of medical treatment, equipment and supplies are not approved for the diagnosis or treatment of accepted conditions, and will not be authorized or reimbursed by the department or self-insurer.

(4) Specific limitations are placed on the duration, frequency and types of prescription drugs and controlled substances that will be reimbursed by the department or self-insurer.

(5) Documentation of the need for and efficacy of continued medical care by the health care provider is required at regular intervals while a claim is open. Such documentation enables the department or self-insurer to review the plan of treatment, assess the quality and medical necessity of services, authorize or deny reimbursement for continued provision of services, evaluate eligibility for time loss compensation, and pay medical bills.

(6) The department's second opinion program requires consultations prior to the authorization of reimbursement for some types of surgery, for all procedures of a controversial or uncommon nature, and for conservative or chiropractic care which extends past 120 days following the initial visit.

~~(7) Hospitalization will be reimbursed only when it is determined to be medically necessary for the diagnosis and curative or rehabilitative treatment of accepted conditions. Hospital bills and supporting medical documents may be audited to verify the accuracy or appropriateness of charges, and recovery of overpayments will be made.~~

~~(8) Medical treatment, equipment and supplies provided for the diagnosis and curative or rehabilitative treatment of a condition unrelated to the accepted medical condition will not be reimbursed unless prior authorization has been obtained from the department or self-insurer.~~

(9) The department's mandatory outpatient surgery program requires that certain diagnostic and surgical procedures be reimbursed only if they are performed in an outpatient setting. If a worker's medical condition necessitates performance of such a procedure in an inpatient setting, prior authorization must be obtained from the department or self-insurer.)) The department, as a trustee of the medical aid fund, has a duty to supervise the provision of proper and necessary medical care that is delivered promptly, efficiently, and economically. Toward this end, the department will institute programs of utilization management. These programs are designed to monitor and control the proper and necessary use and cost of, health care services. These programs include, but are not limited to, managed care contracting, prior authorization for services, and alternative reimbursement systems.

AMENDATORY SECTION (Amending Order 86-36, filed 10/1/86, effective 11/1/86)

WAC 296-20-03001 TREATMENT REQUIRING AUTHORIZATION. Certain treatment procedures require authorization by the department or self-insurer. Requests for authorization must include a statement of: The condition(s) diagnosed; ICD-9-CM codes; their relationship, if any, to the industrial injury/exposure; an outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis; and an estimate of when treatment would be concluded and condition stable.

(1) Office calls in excess of the first twenty visits or sixty days whichever occurs first.

(2) ~~((All nonemergent major surgery must be authorized prior to surgery date. Some surgical procedures require concurring opinions prior to authorization. (See WAC 296-20-045 for details.))~~ The department may designate those inpatient hospital admissions that require prior authorization.

(3) X-ray and radium therapy.

(4) Diagnostic studies other than routine x-ray and blood or urinalysis laboratory studies.

(5) Myelogram and discogram in nonemergent cases.

(6) Physical therapy treatment beyond initial twelve treatments as outlined in WAC 296-21-095 and 296-23-710.

(7) Diagnostic or therapeutic injection. Epidural or caudal injection of substances other than anesthetic or contrast solution will be authorized under the following conditions only:

(a) When the worker has experienced acute low back pain or acute exacerbation of chronic low back pain of no more than six months duration.

(b) The worker will receive no more than three injections in an initial thirty-day treatment period, followed by a thirty-day evaluation period. If significant pain relief is demonstrated one additional series of three injections will be authorized. No more than six injections will be authorized per acute episode.

(8) Home nursing or convalescent center care must be authorized per provision outlined in WAC 296-20-091.

(9) Provision of prosthetics, orthotics, surgical appliances, special equipment for home or transportation vehicle; custom made shoes for ankle/foot injuries resulting in permanent deformity or malfunction of a foot; TNS units; masking devices; hearing aids; etc., must be authorized in advance as per WAC 296-20-1101 and 296-20-1102.

(10) Biofeedback program; pain clinic; weight loss program; psychotherapy; rehabilitation programs; and other programs designed to treat special problems must be authorized in advance. See WAC 296-21-0501 and ~~((296-20-0502))~~ 296-21-0502 for details.

(11) Prescription or injection of vitamins for specific therapeutic treatment of the industrial condition(s) when the attending doctor can demonstrate that published clinical studies indicate vitamin therapy is the treatment of choice for the condition. Authorization for this treatment will require presentation of facts to and review by department medical consultant.

(12) Injections of anesthetic and/or antiinflammatory agents into the vertebral facet joints will be authorized to qualified specialists in orthopedics, neurology, and anesthesia, or other physicians who can demonstrate expertise in the procedure, AND who can provide certification their hospital privileges include the procedure requested under the following conditions:

(a) Rationale for procedure, treatment plan, and request for authorization must be presented in writing to the department or self-insurer.

(b) Procedure must be performed in an accredited hospital under radiographic control.

(c) Not more than four facet injection procedures will be authorized in any one patient.

(13) The long term prescription of medication under the specific conditions and circumstances in (a) and (b) are considered corrective therapy rather than palliative treatment and approval in advance must be obtained.

(a) Nonsteroidal antiinflammatory agents for the treatment of degenerative joint conditions aggravated by occupational injury.

(b) Anticonvulsive agents for the treatment of seizure disorders caused by trauma.

(14) Intra-muscular and trigger point injections of steroids and other nonscheduled medications are limited to three injections per patient. The attending doctor must submit justification for an additional three injections if indicated with a maximum of six injections to be authorized for any one patient.

(15) The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a worker has a

medical condition which necessitates a hospital admission, prior approval of the department or self-insurer must be obtained.

AMENDATORY SECTION (Amending Order 80-29, filed 12/23/80, effective 3/1/81)

WAC 296-20-045 (~~PROCEDURES REQUIRING~~) CONSULTATION REQUIREMENTS. In the event of complication, controversy, or dispute over the treatment aspects of any claim, the department or self-insurer will not authorize treatment until the attending doctor has arranged a consultation with a qualified doctor with experience and expertise on the subject, and the department or self-insurer has received notification of the findings and recommendations of the consultant.

This consultation must be arranged in accordance with WAC 296-20-051.

Consultations are also required in the following situations:

(1) ~~All nonemergent neck and back surgery.~~

~~(2) All repeat nonemergent major surgery, except inguinal hernia.~~

~~(3))~~ All nonemergent major surgery on a patient with serious medical, emotional or social problems which are likely to complicate recovery.

~~((4))~~ (2) All procedures of a controversial nature or type not in common use for the specific condition.

~~((5))~~ (3) Surgical cases where there are complications or unfavorable circumstances such as age, preexisting conditions or interference with occupational requirements, etc.

~~((6))~~ (4) If the attending doctor, the department, self-insurer, or authorized department representative requests a consultation.

(5) Conservative ((or chiropractic)) care, (e.g., non-surgical cases) extending past one hundred twenty days following initial visit. Such consultation may be with a chiropractic or a medical or osteopathic consultant.

AMENDATORY SECTION (Amending Order 87-23, filed 11/30/87, effective 1/1/88)

WAC 296-20-075 HOSPITALIZATION. (1) Hospitalization will be paid ((when medically necessary)) for proper and necessary medical treatment of the accepted condition(s). ((Unless the worker's condition requires special care,)) The department may develop and implement utilization management criteria which will be used to review inpatient hospital admissions. Reimbursement for hospitalization is limited to proper and necessary care for an accepted condition. Failure to comply with these criteria may result in delayed or reduced reimbursement to the provider as allowed under chapter 51.48 RCW. Ward or semi-private accommodations will be paid, unless the worker's condition requires special care. ((Hospitalization solely for physical therapy, bed rest, and/or administration of injectable drugs will be paid only under the following circumstances:

(a) Acute back pain with objective findings of neurological deficit, e.g., foot drop, motor dysfunction or other symptoms indicative of a herniated disc;

~~(b) Chronic back pain, which has been treated for a minimum of ten days with home bed rest, traction, outpatient physical therapy, and medication without improvement and where the worker has objective physical findings:))~~

(2) Discharge from the hospital shall be at the earliest date possible consistent with proper health care. If transfer to a convalescent center or nursing home is indicated, prior arrangements should be made with the department or self-insurer. See WAC 296-20-091 for further information. The department may designate those diagnostic and surgical procedures which will be reimbursed only if performed in an outpatient setting. When procedures so designated must be performed in an inpatient setting for reasons of medical necessity, prior authorization must be obtained.

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

WAC 296-23A-150 BILLING PROCEDURES. Bills for hospital services must be submitted on UB-82 bill forms, transmitted electronically on department provided software, or transmitted electronically using department file format specifications. Providers using the UB-82 bill form must follow the billing instructions provided by the Washington State Hospital Association. Providers using any of the electronic transfer options must follow department instructions for electronic billing in addition to instructions provided by the Washington State Hospital Association. ~~((The))~~ Self-insurers may accept other bill forms.

(1) The following information must appear on the UB-82 for hospital inpatient services:

- (a) Provider name;
- (b) Patient control number;
- (c) Type of bill;
- (d) Department of labor and industries provider number;
- (e) Patient name;
- (f) Patient address;
- (g) Birth date;
- (h) Sex;
- (i) Admission date;
- (j) Patient status;
- (k) Statement covers period;
- (l) Date of injury;
- (m) Description (include daily rate with room accommodation revenue code);
- (n) Revenue code;
- (o) Units;
- (p) Total charges;
- (q) Payer;
- (r) Social Security number;
- (s) Claim number;
- (t) Employer name;
- (u) Narrative of principal and other diagnoses;
- (v) Principal and other ICD diagnosis code(s) when applicable;
- (w) Narrative of principal and other procedure(s);
- (x) Principal and other ICD procedure code(s) when applicable; ~~((and))~~

(y) Procedure date(s) for ICD procedure code(s) when applicable; and

(z) Treatment authorization number.

(2) The following information must appear on the UB-82 for hospital outpatient services:

- (a) Provider name;
- (b) Patient control number;
- (c) Type of bill;
- (d) Department of labor and industries provider number;
- (e) Patient name;
- (f) Patient address;
- (g) Birth date;
- (h) Sex;
- (i) Statement covers period;
- (j) Date of injury;
- (k) Description;
- (l) Revenue code when applicable;
- (m) Department of labor and industries procedure codes for radiology, pathology and laboratory, and physical therapy services;
- (n) Units;
- (o) Total charges;
- (p) Payer;
- (q) Social Security number;
- (r) Claim number;
- (s) Employer name;
- (t) Narrative of principal and other diagnoses with side of body; and
- (u) Principal and other ICD diagnosis code(s) when applicable.

Summarize inpatient charges by revenue codes as specified in the UB-82 instructions.

(3) Supporting documentation for inpatient and outpatient services must be ~~((attached to the billings))~~ sent to the department or self-insurer. Place the claim number on the upper right hand corner of each attachment. ~~((a) through (j) of this subsection are needed for inpatient services, and (d) through (j) of this subsection are needed for outpatient services:))~~ The information to be sent includes, but is not limited to the following:

- (a) Admission history and physical examination;
- (b) Discharge summary for stays over forty-eight hours;
- (c) ~~((Itemized detail of summary charges;~~
- ~~(d) X-ray reports;~~
- ~~(e) Laboratory and pathology reports;~~
- ~~(f) Diagnostic studies reports;~~
- ~~(g))~~ Emergency room reports; and
- ~~((h))~~ (d) Operative reports(;
- ~~(i) Physical therapy notes; and~~
- ~~(j) Occupational therapy notes)).~~

Providers using any of the electronic transfer options provided by the department must send the department the required documentation normally associated with a bill, ~~((as outlined in subsection (3) of this section;))~~ within thirty calendar days of the date billing information was sent to the department on electronic mediums. Providers must comply with electronic billing instructions supplied by the department regarding the submission of hospital bill documentation. Place the claim

number on the upper right hand corner of each supporting document submitted.

(4) For a bill to be considered for payment, it should be received by the department or self-insurer within ninety days from the date of service.

(5) The department or the self-insurer may reject bills for services rendered in violation of the medical aid rules and maximum fee schedules.

(6) Charges for ambulance services and for professional services provided by hospital staff physicians must be submitted on the Health Insurance Claim Form, HCFA-1500. Hospitals using any of the electronic transfer options must follow department instructions for electronic billing in addition to department instructions for completing the Health Insurance Claim Form, HCFA-1500. The emergency room will be considered the office for those physicians providing regular emergency room care to the hospital, and fees will be allowed on this basis.

(7) Call-back services between 6 p.m. and 8 a.m., of surgical staff not normally on duty during this period of time, should be billed using the appropriate revenue codes.

AMENDATORY SECTION (Amending Order 87-23, filed 11/30/87, effective 1/1/88)

WAC 296-23A-170 OUTLIERS. (1) Outlier payments are for cases with unusually high or low costs. Outlier status will be granted to qualified diagnosis related groups cases paid by the department.

(2) Qualification for high outlier status: To qualify as a high outlier under the diagnosis related groups payment system, the allowed charges (ACHGE) for the case minus a dollar threshold (\$threshold) must be greater than zero:

$$(\text{ACHGE} - \$\text{threshold}) > 0.$$

The dollar threshold is defined as the greater of two standard deviations above the state-wide diagnosis related group rate for each diagnosis related group paid by the department or \$9,000. The state-wide per case rates used to compute the standard deviations for the diagnosis related groups will be computed across all relevant cases in the historical data base excluding outliers.

(3) Payment: Outlier cases will be paid a hospital's diagnosis related group rate plus an add-on. The add-on will be calculated by first subtracting the dollar threshold from the allowed charges for the case. This product is then multiplied by that hospital's percent of allowed charges factor (F) and then by eighty percent:

$$(\text{ACHGE} - \$\text{threshold}) * F * 0.80 = \text{Add-on.}$$

The outlier payment will be as follows:

$$\text{Outlier payment} = \text{Hospital's DRG rate} + \text{add-on.}$$

(4) To have a bill considered for high outlier status, the hospital must enter "61" for the condition code, block 35 of the UB-82.

(5) Hospitals (~~(must)~~) may also be required to submit the following information (~~((with a bill, in addition to the information required in WAC 296-23A-150(3)),~~) when requesting a high outlier:

(a) Physician's progress notes.

(b) Physician's orders.

(c) Nurse's notes.

(6) Qualification for low outlier status: To qualify as a low outlier, the allowed charges multiplied by that hospital's percent of allowed charges factor must be less than the greater of ten percent of the state-wide diagnosis related group rate or \$200. The state-wide diagnosis related group rate will be computed across all relevant cases in the historical data base excluding outliers. Low outlier cases will be paid that hospital's inpatient percent of allowed charges factor multiplied by the allowed charges for the case.

WSR 90-04-058

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 2, 1990, 9:54 a.m.]

Date of Adoption: February 2, 1990.

Purpose: To describe the collection of, and exemptions from, excise tax on entrance and space charges derived from trade shows, conventions and seminars.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 90-01-151 on December 20, 1990 [1989].

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

February 2, 1990

Edward L. Faker

Assistant Director

NEW SECTION

WAC 458-20-256 TRADE SHOWS, CONVENTIONS AND SEMINARS. (1) When a trade show, convention or educational seminar is sponsored and held by a nonprofit trade or nonprofit professional organization for a group other than the general public, the sponsoring organization may deduct from its business and occupation tax measure all "attendance" or "space" charges it collects for such an event, per RCW 82.04.4282. Non-qualifying organizations, and qualifying organizations sponsoring non-qualifying events, must include "attendance" and "space" charges in their tax measure for purposes of computing Service and Other Activity business and occupation tax thereon.

(2) Nonprofit organizations are taxed in the same fashion as profit-making individuals or groups, with but few tax exemptions. This section implements one of those exemptions. See also WAC sections 458-20-114 and 458-20-169.

(3) For purposes of this section, the following definitions shall apply:

(a) The term "nonprofit" means exempt from tax under Section 501 of the Internal Revenue Code. The tax exempt status must be in effect when the trade show, convention, or seminar is conducted.

(b) A "trade organization" is an entity whose members are engaged "in trade", ie., in one or more lawful commercial trades, businesses, crafts, industries, or distinct productive enterprises.

(c) A "professional organization" is an entity whose members are engaged in a particular lawful vocation, occupation or field of activity of a specialized nature.

(d) A "trade show" is a gathering of persons in trade for the purpose of exhibiting, demonstrating, and explaining services, products and/or equipment.

(e) A "convention" is a gathering of persons in trade or a profession for the purposes of providing, publishing and exchanging information, ideas and attitudes and conducting the business of the organization.

(f) A "seminar" is a gathering of persons in trade or a profession for the purpose of research, study, and/or exchange of specialized information, ideas and attitudes in regard to that trade or profession.

(g) "Not open to the general public" means that attendance is limited to members of the sponsoring organization and to specific invited guests of the sponsoring organization.

(4) As of July 23, 1989, for purposes of computing taxable receipts subject to business and occupation tax, a qualifying "nonprofit" organization may deduct all amounts the organization collects as charges for

(a) admissions, and

(b) licenses to occupy space in order to display exhibits, equipment and/or goods, at an organization-sponsored trade show, convention or seminar not open to the general public.

(5) No statutory deduction is available for the following:

(a) Outright sales of tangible personal property or services for which a specific charge separate from the charge for attending or occupying space is made. It is only those charges which are paid for the express privilege of attending or exhibiting at such an event which are deductible; and

(b) Admission or space charges for purely social, recreational, entertainment or other non-trade or non-professional gatherings regardless of the nonprofit tax status of the sponsoring organization.

(6) Examples:

(a) The local building trade council (Council) organizes and sponsors a trade show held for specialty and general housing contractors. Council has on file a letter of tax exemption under Section 501 of the Internal Revenue Code. Council collects \$100.00, prepaid, from each exhibitor for licenses to display and exhibit construction equipment, tools and related wares at preassigned booths, and \$5.00, paid at the door, from each contractor who attends the event. Because the sponsoring organization qualifies as a nonprofit trade organization, the event qualifies as a trade show sponsored by the organization, and it is not open to the general public, all of the amounts collected constitute deductible receipts of admission and/or space charges.

(b) The metropolitan business group (Metro), a recognized tax-exempt organization under IRC Section 501, organizes and sponsors a convention for all of its businesses members. Following completion of regular Metro business matters (election of officers, etc.), there are speeches by accountants, attorneys, bankers, financial consultants, city planners, and other persons able to give legal and business advice and information to those

attending. Metro charges a \$25.00 per person entry fee. Included with the program is a hosted luncheon at which the mayor gives an explanation of local governmental regulations. The entry charges are fully deductible by Metro from its business and occupation tax measure. The sponsoring organization is "nonprofit" and a "trade organization" because its members are generically "in trade" even though not all are members of just one trade. The event constitutes a convention for persons "in trade" (generic, not specific) and the event is not open to the public. Finally, the moneys collected all constitute admission charges, no special charge for the meal having been made.

(c) The eastside whiffle ball association (Association), a corporation recognized in writing to be tax exempt under Section 501 of the Internal Revenue Code, holds a "skills" clinic for all interested persons. The Association charges \$3.00 to all attending, which is just sufficient to cover the cost of materials and the use of a facility. Following the event, a special barbecue is held for \$4.00 extra per participant. Souvenirs imprinted with the Association name are also available for extra charge. The \$3.00 admission charges, the \$4.00 dinner charges, and the souvenir charges must all be included in the Association's B&O tax measure for the following reasons, each one of which disallows the deduction:

(i) the Association is not a trade or professional organization,

(ii) the event is not a trade show, convention or seminar, and

(iii) the event is open to the public. Separate dinner and souvenir charges are nondeductible in any event because they constitute itemized charges for goods and services.

(d) A local concerned citizen group (Group), which has never applied for federal tax exempt status, organizes and sponsors a health care seminar held in the local school auditorium for district health care professionals, nurses, sport trainers, parents, and concerned students. To cover the cost of hiring competent medical experts to speak at the seminar, the Group charges \$5.00 per person. The event is sponsored by the Group for a worthwhile public purpose and the entry fees are in fact admission charges. For the following reasons, each one of which disallows the deduction, the Group will have to include all door charges in its tax measure: (i) The sponsoring organization is not properly recognized to be nonprofit (no federal tax recognition) or to be a trade or professional organization, and (ii) the event is open to the public at large.

WSR 90-04-059

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Nursing)

[Filed February 2, 1990, 11:26 a.m.]

Date of Adoption: December 9, 1989.

Purpose: Implement RCW 18.88.295 and 18.88.140.

Citation of Existing Rules Affected by this Order:
Amending WAC 308-120-165 Failures—Repeat
examinations.

Statutory Authority for Adoption: RCW 18.88.080.

Pursuant to notice filed as WSR 89-22-104 on
November 1, 1989.

Changes Other than Editing from Proposed to Adopted Version: Deletion of "medical" in description of student's file in WAC 308-120-620 (1), (2) and (3). Insertion of new (4) in WAC 308-120-620, which is a statement of the law in RCW 18.88.295 (1)(c). This new subsection was added as a result of testimony to the effect that the school would be including a copy of WAC 308-120-620 in the *Common School Manual*; but not a copy of RCW 18.88.295; that the impacted professionals needed to be aware of the requirement in RCW 18.88.295 (1)(c); and inclusion in WAC 308-120-620 would at least ensure inclusion of the requirement in the *Common School Manual*.

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

December 8, 1989

Sheila Masteller

Chairperson

Board of Nursing

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 file shall contain a written request from the parent(s) or guardian for the clean, intermittent catheterization of the student.

(2) The student's 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 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 student's file shall contain written, current, and unexpired instructions from a registered nurse licensed under chapter 18.88 RCW regarding catheterization which include (a) a designation of the school district or private school employee or employees who may provide for the catheterization, and (b) a description of the nature and extent of any required supervision.

(5) The service shall be offered to all handicapped students and may be offered to the nonhandicapped students, at the discretion of the school board.

(6) 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.

(7) The supervision of the self-catheterizing student shall be based on the needs of the student and the skill of the nonlicensed school employee.

(8) 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.

(9) 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.

(10) The training of the nonlicensed school employee shall be documented in the employee's permanent file.

WSR 90-04-060

PERMANENT RULES

INSURANCE COMMISSIONER

[Order R 90-1—Filed February 2, 1990, 4:10 p.m.]

Date of Adoption: February 2, 1990.

Purpose: Eliminate obsolete language, make WACs conform to current statutes and group WACs relating to agents, brokers and adjusters into chapter 284-17 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-12-010, 284-12-030 and 284-12-040.

Statutory Authority for Adoption: RCW 48.02.060.

Pursuant to notice filed as WSR 90-01-035 on December 12, 1990 [1989].

Changes Other than Editing from Proposed to Adopted Version: In WAC 284-17-121, substituted term "lines of insurance" for term "kinds of insurance" and in WAC 284-17-121(3) substituted term "persons holding a license for vehicle or surety insurance only" for term "such limited agents." Changes make this regulation consistent with other statutes and regulations and do not change meaning.

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

February 2, 1990

Dick Marquardt

Insurance Commissioner

By Roger Polzin

Deputy Commissioner

NEW SECTION

WAC 284-17-121 QUALIFICATIONS OF AGENTS OF INSURERS AUTHORIZED TO TRANSACT MORE THAN ONE LINE OF INSURANCE—EXCEPTIONS. (1) Except as provided in subsection (2) of this section, and except where the commissioner otherwise permits after good cause is shown therefor in writing, applicants for agents' licenses must take and pass a qualifying examination for all those lines of insurance which the appointing insurer is authorized to transact in the state of Washington.

(2) Insurers authorized to write lines of insurance in addition to vehicle insurance or surety insurance may appoint agents to write vehicle insurance or surety insurance only, and such appointees may take a qualifying examination for vehicle insurance or surety insurance only: PROVIDED, HOWEVER, That the appointing insurers shall file with this office a written statement in which they agree to accept from such appointees only vehicle or surety insurance, as the case may be, until such time as these appointees have qualified to write additional lines of insurance and the insurers have verified such qualification.

(3) Insurers making appointments limited to vehicle insurance or surety insurance only must indicate such

limitation clearly on each appointment form. In the event persons holding a license for vehicle or surety insurance only subsequently qualify for the additional lines of insurance authorized to be written by their appointing insurers, these insurers must file a new appointment form for each such agent and pay the regular appointment fee for each.

(4) This section does not apply to or affect the "limited licenses" permitted by RCW 48.17.190.

NEW SECTION

WAC 284-17-122 NONRESIDENT AGENT, BROKER, OR ADJUSTER'S LICENSES. (1) Applicants who are not residents of Washington may be licensed as nonresident agents or brokers if:

(a) The applicant has and maintains a similar license in the state of residence for the lines of insurance defined in Washington's insurance statutes; and

(b) The state of residence reciprocates and licenses Washington's agents and brokers as nonresident agents or brokers.

(2) Applicants who are not residents of Washington may be licensed as nonresident adjusters if:

(a) The applicant has and maintains an adjuster's license in the state of residence; and

(b) The state of residence reciprocates and licenses Washington's adjusters as nonresident adjusters.

If an applicant's state of residence does not issue an adjuster's license, the applicant must pass this state's written adjuster's examination.

(3) All applicants for a nonresident license must provide written certification from the insurance department of their state of residence indicating:

(a) All currently active license(s) held by an applicant;

(b) The lines of insurance for which the agent or broker has qualified to sell; and

(c) All disciplinary actions taken against the applicant.

NEW SECTION

WAC 284-17-123 ADJUSTER'S LICENSES. (1) Applicants for a resident adjuster's license may satisfy the experience or special training requirements of RCW 48.17.380(4) by employment as a "trainee" for a period of not less than six months.

(2) Each "trainee" shall be under the supervision of a resident licensed adjuster. "Trainees" shall receive training in all adjustment activities and responsibilities. Activities of the "trainee" shall be restricted to participation in factual investigation and tentative closing of losses. All adjusting transactions shall be in the name of the supervising licensed adjuster who shall review, confirm, and be responsible for all acts of the "trainee." Compensation of a "trainee" shall be on a salary basis only.

(3) Anyone employing trainees shall immediately advise the insurance commissioner by letter of such employment, giving the exact date of employment of each "trainee." The employer shall enclose an application completed by each "trainee."

(4) Trainees shall be eligible to take the adjuster's examination required by the insurance commissioner after completing six months in "trainee" status.

(5) No person shall be a "trainee" as defined herein for more than one nine-month period. A violation of this requirement or any provision of the insurance code shall subject both the trainee and their supervisory adjuster to penalties of the code.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 284-12-010 QUALIFICATIONS OF AGENTS OF INSURERS AUTHORIZED TO TRANSACT MORE THAN ONE KIND OF INSURANCE—EXCEPTIONS.

WAC 284-12-030 NONRESIDENT AGENT, BROKER, OR ADJUSTER'S LICENSE.

WAC 284-12-040 ADJUSTERS' LICENSES, RCW 48.14.010, 48.17.050, 48.17.060, 48.17.070, 48.17.110, 48.17.120 AND 48.17.380.

- January 4, 1990
- February 1, 1990 (canceled)
- March 1, 1990
- April 5, 1990
- May 3, 1990
- June 7, 1990
- July 5, 1990
- August 2, 1990
- September 6, 1990
- October 4, 1990
- November 1, 1990
- December 6, 1990

The meetings are held the first Thursday of each month and will be located in Kennewick at Cavanaugh's at Columbia Center starting at either 8:00 or 9:00 a.m.

Any questions regarding the Tri-Cities Diversification Board meetings should be directed to: Art Tackett, Tri-Cities Diversification Program Manager, Department of Trade and Economic Development, P.O. Box 2567, Pasco, WA 99302-0004, phone (509) 545-2247, 526-2247 scan.

WSR 90-04-061
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Real Estate Commission)
 [Memorandum—February 2, 1990]

The Washington Real Estate Commission will hold its regular meeting on April 5, 1990, at the Stouffer Madison Hotel, 515 Madison Street, Seattle, WA 98104, 9:00 a.m. – until business is completed.

WSR 90-04-062
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
ASIAN AMERICAN AFFAIRS
 [Memorandum—January 31, 1990]

The March 31 meeting of the Commission on Asian American Affairs has been changed to March 24. The location has been changed from Spokane to Seattle.

In addition, the September 15 commission meeting has been moved from Seattle to Spokane. The date of that meeting remains the same.

WSR 90-04-063
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
TRADE AND ECONOMIC DEVELOPMENT
 [Memorandum—February 1, 1990]

The following schedule is for the 1990 regular meetings of the Tri-Cities Diversification Board. It is hereby submitted for publication in the Washington State Register:

WSR 90-04-064
PERMANENT RULES
PARKS AND RECREATION COMMISSION
 [Filed February 5, 1990, 10:13 a.m.]

Date of Adoption: January 26, 1990.

Purpose: Establishes biennial local boating safety plans and disburses Coast Guard funds to local, state or private organizations for boating safety.

Citation of Existing Rules Affected by this Order: Amending WAC 352-64-020 through 352-64-080.

Statutory Authority for Adoption: RCW 43.51.040.

Pursuant to notice filed as WSR 90-01-145 on December 20, 1989.

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

January 26, 1990
 Dick Dixon
 Chairman

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-020 DEFINITIONS. When used in this chapter, the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

"Commission" means the seven-member Washington state parks and recreation commission policy-making body created pursuant to RCW 43.51.020.

(("Agency")) "State parks" means the operating arm of the Washington state parks and recreation commission, which is responsible for implementation of commission programs established pursuant to statute or policy.

"Director" means the director of the Washington state parks and recreation commission, pursuant to RCW 43.51.060(8).

"Boating safety ~~((task force))~~ council" means the volunteer advisory body created by the ~~((agency))~~ commission to advise on matters related to the state boating program, and composed of representatives of Washington's boating community and other concerned interests.

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-030 BOATING SAFETY GRANT AND CONTRACT PROGRAM. The boating safety grant and contract program is composed of the biennial boating safety plan and the disbursement of boating safety funds.

The biennial boating safety plan will be developed by ~~((the agency))~~ state parks in cooperation with local and state agencies to provide comprehensive guidelines for the uniform implementation and operation of boating safety efforts statewide.

Boating safety funds will be disbursed to local and state agencies and private organizations by the commission to initiate or supplement boating safety activities and to promote uniformity in boating safety services in accordance with the Federal Boating Safety Act of 1971. The funds may be used for programs which include planning, development, and operation of programs for boating safety, safety education, and enforcement of boating laws, rules and regulations. Program elements may include: Dissemination of information related to safe boat operation; training of boating safety professionals; purchase of boats and related equipment for boating safety programs; program administration; and, the maintenance of a safe boating environment.

The boating safety grant and contract program will be administered to initiate or enhance programs for boating safety, safety education and enforcement of boating laws, rules and regulations, and will not be used to supplant existing contributions and efforts toward safe boating.

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-040 GRANT ELIGIBILITY. Any state or local public agency or private, nonprofit organization is eligible to apply for grants ~~((or contracts))~~ for boating safety or safety education. A state or local public agency having jurisdiction over waters used for recreational boating and possessing the authority to enforce the Revised Code of Washington and the Washington Administrative Code is eligible to apply for grants for programs of enforcement of boating laws, rules, and regulations.

Each successful applicant must provide a minimum of fifty percent match through program expenditures, in kind services, and/or volunteer contributions to the program. The matching requirement may be reduced to not less than twenty-five percent by state parks when necessary to enable the applicant to initiate and continue for a second year a program of boating safety, safety education, or enforcement.

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-050 APPLICATION PROCESS. In order to be considered by the commission for receipt of boating safety funds an eligible agency or organization must:

(1) Complete an application on a form prescribed by ~~((the agency))~~ state parks and file the application ~~((by September 15 of the year prior to the year for which funds are being requested, except that for programs to be implemented in 1985, applications must be filed by February 1, 1985))~~ on or before the filing date set by state parks in the application form.

(2) Provide a statement of intent from the governing body of the requesting agency or organization that the necessary matching funds or in-kind contributions will be made available for the program as described in the application.

(3) Agree to:

(a) File an annual report and other reports, as may be specified in the agreement, on a form provided by ~~((the agency))~~ state parks. Include accomplishments, all activities, a summary of in-kind contributions, and total expenses incurred by the program or project.

(b) Refund to the commission any unexpended funds received from the commission which remain at the completion or termination of the agreement and reimburse the commission for any unauthorized expenditures.

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-060 FUNDING GUIDELINES. Following is a list of the funding guidelines which will be considered in determining the allocation of available boating safety funds ~~((, in order of priority))~~.

(1) Assist programs which are designed to prevent boating accidents through education and/or enforcement of safe boating laws.

(2) Assist in the training of personnel and in the operation of boater assistance and rescue programs.

(3) Assist development of state-wide boater safety information programs.

(4) Assist development of other programs which promote or enhance safe boating opportunities in Washington state.

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-070 PROCEDURES FOR REVIEW AND DISBURSEMENT OF ~~((FUNDS))~~ GRANTS. Following is a description of procedures which will be used by the commission in the review and disbursement of boating safety ~~((funds))~~ grants.

(1) Applications will be reviewed by ~~((agency))~~ state parks staff and scored by the boating safety ~~((task force))~~ council to determine consistency with the funding guidelines and the biennial boating safety plan.

(2) The director will receive and consider the recommendations of the boating safety ~~((task force))~~ council for the disbursement of boating safety ~~((funds))~~ grants

in developing final recommendations for presentation to the commission.

(3) Applications ~~((for funds))~~ will be ~~((approved))~~ subject to approval by the commission ~~((prior to January 31 of the year in which funds are being requested, except for special provisions effecting the 1985 funding year))~~. No grant expenditures may be made until such approval is received.

(4) The successful applicant will receive funds:

(a) As reimbursement for approved expenditures following receipt of documentation by ~~((the agency))~~ state parks which indicates satisfactory compliance with the agreement; or

(b) Through an advance payment upon ~~((recommendation of the boating safety task force and))~~ written approval by the director.

(5) The applicant and ~~((the agency))~~ state parks will execute an agreement which specifies the duties and obligations of each party and requires the applicant's compliance with specified policies and procedures.

(6) The program will be subject to review at predetermined intervals to insure compliance with program policies and procedures.

AMENDATORY SECTION (Amending Order 87, filed 1/21/85)

WAC 352-64-080 ACCOUNTABILITY. Recipients of boating safety funds shall maintain accurate accounting records on the expenditure of funds, provide the director with these records consistent with the agreement or upon request, and permit ~~((the agency))~~ state parks to audit the use of the funds in accordance with generally accepted audit practices and standards.

The commission reserves the right to terminate its participation in any program for failure to perform according to the requirements of the agreement.

WSR 90-04-065
PROPOSED RULES
BOARD OF BOILER RULES
 [Filed February 5, 1990, 11:30 a.m.]

Original Notice.

Title of Rule: WAC 296-104-015 Board meetings.

Purpose: To comply with actions taken by the Board of Boiler Rules.

Statutory Authority for Adoption: RCW 70.79.050.

Statute Being Implemented: Rules and regulations—Effect.

Summary: WAC 296-104-015, will allow flexibility of meeting dates for compatibility with board member's schedules.

Reasons Supporting Proposal: To comply with actions taken by Board of Boiler Rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dick Barkdoll, Acting Chief Inspector, 850 Plum Street, Olympia, (206) 586-0217.

Name of Proponent: Board of Boiler Rules, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-015, existing rule sets specific day of board meeting. Rule change would allow flexibility of day to be compatible with board member's schedules.

Proposal Changes the Following Existing Rules: WAC 296-104-015, eliminates specific day of month for Board of Boiler Rules meeting.

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

Hearing Location: 1011 Plum Street S.E., 2nd Floor Conference Room, Olympia, WA, on March 20, 1990, at 10:00 a.m.

Submit Written Comments to: Dick Barkdoll, by March 20, 1990.

Date of Intended Adoption: March 20, 1990.

January 24, 1990

Robert E. Reid
 Chairman

AMENDATORY SECTION (Amending Order 85-26, filed 12/19/85)

WAC 296-104-015 BOARD MEETINGS. The board of boiler rules shall hold its regular meetings ~~((on the third Tuesday of))~~ in January, March, May, September and November of each year~~((s))~~. The time ~~((and))~~, place, and date of each regular meeting ~~((to))~~ shall be set by the chairman of the board. Special meetings may be called by the chairman when considered necessary by the board.

WSR 90-04-066
EMERGENCY RULES
BOARD FOR
COMMUNITY COLLEGE EDUCATION
 [Order 118—Filed February 5, 1990, 2:12 p.m.]

Date of Adoption: February 1, 1990.

Purpose: Adding a new section to rules governing the TIAA/CREF retirement annuity program authorizing CREF participants to self-direct investment of accumulated retirement savings in CREF subsidiary accounts.

Statutory Authority for Adoption: RCW 28B.10.400.

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: Formal notification of the availability of subsidiary investment accounts covered by this proposed adoption was not received in time to meet the filing requirements for a permanent rule adoption and it is desirable to make the new options available at the earliest possible time, i.e., March 1, 1990.

Effective Date of Rule: March 1, 1990.

February 2, 1990
 Gilbert J. Carbone
 Assistant Director

NEW SECTION

WAC 131-16-055 OPTION TO SELF-DIRECT INVESTMENT OF RETIREMENT PLAN ACCUMULATIONS. *Persons participating in the college retirement equities fund (CREF) plan pursuant to WAC 131-16-010 as a result of employment by a Washington community college district may direct the transfer of values accumulated therein among any of the subsidiary accounts established within such fund.*

WSR 90-04-067**PERMANENT RULES****HIGHER EDUCATION COORDINATING BOARD**

[Filed February 5, 1990, 2:38 p.m., effective July 1, 1990]

Date of Adoption: January 17, 1990.

Purpose: Implementing a revised state need grant program.

Citation of Existing Rules Affected by this Order: Amending WAC 250-20-001, 250-20-011, 250-20-015, 250-20-021, 250-20-031, 250-20-041, 250-20-051 and 250-20-071; and new section WAC 250-20-037.

Statutory Authority for Adoption: RCW 28B.10.800 - [28B.10.]822.

Pursuant to notice filed as WSR 89-23-129 on November 22, 1989.

Changes Other than Editing from Proposed to Adopted Version: WAC 250-20-021(10) was rewritten to provide greater clarity to the definition of state need grant family contribution.

Effective Date of Rule: July 1, 1990.

February 5, 1990

John Klacik

Associate Director

Student Financial Aid

AMENDATORY SECTION (Amending Order 2/81, Resolution No. 81-67, filed 6/16/81)

WAC 250-20-001 APPLICABILITY OF RULES. Unless specified, the term "state need grant" applies to both the state need grant program and the federal program for state student incentive grants. Institutions participating in the state need grant program must comply with the regulations specified in chapter 250-20 WAC and conform to all requirements of the state student incentive grant program as specified in 34 Code of Federal Regulations, Part 692. ~~((A school which does not qualify as a "postsecondary institution" for state need grant purposes, but which meets the qualifications of the state student incentive grant program may participate in the latter program upon presentation of satisfactory evidence of the availability of local matching funds, and is also subject to compliance with WAC 250-20-001 through 250-20-091.))~~

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.

AMENDATORY SECTION (Amending Order 2/87, Resolution No. 87-59, filed 7/29/87)

WAC 250-20-011 STUDENT ELIGIBILITY. ~~((†))~~ For a student to be eligible for a state need grant he or she must:

~~((†))~~ (1) Be a "needy student" or "disadvantaged student" as determined by the higher education coordinating board in accordance with RCW 28B.10.802.

~~((†))~~ (2) Be a resident of the state of Washington.

~~((†))~~ (3) Be enrolled or accepted for enrollment as ~~((a full-time))~~ an undergraduate student at a participating postsecondary institution or be a student under an established program designed to qualify him or her for enrollment as a full-time student at a postsecondary institution in the state of Washington.

~~((†))~~ (a) For purposes of need grant eligibility, the student must be enrolled, at time of disbursement, in a course load of at least ~~((twelve))~~ six credits per quarter or semester or, in the case of institutions which do not use credit hours, ~~((24))~~ twelve clock hours per week ~~((unless it is documented that "full time" for the particular course the student is pursuing is less than twelve credits per quarter or semester or 24 clock hours per week. Should a student be in such a course of study, he or she must be enrolled for the number of credit or clock hours accepted as full-time for that course of study.))~~

(b) A ~~((grant recipient))~~ student enrolled less than ~~((full-time))~~ half time may not receive this grant for the term in question, but is eligible for reinstatement or re-application for a grant upon return to ~~((full-time))~~ at least a half-time status. ~~((If, on the written recommendation of a counselor or a professor, and in accordance with agreement by the financial aid officer, the student enrolls in a course load less than full-time, the student will be allowed to retain his or her grant for that term.))~~ Correspondence courses may not ~~((be counted in the calculation of a full-time load))~~ comprise more than one-half of the student's minimum credit load for which aid is being considered.

~~((ii))~~ In addition to enrolling full-time, the student is also expected to satisfactorily complete twelve credit hours per quarter or semester or, in the case of institutions which do not use credit hours, 24 clock hours per week or the appropriate number of hours as documented.

~~Each institution must submit to the higher education coordinating board for approval its policy for awarding financial aid to students who do not complete the required number of credit or clock hours. The financial aid office must have on record in each student's file justification for reawarding a need grant to any student who received a grant the previous academic term and did not complete a full-time course load during that term.~~

~~((iii))~~ If the board is notified in writing that a need grant recipient will not attend the institution for a term during the academic year of the grant award, but plans to return that same academic year, a portion of the full year's grant may be awarded for those terms the student attends full-time.

~~((d))~~ (4) The state need grant recipient is expected to maintain satisfactory progress as defined in WAC 250-20-021(19).

(5) Not be pursuing a degree in theology.

~~((f))~~ (6) Not have received a state need grant for more than ~~((eight))~~ the equivalent of ten full-time semesters or ((twelve)) fifteen quarters or equivalent ((or a)) combination of these two. Upon receipt of a bachelor's degree, a student is no longer eligible. ~~((A fifth-year student in a program requiring five years for a bachelor's degree may receive a state need grant if he or she has not received a state need grant for the maximum number of quarters or semesters.~~

~~((f))~~ (7) Have made a bona fide application for a Pell grant.

~~((g))~~ (8) Certify that he or she does not owe a refund on a state need grant, a Pell grant or a supplemental educational opportunity grant, and is not in default on a loan made, insured, or guaranteed under the ~~((Carl Perkins))~~ National Direct Student (Perkins) Loan or Guaranteed Student, and Income-Contingent Loan programs.

~~((2) An otherwise eligible student may not be awarded a state need grant if receipt of the need grant will result in a reduction of basic maintenance allowances provided by another state agency.)~~

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.

AMENDATORY SECTION Amending Order 2/87, Resolution No. 87-59, filed 7/29/87)

WAC 250-20-015 AGREEMENT TO PARTICIPATE. In order to participate in the program a postsecondary institution must annually file an "agreement to participate" supplying the following information as appropriate: Name and address of school (including central office and all campus sites), name and address of owner(s), or if a corporation the name and addresses of stockholders holding more than twenty-five percent of the stock and percentage of stock held, the date on which the school officially began instruction if in the last five years, type and date of last accreditation, enrollment information (unless reported to the state of Washington or in the ~~((higher education general information survey))~~ integrated postsecondary education data system) and such other information as may be required to assure proper administration of the program. Along with the "agreement," all institutions must submit, for approval, a copy of their refund/repayment policy, student budgets, gift equity packaging policy and their satisfactory progress policy for state need grant recipients. In addition the "agreement to participate" will also indicate the institution's agreement to abide by all program rules, regulations, and guidelines, to maintain and provide all pertinent information, records, and reports requested by the board, and to notify the board within thirty days of any change (other than student enrollment) to information reported on the agreement form.

AMENDATORY SECTION (Amending Order 2/88, Resolution No. 88-11, filed 4/21/88)

WAC 250-20-021 PROGRAM DEFINITIONS.

(1) The term "needy student" shall mean a post-high

school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a post-high school student who by reason of adverse cultural, educational, environmental, experiential or familial circumstance is unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Association of Independent Colleges and Schools, the Cosmetology Accrediting Commission, or the National Association of Trade and Technical Schools, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

(a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(b) Is a veteran of the U.S. Armed Forces; or,

(c) Is an orphan or ward of the court; or,

(d) Has legal dependents other than a spouse; or,

(e) Is a married student or a graduate/professional student and will not be claimed by parents as a U.S. income tax exemption in ~~((1988))~~ the aid year; or,

(f) Was not claimed by parents as a U.S. income tax exemption in either ~~((1986 or 1987))~~ of the two calendar years prior to the academic year for which aid is being considered and had a total income and benefits for those two years ((equal to or greater than \$4,000)) sufficient to support his or herself; or,

(g) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "~~(Budgetary cost)~~ Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is a standard average cost per sector, developed by the board, to determine the eligible students' exact award. The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust (~~(budgets which will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses and any other factors deemed necessary for consideration)~~) the costs-of-attendance. The adopted budgets will be published concurrent with annual guidelines for program administration.

~~((9) "Total")~~ (10) "State need grant family contribution" for ~~((dependent))~~ students with dependents shall mean the sum of the assumed parents' contribution, contribution from student assets, and ~~((additional student resources))~~ all income including student's earnings. For ~~((Independent))~~ students without dependents, the state need grant ~~((total))~~ family contribution~~(())~~ shall mean the sum of contributions from all the student's ~~(and spouse's)~~ assets and ~~((additional student resources))~~ income, excluding student earnings.

~~((+0))~~ (11) "Parents' contribution" shall mean the contribution toward college expenses expected from the student's parent(s) as related to the total financial strength of the parents.

~~((11))~~ "Student assets" are comprised of those funds other than the student's expected summer savings and additional student resources as defined in WAC 250-20-021~~(13)~~ to meet his or her educational expenses which were generated primarily through the student's own efforts. Examples of student assets are money in a savings account or in a trust fund.

(12) "Additional student resources" consist of those funds made available to the student primarily because of his or her student status such as G.I. Bill or veterans benefits. They also include financial support such as public assistance benefits, vocational rehabilitation funds, CETA funds, spouses' academic year income, those portions of agency funds designated for expenses other than tuition and fees, etc.))

(12) Funds administered by the institution such as Pell grants, BIA grants, those portions of agency funds designated for tuition and fees, ~~((and student employment are to be used as matching funds and as such are not included as "additional student resources."))~~ as well as funds available to the student because of his or her student status are to be used in calculating the student's

overall need, but are not counted as part of the state need grant family contribution.

(13) "Maximum base grant" is a percentage of the state need grant costs-of-attendance. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

(15) "State need ~~((index))~~ grant award" is the difference between the ~~((appropriate ranking factor as identified in the following table))~~ maximum base grant and the student's total state need grant family contribution~~((: Ranking factors: Students living with parents = 1970; single students living away from parents = 2770; married couple, one student = 4065; single parent with one child = 6750; married couple, both students = 5540. An additional 1000 may be added for the first dependent and 800 added for each subsequent dependent))~~, plus a dependent care allowance, if applicable.

~~((14))~~ (16) "Academic year" is that ~~((nine-month))~~ period of time ~~((from September to June))~~ between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

~~((15))~~ (17) "Clock hours" means a period of time which is the equivalent of either:

- (a) A 50 to 60 minute class, lecture, or recitation, or
- (b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of credits for each term in which the grant was received. Each school's policy for measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of credits for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined

as completion of at least one-half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

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.

AMENDATORY SECTION (Amending Order 2/88, Resolution No. 88-11, filed 4/21/88)

WAC 250-20-031 APPLICATION PROCEDURE. (1) Application for a state grant must be made each year.

(2) All applications will be ranked anew each year.

(3) Application for a state need grant is accomplished through a student's application for admission to, and financial aid from, the institution of his or her choice(~~;~~ and nomination to the board by that institution).

(4) Financial data must be generated in accordance with the method set forth by the higher education coordinating board to assure that information will be consistent on a state-wide basis.

The board shall each year develop criteria which shall be used to determine eligible need analysis processors in a multiple processor system. Further, the board shall each year specify the student data elements essential for determining state need grant eligibility and shall authorize the forms and processes for collecting and analyzing such data.

(5) (~~Student nominations will be transmitted by participating institutions to the board on forms designed and/or utilized and distributed by the board.~~)

(6) A) The burden of proof of a grant recipient's eligibility is with the institution. At a minimum:

(a) The institution must be able, on request of the board, to reconstruct the calculations and rationale for the student's grant eligibility and award amounts.

(b) The financial aid form or comparable financial status documents, (~~and~~) with the resulting financial need analysis must be on record in the financial aid office(~~s~~) for all (~~nominations submitted to the board~~) grant recipients.

(c) The institution must also have on record justification for reawarding a need grant to any student who failed to make satisfactory progress.

(~~(7)~~) (6) The board shall establish annual (~~application deadlines~~) criteria by which the eligible student is to be identified, ranked, and awarded. That criteria shall include the state need grant cost-of-attendance for each sector, the maximum award, and the maximum state need grant family contribution.

(~~(8)~~) Unless institutions are notified otherwise by the board, nominations on all eligible state need grant recipients should be submitted throughout the academic year in progress.

(9) Grants made subsequent to the fall term awarding cycle will be funded from moneys made available from unexpended grant funds.

(~~(10)~~) (7) The institution shall examine the student's aid application to determine overall need and specific state need grant eligibility and the appropriate award, using the board-approved criteria.

(8) The board will make available to all participating institutions, a list of all students who owe state need grant repayments or have otherwise exhausted their state need grant eligibility. It is the institution's responsibility to ensure that no ineligible student receives a state need grant.

(9) The financial aid officer at each institution will be required to sign a statement attesting to the fact that all eligible financial aid applicants within state need grant parameters will be (~~nominated~~) identified and served to the extent funds are available and that financial information will be determined in strict adherence to program guidelines.

(10) No group of students, such as single parents or part-time students, may be advantaged or disadvantaged in its access to the state need grant by any institutional awarding policy.

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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 250-20-037 RESERVE OF FUNDS. The board shall annually reserve funds for the body of students at each institution. The percentage of state need grant funds to be reserved equals the proportion of grant dollars needed to fund the eligible students who are enrolled, as reported on the unit record report, at each school compared to the dollars needed to fund all state need grant eligible students enrolled in all participating schools.

AMENDATORY SECTION (Amending Order 2/87, Resolution No. 87-59, filed 7/29/87)

WAC 250-20-041 AWARD PROCEDURE. (1) (~~The board shall annually determine recipients of Washington state need grants from among Washington residents who have applied for a state need grant by ranking them according to their state need indexes.~~) The institution will offer grants to eligible students from funds reserved by the board. It is the institution's responsibility to ensure that the reserve is not over expended within each academic year.

(2) (~~Grant receipt shall be determined by the inability of the student and family, if appropriate, to contribute to the postsecondary educational costs of the applicant as demonstrated by the state need index of the student.~~)

~~(3) Maximum and minimum grant amounts will be established by the board each year.))~~ Each eligible student receiving a grant must receive the maximum grant award for which he or she is eligible.

~~(3) The maximum state need grant award should not exceed the student's:~~

~~(a) Overall need;~~

~~(b) The maximum base grant minus state need grant family contribution, plus a dependent care allowance if eligible; or~~

~~(c) Gift equity packaging policy as determined by the institution.~~

~~(4) Eligible Students ((may)) shall receive ((the)) a prorated portion of their state need grant for any academic period in which they are enrolled ((full-time)) at least half-time, as long as funds are available. Students enrolled at a three-quarter time rate, at the time of disbursement, will receive seventy-five percent of their full-time base grant. Half-time students will receive fifty percent of their full-time base grant, at disbursement. Students eligible for a dependent care allowance, who are enrolled less than full-time will receive fifty percent of the full-time allowance. Depending on the availability of funds, students may receive a need grant for summer session attendance.~~

~~(5) ((Upon determination of grant recipients, the board will notify the institution of the applicants who will receive a state need grant and the amounts of the grants.~~

~~(6)) The institution will be expected, insofar as possible, to match the state need grant with other funds sufficient to meet the student's need. Matching moneys may consist of student financial aid funds and/or student self-help.~~

~~((7)) (6) All financial resources available to a state need grant recipient, when combined, may not exceed the amount computed as necessary for the student to attend a postsecondary institution. The student will not be considered overawarded if((-1)) He or she receives additional funds after the institution awards aid, and the total resources exceed his or her financial need by \$200 or less by the end of the academic year((-or (2) the student earns more money from employment than the institution anticipated when it awarded the state need grant and the excess is treated in accordance with the method specified in the state need grant operational guidelines)).~~

~~((8)) (7) The institution will notify the student of receipt of the state need grant.~~

~~((9) Grant receipt for those students nominated after the initial closing date will be determined in the same manner as described in WAC 250-20-041 (1) and (2) above.))~~

~~(8) Any student who has received at least one disbursement and chooses to transfer to another participating institution within the same academic year, may apply to the board for funds to continue receipt of the grant at the receiving institution.~~

AMENDATORY SECTION (Amending Order 2/87, Resolution No. 87-59, filed 7/29/87)

WAC 250-20-051 GRANTS DISBURSEMENT.

(1) At intervals designated by the executive director, financial aid ((officers)) administrators from participating independent colleges and proprietary institutions will submit the appropriate warrant order form to the higher education coordinating board for each state need grant recipient certifying ((full-time)) enrollment and grant eligibility.

~~((2)) (a) Upon receipt of the warrant order forms, the higher education coordinating board will forward warrants to the appropriate institution for each recipient.~~

~~((3)) (b) The student must acknowledge receipt for the state need grant each term agreeing to the conditions of award.~~

~~((4)) (c) All signed receipts for state need grants are to be returned to the board, along with all unclaimed warrants on or before the date specified by the board each term.~~

~~((5) Should a student recipient leave school by reason of failure or withdrawal at the end of the grading period, the unused portion of the grant will remain with the state.~~

~~((6)) (d) A student-by-student reconciliation must be completed by the institution at the end of each term.~~

~~(2) All other institutions may request funds as necessary to make disbursements to students.~~

~~(a) Progress reports must be filed with the board at the end of each term.~~

~~(b) A student-by-student reconciliation must be filed with the board at the end of each academic year.~~

~~(3) No institution may disburse nor claim more funds than that amount reserved by the board for the body of students at each institution.~~

~~(4) Should a student recipient withdraw from classes during the term in which he or she ((was awarded)) received a state need grant, he or she shall be required to repay the appropriate amount ((to the board)) according to the institution's approved repayment policy.~~

~~((a) Each institution must submit for board approval its policies and procedures for calculating the amount of state need grant funds to be returned to the board by students who withdraw from classes after having been awarded state need grants~~

~~(b) The amount of state need grant funds to be returned to the board shall be determined by the institution in accordance with its board-approved policies and procedures.~~

~~(c)) The institution shall advise the students and the board of amounts to be repaid.~~

~~(5) The board reserves the right, if funds are available, to pay to public institutions an administrative expense allowance for the shared responsibility of administering the program on the board's behalf. The allowance shall be calculated annually as a percentage of the need grant funds disbursed by the institution.~~

~~((d) The board will advise the institution when the student has repaid the amount due.))~~

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.

AMENDATORY SECTION (Amending Order 2/87, Resolution No. 87-59, filed 7/29/87)

WAC 250-20-071 APPEAL PROCESS. ((+)) Should a student question his or her state need grant eligibility or ((~~nomination~~)) award, the following procedures should be followed:

((~~a~~)) (1) The student should direct questions and appeals to the financial aid officer at the institution he or she attends.

((~~b~~)) (2) If the student is not satisfied with the response of the ((~~institutional financial aid officer~~)) institution, he or she should assemble all relevant academic, financial, and personal data and forward it to the higher education coordinating board for review.

((~~c~~)) (3) The board's division of student financial aid will review all material submitted and, if possible, will resolve the problem, advising the student of his or her eligibility and generating an award or, if the student is not eligible for a state need grant, advising the student of the reason for denial.

((~~d~~)) (4) The higher education coordinating board will convene its review committee to consider the situation of any student whose state need grant eligibility is questionable, or upon the request of the student. If the committee finds the student eligible for state need grant receipt, it will advise the financial aid ((~~officer~~)) administrator at the institution the student attends and will recommend to the ((~~board~~)) school that the student's state need grant ((~~nomination~~)) award be processed immediately. If the review committee finds the student not eligible for state need grant receipt, it will advise the student of the reason for denial.

((~~e~~)) (5) If the student is not satisfied with the resolve by the review committee, the student's final recourse is submission of his or her case to the higher education coordinating board.

WSR 90-04-068

PROPOSED RULES

HIGHER EDUCATION COORDINATING BOARD

[Filed February 5, 1990, 2:40 p.m.]

Original Notice.

Title of Rule: WAC 250-69-010 through 250-69-110.

Purpose: Adoption of rules implemented under RCW 28B.80.180, to establish the community scholarship foundation demonstration project.

Statutory Authority for Adoption: RCW 28B.80.180.

Statute Being Implemented: RCW 28B.80.180.

Summary: A program to provide \$2000 matching awards to community scholarship foundations.

Reasons Supporting Proposal: Implementation under RCW 28B.80.180.

Name of Agency Personnel Responsible for Drafting: Betty Fallihee, (206) 753-4592, and Barbara Theiss, (206) 586-8112, 917 Lakeridge Way, Olympia, WA 98504; Implementation: Barbara Theiss, Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, WA 98504, (206) 586-8112; and Enforcement: Same as above.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Title of Rule, Purpose and Summary.

Proposal does not change existing rules.

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

Hearing Location: Conference Room, Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, WA 98504, on March 15, 1990, at 9:30 a.m.

Submit Written Comments to: Barbara Theiss, Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, WA 98504, by March 15, 1990.

Date of Intended Adoption: March 21, 1990.

February 5, 1990

Ann Daley

Executive Director

Chapter 250-69 WAC
COMMUNITY SCHOLARSHIP FOUNDATION
DEMONSTRATION PROJECT

WAC

250-69-010	Purpose.
250-69-020	Authority to administer.
250-69-030	Program definitions.
250-69-040	Eligibility criteria.
250-69-050	Application procedure.
250-69-060	Selection criteria.
250-69-070	Award amount.
250-69-080	Disbursement of matching grants.
250-69-090	Reporting requirements.
250-69-100	Appeals.
250-69-110	Duration of demonstration project.

NEW SECTION

WAC 250-69-010 **PURPOSE.** The purpose of the community scholarship foundation demonstration project is to provide one-time two thousand dollar state-funded matching awards as an incentive to Washington community scholarship foundations to raise money and award scholarships to community residents who wish to pursue higher education. The community scholarship foundation program encourages communities to generate local dollars to complement efforts funded by the state.

NEW SECTION

WAC 250-69-020 **AUTHORITY TO ADMINISTER.** The higher education coordinating board is charged with the administration of demonstration projects designed to prepare and assist persons to obtain a higher education in this state (as defined by RCW 28B.80.180).

NEW SECTION

WAC 250-69-030 **PROGRAM DEFINITIONS.** (1) "Matching award" means the state appropriated funding for one-time two thousand dollar grants available to selected eligible community scholarship foundations that raise at least two thousand dollars for student scholarships.

(2) "Community scholarship foundation" means a nonprofit, tax exempt 501 (c)(3) Internal Revenue Service code, community-based organization, formed for the purpose of providing higher education scholarships for local residents.

(3) "Higher education scholarship program" means a program which would provide awards to community residents to attend institutions of higher education in Washington state.

(4) "Institutions of higher education" or "institution" means a degree-granting college or university in the state of Washington which is a member institution of an accrediting association recognized by rule of the board for the purposes of this chapter, or a Washington public vocational-technical institute.

(5) "Board" means the higher education coordinating board. When a duty or responsibility of the board is referenced in this chapter, the authority needed to discharge that responsibility lies with the executive director or his or her designee.

(6) "Washington resident" means a resident as defined in RCW 28B.15.011 through 28B.15.013 and in board adopted rules and regulations pertaining to the determination of residency.

NEW SECTION

WAC 250-69-040 ELIGIBILITY CRITERIA. To be eligible to apply for a matching award an organization must:

(1) Establish a higher education scholarship program and, after June 30, 1989, raise at least two thousand dollars for student scholarships;

(2) Obtain and maintain tax exempt status under section 501 (c)(3) of the Internal Revenue code for the fund supporting the scholarship program;

(3) Award scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin, or the presence of any mental, sensory, or physical handicap; and

(4) Have not previously received a matching award from this program.

NEW SECTION

WAC 250-69-050 APPLICATION PROCEDURE. Organizations which meet eligibility criteria will be considered for selection after they complete an application for the matching award on a form provided by the higher education coordinating board.

NEW SECTION

WAC 250-69-060 SELECTION CRITERIA. Organizations which meet the eligibility criteria in Section 040 above will be selected for a matching award, during the demonstration period, in the following order:

(1) Organizations which after June 30, 1989, begin a higher education scholarship program, establish a nonprofit, tax exempt 501 (c)(3) Internal Revenue Service code scholarship foundation, and raise two thousand dollars to be used for student scholarships.

(2) Organizations which have had prior scholarship programs but reorganize after June 30, 1989, to meet the eligibility criteria of the demonstration project and raise two thousand dollars to be used for student scholarships.

(3) Organizations which had scholarship programs and met the eligibility criteria of the program prior to June 30, 1989, and raise an additional two thousand dollars for student scholarships after June 30, 1989.

Among applying organizations, those which (a) solicit broad-based community support in their fund-raising activities and are representative of the community in their structure; (b) conduct fund-raising activities with volunteers and not with paid or contracted fund raisers; and (c) have a primary focus of awarding scholarships to Washington residents attending Washington institutions of higher education shall be given preference when the number of organizations applying exceeds available matching award funds.

NEW SECTION

WAC 250-69-070 AWARD AMOUNT. The community scholarship foundation matching award is a one-time two thousand dollar grant based on available funding.

NEW SECTION

WAC 250-69-080 DISBURSEMENT OF MATCHING GRANTS. The higher education coordinating board will disburse matching awards of two thousand dollars to the selected organizations.

NEW SECTION

WAC 2500-69-090 REPORTING REQUIREMENTS. Organizations will submit, on a form provided by the board, reports of scholarships awarded from their two thousand dollar contribution and the two thousand dollar matching award. Reporting information will include, but is not limited to, recipients names and addresses, scholarship amounts and the higher education institution the recipient plans to attend.

Reviser's note: The above new section was filed by the agency as WAC 2500-69-090. This section is placed among sections forming new chapter 250-69 WAC, and therefore should be numbered WAC 250-69-090. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

NEW SECTION

WAC 250-69-100 APPEALS. The community scholarship foundations may request in writing a review of any adverse decision affecting them by requesting such review within twenty days of adverse decision, addressed to the executive director of the higher education coordinating board. The review shall be handled by brief adjudication hearing procedures as outlined in the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 250-69-110 DURATION OF DEMONSTRATION PROJECT. The demonstration project period shall end June 30, 1991.

WSR 90-04-069

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed February 5, 1990, 4:07 p.m.]

I wish to withdraw the following WACs: WAC 275-56-095, WSR 90-04-019, filed on January 29, 1990, and previous continuance and notice WSR numbers for this section; and WAC 388-14-270, WSR 90-04-021, filed on January 29, 1990, and previous continuance and notice WSR numbers for this section.

Leslie F. James, Director
Administrative Services

WSR 90-04-070

PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)

[Order 2991—Filed February 5, 1990, 4:09 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations

from the model rules. 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 RCW 43.20A.205.
388-17-510		Amend		Same	Same

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-022 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the removal of the mailing address of the place to file documents. The mailing and physical addresses for filing are stated in WAC 388-08-410 which section applies to these adjudicative proceedings.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990
 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 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 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 90-04-071
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)

[Order 3003—Filed February 5, 1990, 4:10 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations from the model rules. 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 RCW 18.51.065 and 43.20A.205.
388-76-095	New	Amend		74.08.044	Same
388-96-904		Amend		74.09.120	Required by RCW 74.46.780 as amended by section 159, chapter 175, Laws of 1989.

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-015 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the removal of the mailing address of the place to file documents. The mailing and physical addresses are stated in WAC 388-08-410 which section applies to these adjudicative proceedings. The period to file an application for an adjudicative proceeding in WAC 248-14-070 has been reduced to twenty days to comport with RCW 18.51.065.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990
 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)) when this person ((be)) is different from the owner((-)). The nursing home license application shall 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((-); and

(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.205. 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 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; 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.205, 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.

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.

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.205. 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; 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.205, 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))~~ (i) File a written ((request)) application for ((a hearing)) an adjudicative proceeding with the ((department's)) office of ((Hearings, 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;)) appeals;

~~((e))~~ (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;));

~~((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 90-04-072
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
(Public Assistance)**

[Order 2995—Filed February 5, 1990, 4:12 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of

Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations

from the model rules. 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 RCW 43.20A.205.
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 RCW 43.20A.205.

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-016 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the removal of the mailing address of the place to file documents. The mailing and physical addresses are stated in WAC 388-08-410 which section applies to these adjudicative proceedings.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990

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.205. 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; 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.205, 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 license is governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting 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; 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.205, 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 90-04-073
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2993—Filed February 5, 1990, 4:13 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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.	1. Notice of application procedures are required by RCW 43.20A.205. 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.

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-017 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the removal of the mailing address of the place to file documents. The mailing and physical addresses for filing are stated in WAC 388-08-410 which section applies to these adjudicative proceedings.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990
 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)).

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations from the model rules. Variations from the model rules are described below:

(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.205. 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; 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 90-04-074
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2997—Filed February 5, 1990, 4:15 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations from the model rules. Variations from the model rules are described below:

Reasons for Proposal Session and any variation from Model Rules
1. Subsections (1) through (4): Encouraged by RCW 34.05.060
2. Subsection (5): Required by RCW 43.20A.205.
Required by RCW 71A.10.050 as amended by section 138, chapter 175, Laws of 1989.
1. Subsections (1) through (3): Encouraged by RCW 34.05.060.
2. Subsection (4): Required by RCW 43.20A.205.
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.
The contents of the application are specified and, to achieve greater uniformity among programs, are modeled after RCW 42.20A.205.

Washington Administrative Code (WAC)	New	Amend	Repeal	Statutory Authority (RCW or Law Chapter)
275-26-022		Amend		71.12.030
275-27-500		Amend		Same
275-36-310		Amend		Same
275-38-960		Amend		Same
275-20-080		Amend		43.20B.420

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-018 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the removal of the mailing address of the place to file documents. The mailing and physical addresses for filing are

stated in WAC 388-08-410 which section applies to the adjudicative proceedings.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less

than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990
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 determination 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; 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.205, 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 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.

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; 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.205, 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 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; 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.

AMENDATORY SECTION (Amending Order 2629, filed 6/1/88)WAC 275-38-960 ADMINISTRATIVE REVIEW ((PROCESS)) —ADJUDICATIVE PROCEEDING.

(1) ~~((Within thirty days after))~~ A contractor ~~((is notified of an action or determination made by the department pursuant to a rule, contract provision, or policy statement, the contractor wishes to challenge, the contractor shall request in writing the director or his or her designee review such determination. The request shall be forwarded to the office of contracts management if the challenge pertains))~~ has the right to an administrative review to challenge an audit finding~~((s))~~ (adjusting journal entries or AJEs) or other audit ~~((matters))~~ determination, or ~~((the director, division of developmental disabilities, for other matters (such as))~~ a rate~~((s))~~, desk review~~((s))~~, ~~((and))~~ or other settlement~~((s))~~ determination. ~~((The request shall be signed by))~~ A contractor challenging an audit or settlement determination shall within twenty-eight days of receipt of the determination:

(i) File a written request for an administrative review with the:

(A) Office of vendor services when the challenge pertains to an audit finding (adjusting journal entries or AJEs) or other audit determination; or

(B) Director, division of developmental disabilities, for a rate, desk review, or other settlement determination.

(ii) Sign the ~~((contractor or the licensed administrator of the facility, shall))~~ request or have the facility administrator sign the request;

(iii) Identify the challenged determination and the date thereof~~((, and shall))~~;

(iv) 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~~((:))~~;

(v) 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 ~~((will))~~ shall:

(a) Contact the contractor to schedule a conference for the earliest mutually convenient time~~((: The conference shall be scheduled))~~; and

(b) 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))~~ is reached at the conference, ~~((a written decision by))~~ the ~~((appropriate director or his or her designee will be furnished))~~ department 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))~~ shall have the right to an adjudicative proceeding to contest an administrative review decision.

(a) A contractor contesting an administrative review 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: 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))~~ appeals;

(ii) Sign the application or have the administrator of the facility sign the application;

(iii) State as specifically as practicable the issues and regulations involved;

(iv) State the grounds for contesting the administrative review decision; and

(v) Attach to the application a copy of the administrative review decision being contested and copies of any documentation the contractor intends to rely on to support the contractor's position.

(b) The proceeding shall be governed by the Administrative Procedure 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.

**WSR 90-04-075
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)**

[Order 3001—Filed February 5, 1990, 4:16 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules

governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations from the model rules. 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
275-16-055		Amend		43.20B.335	The contents of the application are specified and, to greater achieve uniformity among programs, are modeled after RCW 43.20A.205.

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-019 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the withdrawal of WAC 275-56-095 and in WAC 275-16-055 the removal of the mailing address of the place to file documents. The mailing and physical addresses for filing are stated in WAC 388-08-410 which section applies to these adjudicative proceedings.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990
Leslie F. James, Director
Administrative Services

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)) under WAC 275-16-030, the department informs the financially responsible person ((will be informed)) of the current charges and ((that those)) the department periodically recomputes the charges ((are periodically recomputed by the department in accordance with RCW 71.02.410)). When the NFR is for adjusted charges, ((those)) the department expresses the charges ((will be expressed)) in a daily or monthly rate. The department sets aside 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; 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 90-04-076
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2999—Filed February 5, 1990, 4:17 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations from the model rules. Variations from the model rules are described below:

CHAPTERS 10-08 AND 388-08 WAC

388-08 section; new, amend, <u>repeal</u>	10-08 <u>section</u>	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 heard and decided anew (<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 pro se 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 fills 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
- The department's rule covers representation the topic in clear everyday English to avoid any misunderstanding that might arise from the way APA section 428 is written.
- 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	<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 twenty-one 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. The period can be waived by a presiding officer.</p>
446 New	120	<p>Subpoenas</p> <p>The department rule follows the Model Rule.</p>
449 New	170;180	<p>Teleconference Hearing</p>
449(1), (2)	180	<p>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".</p>
none	170	<p>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.</p>
452 New	140;160(1)	<p>Rules of Evidence</p> <p>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</p>

"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 twenty-one 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 twenty 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) 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) with these differences. First, 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). Second, the reviewing officer can extend the period. Third, a late filed response may be considered.

- 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 order.
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	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
sections applicable
00401,
006,
00601, 010, 405,
406, 409, 416,
435, 540, 550,
560, 580, and
590 are each
repealed.

These sections are repealed because they conflict with the APA and/or are covered by it and other department adjudicative 00201, procedure rules and/or create nonuniform procedures.

CHAPTERS 10-08 AND 388-320 WAC

<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 The department rule is the same as the Model Rule.
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.

Statutory Authority for Adoption: RCW 34.05.220 (1)(a).

Pursuant to notice filed as WSR 90-04-020 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-08-410 (3)-(5), proposed subsection (3) has been made into three subsections. In permanent subsection (3) the presiding officer is specified as an administrative law or a review judge. This change was urged by Barbara Baker, Puget Sound Legal Assistance Foundation, commenting on behalf of the Welfare Rights Organizing Coalition. Permanent subsection (4) states who the reviewing officer is. Permanent subsection (5) is the same as the last three sentences of proposed subsection (3); WAC 388-08-425 (1)(a), "Conduct the hearing de novo" was changed to the plainer English, "Hear and decide the issue anew (de novo)"; WAC 388-08-440(3), the proposed rule required a request to vacate a dismissal to be filed within fourteen days of the dismissal order. The period to file has been lengthened to twenty-one days in response to Ms. Baker's comments on the period to file a petition for review of an initial order (WAC 388-08-464). A good cause provision to waive the period when a request is filed late was added which parallels the waiver provision for a late filed petition for review of an initial order in WAC 388-08-464 (4)(c). An explicit reference to good cause meaning one of the grounds enumerated in Court Rule 60 was added; WAC 388-08-464 (1)(a) and (4), the proposal had [a] fourteen day period to file a petition for review of an initial order. Ms. Baker commented that fourteen days from mailing of the initial order to the Office of Appeals' receipt of the petition gave too little time to decide whether to file and, if so, to prepare and file a petition. In response the period has been lengthened to twenty-one days. The agency is concerned that the longer petition period may lead to untimely review decisions in programs with limits set as a condition of federal funding. The agency intends to monitor the effect and if late decisions result the period to file a petition or some other period will be reduced; WAC 388-08-464 (4)(c)(ii) and (7)(d), an explicit reference to good cause meaning one of the grounds enumerated in Court Rule 60 was added; WAC 388-08-464 (7)(d), this new subsection was added to permit consideration of a late filed response to a petition for review; WAC 388-08-470, a new sentence was added to permit a reviewing officer to extend the period to file a petition for reconsideration when the request is made during the ten day filing period and shows good cause for an extension; WAC 388-08-515, the first sentence was changed to be consistent with the change in proposed Model Rule 045 and the adopted version; and WAC 388-08-555, the fifteen day time period in WAC 388-08-555 (1)(a) was changed to fourteen. Editorial changes were made throughout the rule.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less

than thirty days from their filing. The reason for the shorter period is so Department of Social and Health Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990

Leslie F. James, Director
Administrative Services

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.~~

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 (DSHS). The definition of the word "begun" is receipt of the application for an adjudication proceeding at the DSHS'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) Presiding officer. The presiding officer shall be either an administrative law judge (ALJ) from the office of administrative hearings or a review judge from the DSHS office of appeals. References to ALJ in this

chapter apply to a review judge when a review judge is the presiding officer.

(4) Reviewing officer. The reviewing officer shall be the secretary or a review judge from the DSHS office of appeals.

(5) Physical and mailing addresses. ALJ administrative and field office addresses are listed under WAC 10-04-020. 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) Hear and decide the issue anew (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;

(ii) Referring an appellant to legal resources in the community;

(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. The parties shall have the right to file a written request to vacate an order of dismissal for reason of default or withdrawal.

(2) Contents. The request shall state the grounds relied upon.

(3) Time limits.

(a) The period to file a request shall be twenty-one days from the date the party serves the order of dismissal.

(b) The administrative law judge (ALJ) shall waive the twenty-one day limit for filing a request when a person:

(i) Files a request within thirty days of the date the order becomes final; and

(ii) Demonstrates good cause for failure to file a timely request. Good cause means one of the grounds enumerated in Court Rule 60 and includes:

(A) A person's mistake, inadvertence, or excusable neglect preventing the person from timely filing a request; or

(B) An unavoidable casualty or misfortune preventing the person from timely filing a request.

(4) Filing. The person shall file the request at the office of appeals.

(5) Grounds to vacate an order of dismissal. When, in the reasoned opinion of the 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 twenty-one 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 twenty-one days from the date the initial decision was served.

(b) A review judge shall extend the twenty-one-day period to file a petition for review upon request of a party when:

(i) The request is made during the twenty-one-day period; and

(ii) Good cause for the extension is shown.

(c) The review judge shall waive the twenty-one-day limit for filing a petition for review when a person:

(i) Files a petition for review within thirty days of the date the initial order becomes final; and

(ii) Demonstrates good cause for failure to file a timely petition. Good cause means one of the grounds enumerated in Court Rule 60 and includes:

(A) A petitioner's mistake, inadvertence, or excusable neglect preventing the petitioner from timely filing a petition; 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.

(d) A review judge may, in the review judge's discretion, accept a late filed response and consider the response when ruling on a petition for review.

(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. A review judge shall extend the period to file a petition upon request of a party made during the ten-day filing period when good cause for the extension is shown. 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. This section applies when the office of appeals or the administrative law judge is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding. All notices concerning the proceedings, 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 disclosure of a record 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 fourteen days before the hearing;

(b) The request shall identify the record sought;

(c) The request shall state the reasons why the appellant believes disclosure is necessary;

(d) The request shall identify the local community service office or the OSI field office where the appellant wishes to review the record;

(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 fourteen-day notice period.

(2) OSI action.

(a) Within ten days of receipt of a properly filed request, the OSI shall determine whether the record sought is within an exemption to disclosure.

(b) Any exempt record shall be:

(i) Sealed in an envelope clearly designated as an exempt or confidential record of the OSI;

(ii) Placed in the OSI file;

(c) The OSI shall then notify the appellant or representative, in writing, of the:

(i) OSI's action; and

(ii) Appellant's or representative's right to a disclosure hearing.

(iii) If any information is placed in a sealed envelope and excluded from disclosure, the notice shall state the specific exemption 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, at the community service office or OSI field office 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 designated as exempt or confidential.

(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 to determine whether, and to what extent, to allow the disclosure of an exempted record.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity to protect an exempt record or 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 non-testifying witnesses from the hearing.

(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 record inspection. In no event shall such order compel the release of an original record but, rather, where release is ordered, copies shall be provided. Copying a record shall be governed by WAC 388-320-140.

(f) Each party has the right to file a petition for review for initial order. 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 34.05.542(2), 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.

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.

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.

WSR 90-04-077
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3005—Filed February 5, 1990, 4:20 p.m., effective March 1, 1990]

Date of Adoption: February 5, 1990.

Washington Administrative Code (WAC)	<u>New</u>	<u>Amend</u>	<u>Repeal</u>	Statutory authority (RCW or Session Law Chapter)	Additional reasons for proposal and variations from Model Rules
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.
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 388-08-446). Thus, repeal of this rule broadens discovery rights in this program.
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 21 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.
388-14-260		Amend		Same	Same
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

Statutory Authority for Adoption: See above.

Pursuant to notice filed as WSR 90-04-021 on January 29, 1990.

Changes Other than Editing from Proposed to Adopted Version: Variations from the proposed rules are the withdrawal of WAC 388-14-270.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Emergency rules were filed on July 3 and October 31, 1989, and expire on February 28, 1990. These permanent rules become effective March 1, 1990. This is less than thirty days from their filing. The reason for the shorter period is so Department of Social and Health

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: RCW 34.05.220 (1)(a) permits an agency to adopt rules governing the procedures prescribed or authorized by the Administrative Procedure Act, chapter 34.05 RCW. If an agency does not, then the model rules govern. The model rules are inadequate to meet all Department of Social and Health Services' (DSHS) actions under the APA so the agency must have rules with some variations from the model rules. Variations from the model rules are described below:

Services has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

Effective Date of Rule: 12:01 a.m., March 1, 1990.

February 5, 1990
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2689, filed 8/30/88)

WAC 388-11-100 DUTY OF THE ADMINISTRATIVE LAW JUDGE. (1) In hearings held under this chapter to contest a notice and finding of financial

responsibility or a notice and finding of parental responsibility, the administrative law judge shall determine:

- (a) The responsible parent's obligation to provide support under RCW 74.20A.057;
- (b) The net monthly income of the responsible parent and any residential parent;
- (c) The responsible parent's share of the basic support obligation and any adjustments to that share, as warranted by his or her circumstances;
- (d) If requested by a party, the responsible parent's share of any special child-rearing expenses;
- (e) The responsible parent's obligation to provide medical support under WAC 388-11-215;
- (f) The responsible parent's accrued debt and order payments thereon; and
- (g) The responsible parent's total current and future support obligation as a sum certain and order payments thereon.

(2) The administrative law judge shall allow the office of support enforcement to orally amend the notice (~~and finding of financial responsibility~~) at the hearing to conform to the evidence. The administrative law judge may grant a continuance, when deemed necessary, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment.

(3) ~~((Except as provided for under WAC 388-11-185;))~~ The administrative law judge shall not require the office of support enforcement to produce or obtain information, documents, or witnesses to assist the responsible parent in proof of defenses to liability. However, this rule shall not apply to relevant, nonconfidential information or documents that the office of support enforcement has in its possession.

~~((4) The administrative law judge shall issue an initial decision and order within twenty days of the close of the hearing record.))~~

AMENDATORY SECTION (Amending Order 2689, filed 8/30/88)

WAC 388-11-180 PROCEDURAL REFERENCE. Hearings held under this chapter shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 74.20A.055 ~~((shall be subject to the provisions of)), and chapters ((10-08 and)) 388-08 and 388-11 WAC ((to the extent these provisions are relevant and consistent with the rules adopted under)).~~ If any provision of this chapter conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter governs.

REPEALER

The following sections of the Washington Administration Code are repealed:

- WAC 388-11-105 REVIEW OF INITIAL DECISION.
- WAC 388-11-185 DISCOVERY.

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.

AMENDATORY SECTION (Amending Order 1465, filed 12/14/79)

WAC 388-13-050 PETITION FOR HEARING AFTER TWENTY DAYS-STAY. (1) The person, firm, corporation, association, political subdivision or any officer or agent thereof served with a notice of support debt at any time within one year from the date of service of said notice may petition the secretary or the secretary's designee for a hearing, as provided for but not previously granted ~~((pursuant to))~~ under WAC 388-13-070, upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR 60. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the manner of a summons in a civil action on the district field office of the office of support enforcement. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on an appeal made ~~((pursuant to))~~ under chapter ((34-04)) 34.05 RCW.

(2) Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future, to which the department may have a claim, shall be held in trust pending the final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

(3) If a ~~((request))~~ petition for a hearing is ((received)) filed, the department shall ~~((notify))~~ serve the notice of hearing on the appellant, ((his)) the appellant's attorney, or other designated representative((; of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his or her representative)) by certified mail or other method showing proof of receipt.

(4) The department shall notify the appellant that it is ~~((his or her))~~ the appellant's responsibility to notify the department of ((his or her)) the appellant's mailing address at the time ((of)) the ((request for hearing)) petition is filed and also of any change of address after ((this request for hearing is submitted)) filing the petition. Mailing by certified mail, return receipt requested, to the last address provided by the appellant shall constitute service ~~((pursuant to))~~ under chapters 74.20A and ((34-04)) 34.05 RCW.

~~((The hearing shall be promptly scheduled within thirty days of the date of receipt of the request for hearing. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.))~~

AMENDATORY SECTION (Amending Order 1465, filed 12/14/79)

WAC 388-13-060 TIMELY ~~((REQUEST))~~ APPLICATION FOR HEARING. (1) Any debtor who objects to all or any part of a notice of support debt shall have the right, for not more than twenty days from the

date of service of the notice of support debt, to ~~((request))~~ file an application for an adjudicative proceeding, in writing, ~~((a hearing, which request shall be served upon))~~ at the district office of the office of support enforcement by certified mail or by personal service. ~~((A request for hearing, pursuant to))~~ An application under this section~~((;))~~ shall be construed to be a general denial of liability to the department.

(2) The execution of the notice of support debt shall be stayed pending the final ~~((decision on such hearing))~~ adjudicative order.

(3) If ~~((a request for hearing))~~ an application is ~~((received))~~ timely filed, the department shall ~~((notify))~~ serve the notice of hearing on the appellant~~((, his attorney,))~~ or ~~((other designated))~~ the appellant's representative~~((, of the date, time and place of the hearing, at least twenty days prior to the date thereof by written notice to the appellant or his or her representative))~~ by certified mail or another method showing proof of receipt.

(4) The department shall notify the appellant that it is ~~((his or her))~~ the appellant's responsibility to notify the department of ~~((his or her))~~ the appellant's mailing address at the time ~~((of))~~ the ~~((request for hearing))~~ application is filed and also of any change of address after ~~((this request for hearing is submitted))~~ filing the application. Mailing by certified mail, return receipt requested, to the last address provided by the appellant shall constitute service ~~((pursuant to))~~ under chapters 74.20A and ~~((34.04))~~ 34.05 RCW.

~~((The hearing shall be promptly scheduled within thirty days of the date of receipt of the request for hearing. If the time, date or place is inconvenient to either party, the hearing examiner may grant a new time, date or place as is reasonably convenient upon a showing of good cause.))~~

AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-13-070 HEARING—INITIAL DECISION(S). (1) If the ~~((hearing))~~ petition or application is granted, it shall be an ~~((administrative hearing))~~ adjudicative proceeding limited to the determination of the ownership of the moneys claimed in the notice of support debt and/or the reasonableness of a repayment agreement presented to a public assistance recipient for the purpose of recovering child support under RCW 74.20A.270 and WAC 388-14-200 (4) and (5). The right to the ~~((hearing))~~ proceeding is conditioned upon holding any funds not yet disbursed or expended or to be received in the future in trust pending the final adjudicative order ~~((in these proceedings))~~ or during any appeal to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

(2) ~~((The hearing shall be a contested case as provided for in chapter 34.04 RCW and shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department.))~~

(3) The hearing shall be promptly scheduled within thirty days from the date of receipt by the office of support enforcement of the answer/request for hearing by the department. The hearing shall be conducted by a

duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

(4)) The department shall have the burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent.

~~((5))~~ (3) ~~((After evidence has been presented at a hearing conducted by a hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The hearing examiner shall make his or her decision and enter his or her findings of fact based upon the evidence admitted at the hearing.))~~ The administrative law judge shall allow the office of support enforcement ~~((shall have the right))~~ to orally amend the notice of support debt~~((;))~~ at the ~~((time of))~~ hearing~~((;))~~ to conform to the evidence ~~((in which case))~~. The ~~((hearing examiner is empowered to))~~ administrative law judge may grant a continuance, when deemed necessary, to allow the debtor additional time to present rebutting evidence and/or argument as to the amendment.

~~((6))~~ (4) The ~~((hearing examiner))~~ administrative law judge shall ~~((file the original of the initial decision and order, signed by him or her, with the secretary or the secretary's designee and copies thereof shall be mailed by the hearing examiner to))~~ serve a copy of the administrative law judge's initial decision on the office of support enforcement and ~~((to))~~ the debtor or the debtor's representative by certified mail to the last address provided by each party or by another method showing proof of receipt.

~~((7))~~ To the extent they do not conflict with these rules or RCW 74.20A.270, the provisions of chapter 388-11 WAC and RCW 74.20A.055 shall apply to this process.)

AMENDATORY SECTION (Amending Order 1465, filed 12/14/79)

WAC 388-13-110 DEFAULT. ~~((+))~~ If the debtor fails to appear at the hearing, the ~~((hearing examiner))~~ administrative law judge shall, upon a showing of valid service, enter an initial decision and order declaring the amount of the support moneys, as claimed in the notice, to be assessed and determined and subject to collection action under chapter 74.20A RCW.

~~((2))~~ Within thirty days of entry of the decision and order in subsection (1) of this section, the debtor may petition the secretary or the secretary's designee to vacate the decision and order and remand the matter upon the showing of any of the grounds enumerated in RCW 4.72.010 or CR 60.)

AMENDATORY SECTION (Amending Order 1465, filed 12/14/79)

WAC 388-13-120 PROCEDURAL REFERENCE. ~~((+))~~ WAC 388-11-145, 388-11-150 and 388-11-180 and all procedural references in that last section shall apply to actions under this chapter.

~~(2) Any provisions of) Adjudicative proceedings held under chapter 388-13 WAC shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 74.20A.270, and chapters ((388-11 or 388-14)) 388-08 and 388-13 WAC ((not in)). If any provision of this chapter conflicts with ((these rules or section 17 or 18;)) or is inconsistent with chapter ((171, Laws of 1979 ex. sess. [RCW 74.20.320 and 74.20A.270])) 388-08 WAC, ((shall apply to actions under)) the provision in this chapter governs.~~

REPEALER

The following sections of the Washington Administration Code are repealed:

WAC 388-13-080 REVIEW OF INITIAL DECISION.

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.

AMENDATORY SECTION (Amending Order 2304, filed 11/13/85)

WAC 388-14-260 DISTRIBUTION—REFERALS FROM OTHER STATES. (1) When a child support enforcement agency in another state, operating a child support program under Title IV-D of the Social Security Act, submits a request for support enforcement services under RCW 74.20.040(3), the office of support enforcement shall initiate appropriate action to establish, enforce, and collect the support obligation. The request shall be signed by an authorized official of the state agency and shall contain appropriate information and be accompanied by appropriate documentation to support the action to establish, enforce, and/or collect the support obligation. The following is a list of some of the information/documentation that may be submitted with the request for support enforcement services:

(a) The responsible parent's name, address, Social Security number, date of birth, present or last known employer, earnings or ability to earn, employment history, property and resources, and physical description;

(b) The custodian's name, address, and Social Security number;

(c) The names, address, Social Security numbers, and dates of birth of the dependent children;

(d) A certification that the request is being submitted under Title IV-D of the Social Security Act and identification of the case as a public assistance or nonassistance case;

(e) A copy of any superior court order or administrative order establishing the support obligation and any order modifying the court or administrative order;

(f) A copy of any official record of support payments made by the responsible parent or, if no such record exists, an affidavit setting forth the amount of support due under the superior court or administrative order, the period during which support was due and payable, and the amounts and dates of support payments;

(g) If there is no superior court or administrative order for support, an affidavit setting forth the following:

(i) A statement of facts establishing or tending to establish the existence of a legally enforceable support obligation;

(ii) A statement of the dates and amounts of any public assistance payments or a statement reflecting the needs of the children for food, clothing, shelter, medical support, or other necessities if no such assistance has been provided.

(2) If a superior court order has been entered establishing the responsible parent's support obligation, the office of support enforcement may proceed under RCW 74.20A.040 to enforce the support obligation and initiate further enforcement and collection action as authorized by law.

(3) If an administrative order has been entered by an agency in another state establishing the responsible parent's support obligation, the office of support enforcement may issue a notice of debt accrued and/or accruing created by the administrative order. Said notice shall be served upon the debtor in the manner prescribed for service of a summons in a civil action or be served on the debtor by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt. The notice of debt shall include a statement of the support debt accrued, computable on the amount required to be paid under the administrative order; a statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the support debt. The notice shall also include a statement of the amount of the monthly payment for future/current support the responsible parent is required to make under the administrative order.

(a) Any debtor objecting to all or any part of the notice of debt shall have a right to ~~((request a contested hearing under chapter 34.04 RCW))~~ an adjudicative proceeding. The ~~((request))~~ application for a proceeding shall be in writing and shall include a statement of the grounds and defenses upon which relief from the administrative order is sought and/or the basis for modification of the amount for future/current support.

The ~~((request))~~ application shall be ~~((served upon))~~ filed at the office of support enforcement by registered or certified mail or personally. ~~((If a hearing is requested, it shall be promptly scheduled in no more than thirty days from the date of receipt of the request.))~~ If ~~((a request for hearing))~~ an application is ~~((made))~~ filed within twenty days of the date of service of the notice, collection action shall be stayed pending the ~~((decision on such hearing))~~ final adjudicative order. If no ~~((such request))~~ application is ~~((made))~~ filed within this twenty-day period, the support debt and/or the amount of the future/current support payments shall become final subject to the provisions of WAC 388-14-260 (3)(e) and shall be subject to collection action.

(b) The scope of the hearing shall be limited to the grounds and defenses enumerated in superior court Civil Rule 60 which may entitle the debtor to relief from the administrative order and/or a determination whether or not the amount of the monthly payment for future/current support should be modified in accordance with the

provisions of WAC 388-11-140. The burden of proof to establish such grounds and defenses and/or a material change in circumstances shall be on the debtor.

(c) If the debtor presents evidence which would constitute a full or partial defense and/or grounds for modification, upon request, the administrative law judge may continue the hearing to permit the parties to submit further evidence. Pending further hearing and the entry of an initial decision, the debtor may be ordered to pay or make reasonable payments on any undisputed portion of the support debt and to pay current support if owed.

(d)(i) The provisions of the following sections of chapter 388-11 WAC are incorporated by reference and made applicable to the hearing process provided for in this section to the extent they are consistent ((b-with)) and relevant ((to the hearing process)): WAC 388-11-015, 388-11-065, 388-11-070, 388-11-100, ((388-11-105)), 388-11-115, 388-11-120, 388-11-130, 388-11-135, 388-11-140, 388-11-145, 388-11-150, 388-11-155, 388-11-170, ((388-11-180, 388-11-185;)) and 388-11-190(, and chapter 10-08 WAC).

(ii) Hearings held under chapter 388-14 WAC shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), the provisions in this chapter, and chapter 388-08 WAC. If any provision in this chapter or in a rule incorporated by subsection (3)(d)(i) of this section conflicts with a provision in chapter 388-08 WAC, the provision in this chapter or in a rule incorporated by subsection (3)(d)(i) of this section shall govern.

(e) If a written ((request)) application for ((hearing)) an adjudicative proceeding is ((served upon)) filed at the office of support enforcement after the twenty-day period, the debtor's right to relief from the administrative order shall be determined pursuant to the provisions of Civil Rule 60. ((A contested hearing under chapter 34.04 RCW shall be promptly scheduled in response to such a request:)) The filing of the ((petition for a hearing)) application after the twenty-day period shall not affect any collection action previously taken under chapter 74.20A RCW. The granting of a ((request for hearing)) late application shall operate as a stay on any future collection action, pending the final ((decision of the secretary or the secretary's designee on the hearing)) adjudicative order. Moneys withheld as a result of collection action in effect at the time of the granting of the ((request for the hearing)) late application shall be delivered to the department and shall be held in trust by the department pending the final adjudicative order ((of the secretary)) or during the pendency of any appeal to the courts made under chapter ((34.04)) 34.05 RCW. The department may petition the administrative law judge to require the responsible parent to pay future/current support. If an order for future/current support is entered and the responsible parent fails to comply with the order, the office of support enforcement may take appropriate collection action.

(4) If there is no superior court order or administrative order, the office of support enforcement may issue a notice and finding of financial responsibility and proceed in accordance with the provisions of RCW 74.20A.055 which are incorporated by reference herein, to establish

the support obligation, and initiate further enforcement and collection action as authorized by law.

(5) If the office of support enforcement is unable to establish, enforce, and/or collect the support obligation in response to the request or otherwise deems it appropriate under the circumstances, the case may be referred to the county prosecuting attorney or attorney general's office for collection action.

(6) A petition that has been or may be transmitted from another state for enforcement under the Uniform Reciprocal Enforcement of Support Act, chapter 26.21 RCW, may be deemed to be a request for support enforcement services sufficient to authorize the office of support enforcement to initiate action to establish, enforce, and collect the support obligation in accordance with this section.

(7) If the office of support enforcement is unable to locate the responsible parent after reasonable and diligent efforts, the requesting agency fails to provide sufficient information to locate the responsible parent and/or establish and enforce the support obligation, or the case does not appear to have collection potential for the foreseeable future, the office of support enforcement may discontinue support enforcement services and return the request and accompanying documentation to the requesting agency.

(8) If the office of support enforcement is notified by the requesting agency that the custodian of the dependent child or children is moving to another state, support enforcement services on behalf of the custodian may be continued for a period not to exceed five months.

(9) When the responsible parent is residing and/or employed in another state and support enforcement services are being provided under RCW 74.20.040 (1) or (2), the office of support enforcement may execute and submit a request for support enforcement services similar to the request described in this section to the IV-D agency of that state, or may refer the case to the county prosecuting attorney or the attorney general's office for appropriate action.

(10) Upon request from another state, the office of support enforcement shall provide available information/documentation from case files, including but not limited to copies of superior court orders, administrative orders, pay records, and statements/affidavits of support debts, employment, and public assistance records.

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 2738, filed 12/14/88)

WAC 388-14-385 CONFERENCE BOARD. (1) A conference board is herewith established to inquire into, determine facts, and attempt to resolve matters in which a responsible parent, custodial parent, or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 U.S.C.).

(a) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances

of responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding shall have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue.

(b) The director, revenue division, or director's designee may assemble a conference board on application of the aggrieved person or on the director's own motion to investigate, find facts, and state or apply policy or law to the end of resolving grievances.

(c) The director or the director's designee may take such action, as deemed appropriate, and may individually exercise any of the authority provided for in this regulation, if:

(i) The grievance or issue presented in an application for conference board does not involve a factual dispute, or

(ii) The disputed fact or facts even if resolved in favor of the applicant would not provide a basis upon which relief could be granted to the applicant by a conference board acting in accordance with the standards provided for in this section.

(d) If an apparent factual dispute exists:

(i) The director or director's designee shall assemble a conference board composed of the director or director's designee, who shall serve as chairman, and two staff members, if deemed necessary.

(ii) The chairman of the conference board shall mail a notice, to the applicant and any other person or agency who is a party in interest to the proceeding, that a conference board has been convened and inform the parties of the time and place of the conference board at least seven days prior to the date the conference board is scheduled.

(e) The chairman of the conference board is herewith authorized as a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., as provided for in RCW 74.04.290 and shall have power to subpoena witnesses, administer oaths, take testimony, and compel the production of such papers, books, records, and documents deemed relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. The director may designate persons having specific familiarity with the matter at issue or technical expertise with the subject to advise the board as required.

(f) The conference board's jurisdiction shall include but shall not be limited to the following areas:

(i) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

(ii) Review of denial of application for or termination of nonassistance support enforcement services;

(iii) Review of allegations of error as to the distribution of support moneys;

(iv) Resolution of amounts of arrears claimed due and rate of repayments;

(v) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable

necessities of responsible parent or parents and minor children in their home;

(vi) Requests for deferral of support enforcement action;

(vii) Requests for partial or total charge-off of support arrears pursuant to RCW 74.20A.220 or declination to collect support arrears pursuant to RCW 74.20.040 on nonassistance cases;

(viii) Requests to waive interest pursuant to RCW 74.20A.190;

(ix) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;

(x) Review of determinations that a support obligation has been satisfied or is no longer legally enforceable;

(xi) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

(xii) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations.

(2) The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

(3) The board's decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision shall be in writing and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.

(4) The office shall establish a file of pertinent documents for each case and distribute a copy of the decision, signed by the chairman, to:

(a) The applicant;

(b) Other parties in interest when requested;

(c) The appropriate office of support enforcement district field office for action consistent with the decision of the board; and

(d) The director.

(5) The board shall base decisions under RCW 74.20A.220 to grant partial or total charge-off of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) on the following considerations and shall state them in the written decision of the conference board fully justifying the action taken:

(a) Error in law or bona fide legal defects that materially diminish chances of collection; or

(b) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property, and resources of the

responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or

(c) Costs of collection action in the future that are greater than the amount to be charged off; or

(d) Settlement from lump-sum cash payment that is beneficial to the state considering future costs of collection and likelihood of collection.

(6) A conference board is not ~~((a contested case))~~ an adjudicative proceeding subject to review by the superior court and is not a substitute for any constitutionally or statutorily ~~((permitted))~~ required hearing. Aggrieved parties may be represented before the board by a person of their choice represented before the board by a person of their choice. The department shall not pay any costs incurred by the aggrieved person in connection with the conference.

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 2036, filed 10/6/83)

WAC 388-14-390 ~~((PETITION FOR HEARING))~~ ADJUDICATIVE PROCEEDING WHEN COLLECTION ACTION IS INITIATED AGAINST A BANK ACCOUNT—EXEMPTIONS—BURDEN OF PROOF. If the department initiates collection action against a bank account, the responsible parent or the joint owner of record of the bank account may ~~((petition))~~ contest the ~~((secretary or the secretary's designee for a hearing))~~ action in an adjudicative proceeding. The ~~((petition))~~ application shall be ~~((served upon))~~ filed at the office of support enforcement by registered or certified mail or personally within twenty days of the date a copy of the order to withhold and deliver was either mailed to or served upon the responsible parent pursuant to RCW 74.20A.080 or a written notice of the collection action was mailed by certified mail to the last known address of the joint owner of record of the account. The ~~((petition))~~ application shall state the facts supporting the allegation by the responsible parent or the joint owner that the funds in the account, or a portion of those funds, are exempt from satisfaction of the child support obligation of the responsible parent.

On the ~~((petition))~~ application of the responsible parent, the joint owner of record, or OSE, a hearing shall be scheduled solely for the purpose of determining whether or not one of the following exemptions applies to the funds in the bank account:

(1) Pursuant to RCW 26.16.200 and 74.20A.120, the funds in the community bank account, or a portion of those funds which can be identified as the earnings of the spouse not owing a support obligation to the child or children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

(2) The funds in a bank account, or a portion of those funds which can be identified as AFDC funds, SSI

moneys, or other kinds of funds having been legally exempted from collection action, are exempt from satisfaction of the child support obligation of the responsible parent.

(3) The funds in a bank account which can be identified as being solely owned by the joint owner of record of the bank account not owing a child support obligation to the child or children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

The burden of tracing the funds and proving the funds in the bank account are exempt from satisfaction of the child support obligation of the responsible parent is on the responsible parent or the joint owner of record.

~~((The secretary or the secretary's designee shall notify the parties or their designated representatives of the date, time, and place of the hearing at least twenty days prior to the scheduled date of the hearing by written notice to the parties or their representatives by registered or certified mail. If the parties waive their right to twenty days' notice of the hearing and request the hearing be scheduled on an expedited basis, however, the hearing shall be scheduled within fifteen days of the receipt of the petition for hearing and notice of the hearing shall be mailed to the parties not less than seven days prior to the scheduled date of the hearing. If the time, date, or place is inconvenient to either party, the hearing shall grant a new time, date, or place as is reasonably convenient upon a showing of good cause))~~ If an application is filed, the department shall serve the notice of hearing on the appellant or the appellant's representative by certified mail or another method showing proof of receipt.

Moneys withheld as a result of collection action initiated against a bank account and delivered to the office of support enforcement at the time of the granting of ~~((a request for hearing))~~ an application shall be held by the office of support enforcement pending the final adjudicative order ~~((of the secretary))~~ or during the pendency of any appeal to the courts.

If the final decision of the department or courts on appeal is that the department has caused funds in a bank account that are exempt from satisfaction of the child support obligation of the responsible parent to be withheld by the bank or delivered to the department, the office of support enforcement shall promptly release the order to withhold and deliver or refund the proportionate share of the funds having been identified as being so exempt. No interest shall accrue or be payable by the department on any moneys withheld pursuant to RCW 74.20A.080.

AMENDATORY SECTION (Amending Order 2606, filed 3/4/88)

WAC 388-14-415 NOTICE OF SUPPORT ((DEBT)) OWED. (1) The notice of support ~~((debt))~~ owed issued, under RCW ~~((74.20A.040))~~ 26.23.110, shall state that:

(a) The office is providing support enforcement services on behalf of the responsible parent's dependent children.

(b) Twenty-one days after service of the notice, the office will take action to collect the responsible parent's

support obligation. The office shall take collection action without further notice if a support payment is more than fifteen days past due in an amount equal to the support payable for one month. Collection action includes issuing orders to withhold and deliver and notices of payroll deduction, or taking other income withholding action.

(c) After service of the notice, the responsible parent must make all support payments through the Washington state support registry.

(d) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(7) and 74.20.101.

(2) The notice shall be served on the responsible parent like a summons in a civil action, or shall be mailed to his or her last known address by certified mail, return receipt requested.

(3) The notice of support (~~((debt))~~ owed) shall contain:

(a) The current monthly amount for support under a court or administrative order;

(b) An initial finding of the current support amount if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(c) The amount of any support debt, including medical support, owed by the responsible parent;

(d) A statement that the responsible parent has twenty days after service of the notice to contest:

(i) The initial finding for current support ((or support debt amount)) under subsection (3)(b) of this section; or

(ii) The support debt, and/or the current/future support obligation, if the support order contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the support debt or current support.

(e) A statement that the responsible parent may contest the notice by either:

(i) ((Making)) Filing a written ((request)) application for an ((administrative hearing to be held)) adjudicative proceeding under chapter ((34.04)) 34.05 RCW; or

(ii) Filing an action in superior court.

(4) The office may make the initial finding based upon:

(a) The factors stated in the order; and

(b) The responsible parent's earnings, if known; or

(c) The responsible parent's ability to earn if the actual earnings are unknown; or

(d) The needs of the dependent child(ren) if the responsible parent's earnings and ability to earn are unknown.

(5) If the responsible parent does not ~~((request a hearing))~~ file an application for an adjudicative proceeding or start an action in superior court the office shall:

(a) ~~((Issue))~~ Enter a default order stating the notice amounts if the notice contained an initial finding of the amount for current support;

(b) Mail a copy of the order to the last known address of the responsible parent. A copy of the order shall also be mailed to the person to whom support is payable under the support order;

(c) Collect the amounts stated in the notice without further notice.

(6) If the responsible parent ~~((requests a hearing))~~ files an application under this section, the department shall ((issue)) serve a notice of hearing on the responsible parent or the parent's representative. A copy of the notice of hearing shall also be mailed to the person to whom the support is payable under the support order.

The notice shall direct the responsible parent to appear and show why the current support amount and/or the support debt amount is wrong. ~~((A copy of the notice of hearing shall also be mailed to the person to whom the support is payable under the support order.))~~

(7) The responsible parent shall:

(a) List ~~((the))~~ defenses to liability and/or state the reasons why support should not be set as stated in the notice ~~((in the request for a hearing))~~ of support owed;

(b) Attach an office approved financial affidavit;

(c) ~~((Serve))~~ File the ((request for a hearing on)) application at the office of support enforcement by certified mail, return receipt requested, or like a summons in a civil action.

(8) If the responsible parent ~~((requests a hearing))~~ files an application for an adjudicative proceeding within twenty days of service of the notice of support owed, the office shall stay collection action pending the ((outcome of the hearing)) final adjudicative order, except as provided in subsection (9) of this section.

(9) The office may take action to collect:

(a) Temporary support if the administrative law judge issues an order for temporary support;

(b) Any part of the support debt that the responsible parent fails to allege is not owed;

(c) A fixed or minimum dollar amount for current support stated in the court order;

(d) Any part of a support debt that has been reduced to a sum certain judgment by a proper court or agency.

(10) The responsible parent shall prove defenses to the initial finding for current support and/or the amount of the support debt.

(11)~~(a)~~ The following sections of chapter 388-11 WAC ((provisions)) are incorporated by reference and ((apply)) made applicable to the hearing process ((under)) provided for in this section ((if)) to the extent they are consistent and ((when)) relevant:

WAC 388-11-011, 388-11-065, 388-11-070, 388-11-100, ((388-11-105)), 388-11-115, 388-11-120, 388-11-130, 388-11-135, 388-11-140, 388-11-145, 388-11-150, 388-11-155, 388-11-170, ((388-11-180; 388-11-185;)) and 388-11-190((, and chapter 10-08 WAC)).

(b) Hearings held under this section shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), and chapters 388-08 and 388-14 WAC. If any provision in this chapter or in a rule incorporated by reference by (11)(a) of this section conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter or a rule incorporated by reference in (11)(a) of this section shall govern.

~~((After evidence has been presented at a hearing, the hearing examiner shall, within twenty days:~~

~~(a) Find the amount current support payable under the order;~~

~~(b) Find the amount of the support debt, including medical support, accrued prior to the date of service of the notice;~~

~~(c) Issue findings of fact, conclusions of law, and initial decision and order.~~

~~((13)) The ((hearing examiner's order shall also provide that either the)) office ((or)) of support enforcement and the responsible parent ((may)) each have the right to request a yearly review of the support order.~~

~~((14)) (13) The ((hearing examiner in the initial decision, and the secretary or designee in review of the proposed decision,)) administrative law and review judge's authority shall be limited to:~~

~~(a) Interpretation of the court order for support only. The ((hearing examiner)) administrative law and review judges shall have no authority to change or defer the support amount owed except to:~~

~~(i) Find the amount of monthly support as a fixed dollar amount; and~~

~~(ii) Find any arrears accrued prior to service of the notice of support owed.~~

~~(b) Correct mathematical computation of the stated debt;~~

~~(c) Superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapters 26.21 or 26.20 RCW shall not be construed as modifications.~~

~~((15)) (14) If the debtor fails to appear at the hearing, the ((hearing examiner)) administrative law judge shall, after proof of proper service, enter a decision and order declaring the support debt subject to collection action.~~

~~((16) The hearing examiner shall file the original of the initial decision and order with the secretary or the secretary's designee.~~

~~((17)) (15) The ((hearing examiner)) administrative law and review judges shall mail copies of the decisions and orders to:~~

~~(a) The office of support enforcement;~~

~~(b) The last known address of the responsible parent by certified mail; and~~

~~(c) The last known address of the person to whom support is payable under the support order.~~

~~((18) The responsible parent or the office may request review of the initial decision within thirty days of receipt of the initial decision. Review shall be as set forth under WAC 388-11-105.~~

~~((19)) (16) Informal disposition of any hearing is favored where possible and not precluded by law. The office may dispose of cases by an agreed settlement(;) or a consent order. The administrative law judge shall approve any consent order unless it is contrary to law.~~

~~((20)) (17) A support order issued under this section shall:~~

~~(a) Contain the notice and information listed in RCW 26.23.050(4), and~~

~~(b) Be filed with the clerk of the court that has jurisdiction over the court order.~~

~~((21) The office is not required to serve a notice of support debt on the responsible parent prior to collection action if:~~

~~(a) The office is providing services on behalf of the responsible parent's dependent children, and~~

~~(b) A superior court or administrative order directs the responsible parent to make support payments through the office or the Washington state support registry.~~

~~((22)) (18) The responsible parent may ((request a hearing)) file an application for a proceeding under this section if the responsible parent claims credit for payments under WAC 388-14-210(4). ((When the department issues a notice of hearing to the responsible parent, the department shall mail a copy of the notice to the last known address of the person to whom support is payable under the order.))~~

WSR 90-04-078

NOTICE OF PUBLIC MEETINGS WASHINGTON STATE LIBRARY (Library Commission)

[Memorandum—February 2, 1990]

Thursday, March 8, 1990, 4:00 p.m., the Washington State Library Commission will meet for a staff briefing in the Office of the State Librarian, State Library Building, Capitol Campus, Olympia.

Friday, March 9, 1990, 10:00 a.m., the Washington State Library Commission will hold its regular business meeting in the meeting room at the Timberland Regional Library Service Center, 415 Airdustrial Way S.W., Tumwater, Washington.

WSR 90-04-079

PROPOSED RULES CLARK COLLEGE

[Filed February 6, 1990, 11:45 a.m.]

Original Notice.

Title of Rule: Loss of eligibility—Student athletic participation.

Purpose: To comply with the requirements of SHB 1558 and provide rules for ineligibility of student athletes found to be in violation of the laws relating to the use or possession of steroid drugs.

Statutory Authority for Adoption: Chapters 28B.50 and 28B.10 RCW.

Statute Being Implemented: Chapter 69.41 RCW.

Summary: To establish rules regarding the loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated the laws relating to the use or possession of legend drugs, including anabolic steroids.

Reasons Supporting Proposal: Mandated by state law.

Name of Agency Personnel Responsible for Drafting: Janelle Farley, President's Office, 699-0101; Implementation and Enforcement: William Jesse, Dean of Students, 699-0102.

Name of Proponent: Clark College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Institutions of higher education are required by legislation passed in 1989 to promulgate rules relating to the mandated ineligibility requirements for any student athlete found to have violated the laws relating to the use or possession of steroids. Such students will lose their eligibility to participate in school-sponsored athletic events. The rule contains four sections: Grounds for ineligibility; Suspension procedure—Right to informal hearing; Hearing; and Decision.

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, Baird Administration Building, Clark College, on March 28, 1990, at 4 p.m.

Submit Written Comments to: William Jesse, by March 23, 1990.

Date of Intended Adoption: April 18, 1990.

January 31, 1990

Earl P. Johnson
President

WAC Chapter 132N 400

Loss of Eligibility—Student Athletic Participation

Reviser's note: The typographical error in the above chapter caption 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 132N-400-010 GROUND FOR INELIGIBILITY. Any student found by the college to have violated chapter 69.41 RCW, as now, or hereafter amended, by virtue of a criminal conviction or otherwise, insofar as it prohibits the possession, use or sale, or furnishing of legend drugs, including anabolic steroids, will be disqualified from participation in any school-sponsored athletic event or activity.

NEW SECTION

WAC 132N-400-020 SUSPENSION PROCEDURE—RIGHT TO INFORMAL HEARING. Notwithstanding any 132N WAC to the contrary, any student notified of a claimed violation of WAC 132N-400-010 shall have the right to a brief adjudicative hearing if a written request for such a hearing is received by the dean of students within three days of receipt of a declaration of further athletic ineligibility. If no written request is received within three days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudicative hearing and will be declared ineligible from further participation in school-sponsored athletic events for the remainder of the school year.

NEW SECTION

WAC 132N-400-030 HEARING. Notwithstanding any 132N WAC to the contrary, if a timely written request for a hearing is made, the dean of students shall designate a hearing officer who shall be a college officer who is not involved with the athletic program to conduct the brief adjudicative hearing. The hearing officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482.494.

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 132N-400-040 DECISION. Notwithstanding any WAC 132N to the contrary, the college official who acts as hearing officer shall issue a written decision which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered or prepared by the hearing officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the brief adjudicative hearing and in no event later than 20 days after the request for hearing is received by the dean of students.

WSR 90-04-080

INDETERMINATE SENTENCE REVIEW BOARD

[Filed February 6, 1990, 1:20 p.m.]

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

1.160 Victim's Rights

This rule is provided to insure the orderly presentation of victim statements so that victims or their representatives may freely exercise their constitutional rights.

1. Written Statements:

Consistent with prior Board practices, the Board will continue to allow victims or their representatives to submit written statements to the Board. Prior notification is not required for the submission of written statements.

2. In-Person Statements:

Upon notification either through the prosecuting attorney to the Board, or directly to the Board that an in-person statement is requested by the victim, such person shall be allowed to make an in-person statement to the Board prior to a final decision allowing an offender to be released on parole. Such statement will be limited to 15 minutes and may only be made at a regularly scheduled Board meeting. After notifying the Board of intent to make an in-person statement, the victim or victim's representative will be advised of the time and place of the next Board meeting where an in-person statement will be scheduled.

3. Other Statements:

The Board will also allow victims or their representatives to submit audio cassette or video (VHS) tape statements. The statement will be presented at a regularly scheduled meeting before the offender's final parole release decision is made. Tape statements are limited to 15 minutes in length.

WSR 90-04-081
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
TRADE AND ECONOMIC DEVELOPMENT
(Business and Job Retention Advisory Committee)
 [Memorandum—February 5, 1990]

The following schedule of the 1990 regular meetings of the Business and Job Retention Advisory Committee is hereby submitted for publication in the Washington State Register:

January 5, 1990
 February 23, 1990
 March 23, 1990
 (conference call)
 April 27, 1990
 May 25, 1990
 (conference call)
 June 29, 1990
 July 27, 1990
 (conference call)
 August 31, 1990
 September 28, 1990
 (conference call)
 October 26, 1990
 November 30, 1990
 (conference call)
 December 14, 1990

The meeting held during the legislative session (1/5/90) will be in Olympia at the Tyee Hotel. The June 29 meeting will be held in Spokane. All other meetings will be held in the Sea-Tac area.

In accordance with Executive Order 79-03, the meeting site has been selected to be barrier free to the greatest extent feasible. Brailled or taped agenda items for the visually impaired and interpreters for those with hearing impairments will be provided if requested at least ten working days in advance.

Any questions regarding the Business and Job Retention Advisory Committee meetings should be directed to: Ginger Rich, Program Manager, Business and Job Retention, Department of Trade and Economic Development, 2001 Sixth Avenue, Suite 2700, Seattle, WA 98121, (206) 464-6282, 576-6282 scan.

WSR 90-04-082
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Order 027—Filed February 6, 1990, 3:36 p.m.]

Date of Adoption: February 1, 1990.

Purpose: To establish procedures for determining eligibility and distribution of funds for medical and dental services to community health clinics.

Statutory Authority for Adoption: Section 214, chapter 19, Laws of 1989 1st ex. sess.

Pursuant to notice filed as WSR 90-01-131 on December 20, 1989.

Changes Other than Editing from Proposed to Adopted Version: The physicians assistance [physician's assistant] as defined in chapter 18.57A RCW was added to chapter 248-170 WAC in response to a suggestion from the Washington Osteopathic Medical Association; the definition of low income individual was changed to reference the original site instead of the federal register; and it was suggested that the audit review sections (2 and 4) have added "with prior notice", this has been done.

Effective Date of Rule: Thirty-one days after filing.
 February 1, 1990
 Pam Campbell Mead
 Deputy
 for Kristine M. Gebbie
 Secretary

CHAPTER 248-170 WAC
STANDARDS FOR COMMUNITY HEALTH
CLINICS

NEW SECTION

WAC 248-170-001 PURPOSE. The purpose of this chapter is to establish procedures for determining eligibility and distribution of funds for medical and dental services to community health clinics under chapter 19, Section 214(3), 1st extraordinary session laws of 1989 including other state general fund appropriations for medical and dental services in community health clinics since 1985.

NEW SECTION

WAC 248-170-020 DEFINITIONS. For the purposes of these rules, the following words and phrases shall have these meanings unless the context clearly indicates otherwise. (1) "Community health clinic" means a public or private non-profit tax exempt corporation with the mission of providing primary health care to low income individuals at a charge based upon ability to pay. (2) "Department" means the Washington state department of health.

(3) "Encounter" means a face-to-face contact between a patient and a health care provider exercising independent judgment, providing primary health care, and documenting the care in the individual's health record.

(4) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care including:

(a) Physicians under Chapter 18.57 and Chapter 18.71 RCW;

(b) Dentists under Chapter 18.32 RCW;

(c) Advanced Registered Nurse Practitioner under Chapter 18.88 RCW;

(d) Physician's Assistant under Chapter 18.71A RCW, and Chapter 18.57A RCW;

(e) Dental Hygienist under Chapter 18.29 RCW;

(f) Licensed Midwife under Chapter 18.50 RCW;

(g) Registered Nurse under Chapter 18.88 RCW.

(h) Federal uniformed service personnel lawfully providing health care within Washington state.

(5) "Low income individual" means a person with income at or below 200% of federal poverty level. The

poverty level has been established by Public Law 97-35 § 652 (codified at 42 USC 9847), § 673(2) (codified at 42 USC 9902 (2)) as amended; and the Poverty Income Guideline updated annually in the Federal Register.

(6) "Primary health care" means a basic level of preventive and therapeutic medical and dental care, usually delivered in an outpatient setting, and focused on improving and maintaining the individual's general health.

(7) "Relative value unit" means a standard measure of performance based upon time to complete a clinical procedure. The formula is 1 unit equals 10 minutes. A table is available from the department stating the actual values.

(8) "Secretary" means the secretary of the department of health or the secretary's designee.

(9) "User" means an individual having one or more primary health care encounters and counted only once during a calendar year.

NEW SECTION

WAC 248-170-100 ADMINISTRATION. The Department shall contract with community health clinics to provide primary health care in the state of Washington by; (1) Developing criteria for the selection of community health clinics to receive funding;

(2) Establishing statewide standards governing the granting of awards and assistance to community health clinics;

(3) Disbursing funds appropriated for community health clinics only to those clinics meeting the criteria in Chapter 248-170 WAC;

(4) Distributing available state funds to community health clinics according to the following priority in the order listed:

(a) First, to community health clinics that are private, nonprofit corporations classified exempt under Internal Revenue Service Rule 501 (c)(3) when governed by a board of directors including representatives from the populations served.

(b) Second, to public health departments with an organized primary health clinic or division.

(d) Third, to private non-profit or public hospitals with an organized primary health clinic or department.

(5) Reviewing records and conducting on-site visits of contractors as necessary to assure compliance with these rules and;

(6) Withholding funding from a contractor until such time as satisfactory evidence of corrective action is received and approved by the department, if the department determines:

(a) non-compliance with applicable state law or rule; or

(b) Non-compliance with the contract; or

(c) Failure to provide such records and data required by the department to establish compliance with chapter 19, section 214(3), this chapter, and the contract; or

(d) The contractor or applicant provided inaccurate information in the application.

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 248-170-130 APPLICATION FOR FUNDS. (1) The Department shall:

(a) Upon request, supply a prospective applicant with an application kit for a contract requesting information as follows:

(b) Include in the application a request for information as follows:

(i) The applicant's name, address, and telephone number;

(ii) A description of the primary health care provided;

(iii) A brief statement of intent to apply for funds;

(iv) The signature of the agency's authorized representative;

(v) Description of the nature and scope of services provided or planned;

(vi) Evidence of a current financial audit establishing financial accountability; and

(vii) A description of how the applicant meets eligibility requirements under WAC 248-170-160.

(c) Notify existing contractors at least 90 days in advance of the date a new contract application is due to the department.

(d) Review completed application kits for evidence of compliance with this section.

(e) Develop procedures for:

(i) Awarding of funds for new contractors, special projects, and emergency needs of existing contractors; and

(ii) Notifying existing and prospective contractors of procedures and application process.

(2) The applicant shall:

(a) Complete the application on standard forms provided or approved by the Department; and

(b) Return the completed application kit to the Department by the specified due date.

NEW SECTION

WAC 248-170-160 ELIGIBILITY. Applicants shall: (1) Demonstrate private, non-profit, tax exempt status incorporated in Washington State or public agency status under the jurisdiction of a local or county government;

(2) Receive other funds from at least one of the following sources:

(a) Section 329 of the Public Health Services Act,

(b) Section 330 of the Public Health Services Act,

(c) Community Development Block Grant funds,

(d) Title V Urban Indian Health Service funds, or

(e) Other public or private funds providing the clinic demonstrates:

(i) 51% of total clinic population are low income;

(ii) 51% or greater of funds come from sources other than programs under Chapter 248-170 WAC.

(3) Operate as a community health clinic providing primary health care for at least eighteen months prior to applying for funding;

(4) By July 1, 1991 provide primary health care services with:

(a) Twenty-four hour coverage of the clinic including provision or arrangement for medical and dental services after clinic hours;

(b) Direct clinical services provided by one or more of the following:

(i) Physician licensed under Chapter 18.57 RCW and Chapter 18.71A;

(ii) Physician's assistant licensed under Chapter 18.71A RCW, and Chapter 18.57A RCW;

(iii) Advanced registered nurse practitioner under Chapter 18.88 RCW;

(iv) Dentist under Chapter 18.32 RCW.

(c) Provision or arrangement for services as follows:

(i) Preventive health services on site or elsewhere including:

(A) Eye and ear examinations for children;

(B) Perinatal services;

(C) Well-child services; and

(D) Family planning services.

(ii) Diagnostic and treatment services of physicians and where feasible a physician's assistant and/or advanced registered nurse practitioner, on site;

(iii) Services of a dental professional licensed under Title 18 on site or elsewhere;

(iv) Diagnostic laboratory and radiological services on site or elsewhere;

(v) Emergency medical services on site or elsewhere;

(vi) Arrangements for transportation services;

(vii) Preventive dental services on site or elsewhere; and

(viii) Pharmaceutical services, as appropriate, on site or elsewhere.

(5) Demonstrate eligibility to receive and receipt of reimbursement from:

(a) Public insurance programs; and

(b) Public assistant programs, where feasible and possible.

(6) Have established a sliding scale fee schedule for adjustment of charges, based upon the individual's ability to pay for low income individuals;

(7) Provide health care regardless of the individual's ability to pay; and

(8) Establish policies and procedures reflecting sensitivity to cultural and linguistic differences of individuals served and provide sufficient staff with the ability to communicate with the individuals;

NEW SECTION

WAC 248-170-200 ALLOCATION OF STATE FUNDS. The department shall allocate available funds to medical and dental contractors providing primary health care based on the following criteria: (1) MEDICAL

(a) The department may withhold appropriated funds as follows:

(i) As specified under law or up to ten percent to provide funding for new contractors, special projects, and emergency needs:

(A) With distribution of any remaining portion of this ten percent among contractors by April 1 of each year;

(B) Prorated according to the percentage of total medical contract funds distributed to each contractor.

(ii) Up to ten percent for administration.

(b) The remainder of the appropriated funds is referred to as the "medical base". The medical base means the total amount of money appropriated by the legislature for the medical program minus the amounts specified in (a)(i) and (a)(ii) of this subsection. The medical base is distributed to medical contractors based upon the following formulas:

(i) 40% of the medical base is distributed equally among all medical contractors.

(ii) 30% of the medical base is distributed by the ratio of the contractor's Primary Health Care (PHC) medical users divided by the total medical users of all contractors as reported in the prior calendar year annual reports.

$$\frac{\text{individual contractor's medical users}}{\text{total of all contractors' medical users}} \times 30\% \text{ medical base}$$

(iii) 30% of the medical base is distributed by the ratio of the contractor's Primary Health Care (PHC) medical encounters by the total number of medical encounters reported by all contractors as reported in the prior calendar year annual reports.

$$\frac{\text{individual contractor's medical encounters}}{\text{total of all contractors' medical encounters}} \times 30\% \text{ medical base}$$

(2) DENTAL

(a) The department may withhold appropriated funds as follows:

(i) As specified under law or up to ten percent of appropriated funds to provide funding for new contractors, special projects, and emergency needs:

(A) With distribution of any remaining portion of this ten percent among contractors by April 1 of each year:

(B) Prorated according to the percentage of total dental contract funds distributed to each contractor.

(ii) Up to ten percent for administration.

(b) The remainder of the funds is referred to as the dental base. The dental base means the total amounts appropriated by the legislature for dental programs minus the amounts specified in (i) and (ii) in part (a) of this subsection and as follows:

(i) The dental base is distributed to dental contractors based upon the following formula until June 30, 1991:

(A) 40% of the dental base is distributed equally among all dental contractors.

(B) 30% of the dental base is distributed by the ratio of the contractor's Primary Health Care (PHC) medical users divided by the total medical users of all contractors as reported in the prior calendar year annual reports.

$$\frac{\text{individual contractor's medical users}}{\text{total of all contractors' medical users}} \times 30\% \text{ dental base}$$

(C) 30% of the dental base is distributed by the ratio of the contractor's Primary Health Care (PHC) medical encounters by the total number of medical encounters of all contractors as reported in the prior calendar year annual reports.

$$\frac{\text{individual contractor's medical encounters}}{\text{total of all contractors' medical encounters}} \times 30\% \text{ dental base}$$

(ii) Starting July 1, 1991, the dental base is distributed to dental contractors based upon the following formula:

(A) 40% of the dental base distributed equally among all dental contractors;

(B) 30% of the dental base distributed by the ratio of contractor Primary Health Care (PHC) medical users divided by the total medical users of all contractors as reported in the prior calendar year annual reports.

$$\frac{\text{individual contractor's medical users}}{\text{total of all contractors' users}} \times 30\% \text{ dental base}$$

(C) 30% of the dental base is distributed by the ratio of the contractor's relative value units (RVU) divided by the total relative value units of all contractors as reported in the prior calendar year annual reports.

$$\frac{\text{individual contractor's RVU}}{\text{total of all contractors' RVU}} \times 30\% \text{ dental base}$$

NEW SECTION

WAC 248-170-300 DISPUTE RESOLUTION PROCEDURES. The Department shall define dispute resolution procedures in the contract which shall be the exclusive remedy and shall be binding and final to all parties.

NEW SECTION

WAC 248-170-320 AUDIT REVIEW. Contractors shall: (1) Maintain books, records, documents, and other materials relevant to the provision of goods or services adequate to document the scope and nature of the goods or services provided;

(2) Make the materials in subsection (1) available at all reasonable times with prior notice for inspection by the department;

(3) Retain these materials for at least three (3) years after the initial contract with the department;

(4) Provide access to the facilities at all reasonable times with prior notice for on-site inspection by the department; and

(5) Submit annual reports consistent with the instructions of the Department.

WSR 90-04-083

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Order 028—Filed February 6, 1990, 3:37 p.m.]

Date of Adoption: February 1, 1990.

Purpose: To increase licensing fees for dentists.

Citation of Existing Rules Affected by this Order: Amending WAC 308-40-125.

Statutory Authority for Adoption: RCW 43.70.250.

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: RCW 43.70.250 requires each program to be funded through licensing fees. Current fees do not support dental program which is necessary for the health and safety and general welfare of the public.

Effective Date of Rule: February 9, 1990.

January 22, 1990

Pam Campbell Mead

Deputy

for Kristine M. Gebbie

Secretary

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

WAC 308-40-125 DENTIST FEES. The following fees shall be charged by the professional licensing division of the department of ((licensing)) health:

Title of Fee	Fee
Application (examination and reexamination)	((\$400.00)) \$650.00
Partial retake	((+120.00)) 250.00
Renewal	((+65.00)) 215.00
<u>Impaired dentist assessment</u>	<u>15.00</u>
Late renewal penalty	((200.00)) 150.00
((Reciprocity)) <u>Credentialing application</u>	((400.00)) 1400.00
Duplicate license Certification	15.00 ((25.00))
((Investigation fee))	<u>50.00</u> 25.00

WSR 90-04-084

Reviser's note: Due to an inadvertent clerical error, WSR 90-04-084 was not assigned to an agency document.

WSR 90-04-085

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Dental Examiners)

[Filed February 7, 1990, 11:16 a.m.]

Original Notice.

Title of Rule: New section WAC 308-40-107 Application for licensure—AIDS education requirements.

Purpose: To implement RCW 70.24.270.

Statutory Authority for Adoption: RCW 70.24.270.

Statute Being Implemented: 70.24.270.

Summary: RCW 70.24.270 requires the board to adopt rules that require applicants for dental licenses to have appropriate education and training on the prevention, transmission and treatment of AIDS. This rule satisfies the legislative mandate.

Reasons Supporting Proposal: To implement RCW 70.24.270 for dental license applicants.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Mayo, Program Administrator, 1300 S.E. Quince, Olympia, WA 98504, (206) 753-2461.

Name of Proponent: 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 will satisfy the legislative mandate set forth in RCW 70.24.270 by requiring that each applicant for a dental license have received education and training on the prevention, transmission and treatment of AIDS. This education must have been received since January 1, 1986, and each applicant must certify that the education was received.

Proposal does not change existing rules.

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

Hearing Location: West Coast Sea-Tac Hotel, Olympia Room, 18220 Pacific Highway South, Seattle, WA 98188, on March 16, 1990, at 1:30 p.m.

Submit Written Comments to: Judy Mayo, 1300 S.E. Quince, Olympia, WA 98504, by March 9, 1990.

Date of Intended Adoption: March 16, 1990.

February 6, 1990

Amanda L. Tomlinson

Assistant Attorney General

NEW SECTION

WAC 308-40-107 APPLICATION FOR LICENSURE—AIDS EDUCATION REQUIREMENTS. (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the Department of Social and Health Services or any successor department with jurisdiction over public health matters as defined in 70.24 RCW.

(2) Application for licensure. Effective May 1, 1990 persons applying for licensure shall submit, in addition to the other licensure requirements, evidence to show compliance with the education requirements of subsection (3).

The board will accept courses taken since January 1, 1986 which fulfill the requirements of the hours and topics listed in subsection (3).

(3) AIDS education and training. Acceptable education and training. The board will accept formal lecture-type education and training that is consistent with the topical outline available from the Office on AIDS. Such education and training shall be a minimum of seven clock hours. As an alternative to formal lectures, the board will also accept education and training obtained through videos and/or self-study materials, PROVIDED THAT such videos and/or self-study materials must include a written examination that is graded by the provider of the materials.

All education and training shall include the subjects of prevention, transmission and treatment of AIDS.

(4) Documentation. The applicant shall:

(a) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1986;

(b) Keep records for two years documenting attendance and description of the learning;

(c) Be prepared to validate, through submission of these records, that attendance has taken place.

WSR 90-04-086

EXECUTIVE ORDER

OFFICE OF THE GOVERNOR

[EO 90-02]

WORKFORCE 2000 INITIATIVE

WHEREAS, Washington state government provides a wide variety of services to the people of the state, requiring state employees to have many diverse skills and capabilities; and

WHEREAS, the number and complexity of responsibilities entrusted to state government continues to grow, increasing the importance of attracting, training and re-training a workforce with the necessary skills and commitment to public service to meet these responsibilities; and

WHEREAS, the findings of the Efficiency Commission's Workforce 2000 study demonstrate that state government will be faced with increasing challenges to recruit, develop, promote and retain a high quality workforce in the 1990s:

- One third of the state's current workforce will retire by the year 2000, including a large proportion of senior management and technical staff;
- The availability of trained, entry-level employees will decline, intensifying the competition between state government and the private sector for quality employees;
- The proportion of elder, minority, disabled and female workers will increase, making the need to recognize and work constructively with diversity even more imperative; and
- The nature of work will change, requiring a more highly trained workforce that will use more advanced technology in its work.

NOW, THEREFORE, I, Booth Gardner, Governor of the State of Washington, by virtue of the power vested in me, do hereby order the following actions to ensure that state government is prepared to meet these challenges:

Section 1. An advisory group shall work with the Department of Personnel (DOP) to clarify the respective roles and responsibilities of DOP and the executive agencies in the operation of our state's personnel system, including the identification of those activities that could be delivered more effectively at the agency level than at DOP, the priority of services delivered, and the potential for delegated authority by the State Personnel Board to the Director of Personnel of items that are uncontested or are not substantive in nature.

Section 2. All agencies shall develop and implement human resource management plans on a continuing basis and shall use high quality human resource management practices. DOP shall provide guidance and coordination and the Office of Financial Management (OFM) shall clarify these requirements in budget instructions for the 1991-93 biennium.

Section 3. All agencies shall strive to create organizational cultures dedicated to service excellence by using the Brainstorm Program, the Teamwork Incentive Program and the Governor's Distinguished Management Leadership Award, and by expanding and intensifying training for all staff and management development programs. Agencies should develop working environments that promote commitment to quality, innovation, recognition, participative management, employee involvement, and efficiency and accountability.

Section 4. In coordination with all state agencies, I have asked DOP to initiate the following programs and changes:

- Human resource management in state government must be responsive to the diversity of the state's workforce and to the needs of protected group members. In cooperation with DOP, OFM shall review current programs and functions in the areas of equal employment opportunity and equal access to services in state government to determine how the effectiveness and influence of these programs can be maximized in mainstream human resource functions. DOP shall provide leadership and assistance to state agencies in identifying and addressing barriers that exist within the state personnel system that impact affirmative action and protected group members and the attainment of affirmative action goals. Meeting affirmative action goals is a priority of all executive cabinet agencies.
- Expand the use of "dual career paths" to provide career development opportunities for employees in technical or professional job classes.
- Enhance the image of state government as an employer and increase its competitiveness in attracting and retaining the talent needed to deliver high quality public services through programs to retain good employees, increased college recruitment, and targeted affirmative action recruitment.
- Make human resource management in state government more effective and efficient by developing a statewide management selection, training, and development program that establishes performance standards for all managers, refines the screening/examination process and criteria for management positions, and assists agencies in developing programs for the selection and assessment of managers.
- Increase the effective use of training resources to assure that state employees continue to have the skills necessary to accomplish their work. Agencies and DOP must recognize the need for continuous training to help employees adapt to changes in program emphasis, increased service delivery expectations, technological change, and budget constraints. DOP and the agencies shall collaborate to improve the quality and relevance of training in state services, and shall work together to determine the needs for training in generic skills widely used in state government, which would be provided by DOP, and agency specific skills, which would be provided

by each agency. DOP shall establish an effective training needs assessment process, including assisting agencies in determining training needs and evaluating the effectiveness of training programs.

This Executive Order, along with my human resource supplemental budget request and proposed legislation, will significantly improve Washington state government's ability to attract, manage, and retain the high quality workforce our state will need to meet its responsibilities in the 1990s and beyond.

IN WITNESS WHERE-
OF, I have hereunto set my
hand and caused the Seal of
the State of Washington to
be affixed at Olympia this
5th day of February A.D,
nineteen hundred and
ninety.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

WSR 90-04-087

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed February 7, 1990, 12:09 p.m.]

Original Notice.

Title of Rule: Revising eligibility for SEBB benefit plans.

Purpose: To make SEBB eligibility rules more consistent with insurance industry practice.

Statutory Authority for Adoption: RCW 41.05.065(3).

Summary: This rule deletes married children and parents of subscribers from eligibility for SEBB benefit plans. It also describes criteria for approval of foster children as dependents.

Reasons Supporting Proposal: An Health Care Authority study of eligibility rules for other plans showed that few plans cover married children and parents, and that foster child eligibility is more restricted than current SEBB rules. This will make SEBB rules more consistent with current insurance practice.

Name of Agency Personnel Responsible for Drafting: Robert Moore, 4505 Woodview Drive S.E., Olympia, WA, 438-7990; Implementation: Sharon Thompson, 4505 Woodview Drive S.E., Olympia, WA, 438-7971; and Enforcement: Gary Christenson, 4505 Woodview Drive S.E., Olympia, WA, 438-7977.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule would eliminate the current eligibility of married dependent children, including married student dependents, and dependent parents, for coverage under SEBB-sponsored benefit plans. The purpose of the rule is to bring SEBB eligibility rules into closer conformance with current practices of other state governments, self-insuring businesses, and the private insurance industry. A 1989 study of eligibility rules for state and private-sector medical plans commissioned by the Health Care Authority showed that few plans covered married children and parents, and that foster child eligibility is more restricted than current SEBB rules. This rule change will reduce the number of covered dependents enrolled in SEBB plans.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

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

Hearing Location: Sea-Tac Airport Auditorium, Seattle Washington, on March 14, 1990, at 1:30 p.m.

Submit Written Comments to: Robert Moore, Assistant Administrator, Health Care Authority, 4505 Woodview Drive S.E., Olympia, WA 98504, by March 13, 1990.

Date of Intended Adoption: March 14, 1990.

February 7, 1990

Robert Moore
Assistant Administrator

AMENDATORY SECTION (Amending Resolution No. 89-2, filed 6/2/89)

WAC 182-12-115 ELIGIBLE EMPLOYEES, RETIREES, AND DEPENDENTS. The following definitions of eligible employees, retirees, and dependents of an eligible entity, as defined in WAC 182-12-111, shall apply for all SEBB approved plans except as otherwise stated in this chapter:

(1) "Permanent employees." Those who are scheduled to work at least half-time per month and are expected to be employed for more than six months. Such employees shall be eligible effective with their first day of employment.

(2) "Nonpermanent employees." Those who are scheduled to work at least half-time and are expected to be employed for no more than six months. Such employees shall be eligible effective the first day of the seventh calendar month of employment.

(3) "Seasonal employees." Those who work at least half-time per month during a designated season for a minimum of three months but less than nine months per year and who have an understanding of continued employment with their agency season after season. These employees become eligible on the first day of such employment, however, they are not eligible for the employer contribution during the break between seasons of employment.

(4) "Part-time faculty." Faculty who are employed on a quarter/semester to quarter/semester basis become eligible beginning with the second consecutive quarter/semester of half-time or more employment at one or more state institutions of higher education, provided that:

(a) For determining eligibility, spring and fall may be considered consecutive quarters/semesters; and

(b) "Half-time or more employment" will be determined based on each institution's definition of "full-time"; and

(c) At the beginning of each quarter/semester, the employers of part-time faculty shall notify, in writing, all current and newly hired part-time faculty of their potential right to benefits under this section. The employee shall have the responsibility, each quarter, to notify the employers, in writing, of the employee's multiple employment. In no case will there be a requirement for retroactive coverage or employer contribution if a part-time faculty member fails to inform all of his/her employing institutions about employment at all institutions within the current quarter; and

(d) Where concurrent employment at more than one state higher education institution is used to determine total part-time faculty employment of half-time or more, the employing institutions will arrange to prorate the cost of the employer insurance contribution based on the employment at each institution. However, if the part-time faculty member would be eligible by virtue of employment at one institution, that institution will pay the entire cost of the employer contribution regardless of other higher education employment. In cases where the cost of the contribution is prorated between institutions, one institution will forward the entire contribution monthly to SEBB; and

(e) Once enrolled, if a part-time faculty member does not work at least a total of half-time in one or more state institutions of higher education, eligibility for the employer contribution ceases.

(5) "Appointed and elected officials." Legislators are eligible on the date their term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible on the date their term begins or they take the oath of office, whichever occurs first.

(6) "Judges." Justices of the supreme court and judges of the court of appeals and the superior courts become eligible on the date they take the oath of office.

(7) "Retirees and disabled employees." Eligible employees who terminate state service after becoming vested in a Washington state sponsored retirement system are eligible for retiree medical, dental and life coverages provided the person:

(a) Immediately begins receiving a monthly retirement income benefit from such retirement system; or

(b) If not retiring under the public employees retirement system (PERS), would have been eligible for a monthly retirement income benefit because of age and years of service had the person been employed under the provisions of PERS I or PERS II for the same period of employment; or

(c) Must take a lump sum benefit because their monthly benefit would have been under fifty dollars.

Employees who are permanently and totally disabled and eligible for a deferred monthly retirement income benefit are likewise eligible, provided they apply for retiree coverage before their SEBB active employee coverage ends. Persons retiring who do not have waiver of premium coverage from any SEBB life insurance plan are eligible for retiree life insurance, subject to the same qualifications as for retiree medical coverage. Retirees and disabled employees are not eligible for an employer premium contribution. The Federal Civil Service Retirement System shall be considered a Washington state sponsored retirement system for Washington State University cooperative extension service employees who hold a federal civil service appointment and who are covered under the SEBB program at the time of retirement or disability.

(8) "Eligible dependents." The following are eligible as dependents under the medical and dental plans:

(a) Lawful spouse.

(b) Unmarried dependent children through age twenty. As used in this section, "children" includes natural children, stepchildren, legally adopted children, and foster children approved by the health care authority.

(c) Unmarried dependent children age twenty-one through age twenty-four who are dependent upon the employee/retiree for maintenance and support, and who are registered students in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the employee/retiree is covered at the same time, provided that the dependent limiting age has not been exceeded.

(d) Dependent children of any age who are incapable of self-support due to developmental disability or physical handicap ((are also eligible)), provided such condition occurs prior to age twenty-one or during the time the dependent was covered under an SEBB plan as a full-time student. Proof of such disability and dependency must be furnished ((prior to the dependent's attainment of age twenty-one or loss of eligibility for student coverage, and as periodically requested thereafter)) to the health care authority as requested.

(e) ((~~"Children" includes natural children, stepchildren, adopted children, and approved foster children. A foster child must be under age twenty-one at the time of approval. "Children" also includes married children if dependent upon the employee/retiree within the meaning of the Internal Revenue Code.~~)

(f) "Dependent parents." Parents of the employee/retiree or their spouse are eligible subject to Internal Revenue Code dependency status and qualification. Eligibility is subject to making application to the health care authority and verification.)) To qualify for HCA approval, a foster child must:

- (i) Be living with the subscriber in a parent-child relationship;
- (ii) Be dependent upon the subscriber for financial support;
- (iii) Not be covered by another group or government-sponsored medical benefit plan; and
- (iv) Not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(9) Notwithstanding any of the foregoing, employees who are not mandatorily, by election, or otherwise covered by industrial insurance under Title 51 RCW shall not be considered "eligible employees" within the meaning of this section.

WSR 90-04-088
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed February 7, 1990, 1:27 p.m.]

Original Notice.

Title of Rule: WAC 308-127-010 Promulgation— Authority; 308-127-020 Organization; 308-127-030 Definitions; 308-127-035 Definitions; 308-127-040 Materially adverse change; 308-127-100 Exemptions from registration; 308-127-105 Exemptions from registration; 308-127-110 Disclosure documents—Projects already registered in foreign jurisdictions; 308-127-120 Financial information requirements; 308-127-130 Disclosure of number of intervals to be sold to persons residing in the state of Washington; 308-127-140 Expiration and renewal of timeshare offering registration; 308-127-155 Fees; 308-127-160 Fees; 308-127-200 Activities requiring registration as a timeshare salesperson; 308-127-210 Relationship of timeshare promoters and salespersons and real estate brokers and salespersons; 308-127-220 Original application, renewal, termination, and fees for a timeshare salesperson registration; 308-127-225 Original applications, renewal, termination, and fees for a timeshare salesperson registration; and 308-127-300 Impoundment.

Purpose: To fix fees for timeshare program.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 43.24.086.

Summary: This proposal will establish new fees and revise exemptions. The definitions were revised for consistency with the fees and exemptions.

Reasons Supporting Proposal: A cost study determined current fees must be raised to offset costs of administering the timeshare program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cynthia J. Jones, 1300 Quince Street, (206) 753-2494.

Name of Proponent: Director, Department of Licensing, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal is to meet the requirements of RCW 43.24.086.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal will establish new fee levels for timeshare sufficient to defray the costs of administering that program. The rules are revised to be consistent with the definitions and fee exemptions.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

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

The director has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not because the rule will have minor or negligible impact on small business timeshare firms because the fees are adopted to conform with state law.

Hearing Location: Department of Licensing, Executive Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, WA 98504, on March 13, 1990, at 10:00 a.m.

Submit Written Comments to: Cynthia J. Jones, P.O. Box 9649, Olympia, WA 98504, by March 12, 1990.

Date of Intended Adoption: March 14, 1990.

February 7, 1990
 Marsha Tadano Long
 Assistant Director

NEW SECTION

WAC 308-127-035 DEFINITIONS. (1) Words and terms used in these rules shall have the same meaning as each has in the Timeshare Act, chapter 64.36 RCW, unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Agency" means the department of licensing in the state of Washington.

(3) "Timeshare project" means all the properties located at a specific resort location whether or not subject to resort or condominium regimes documents, which properties are subject to a particular set of timeshare instruments.

(4) "Timeshare property" means all the properties subject to a particular timeshare program established by a particular set of timeshare instruments.

(5) "Timeshare program" means the rights and obligations of the timeshare owners, methods, procedures and rules for occupying, using and managing the timeshared property, as established by a particular set of timeshare instruments.

(6) "Resale timeshare interval" means a timeshare interval offered or sold which is not the original offer, transfer, or sale of such interval to the general public and not a forfeited timeshare sale being reoffered by a promoter, lender, or affiliate.

(7) "Start-up timeshare interval" means a timeshare interval that is being offered or sold to the general public for the first time or a forfeited timeshare purchase being resold by a promoter, lender, or affiliate.

(8) "Advance fee" means consideration of any description, collected for any purpose from buyers or sellers of resale timeshare intervals prior to the time of transacting a purchase or sale of a timeshare resale.

(9) "Prospective purchaser" means any person attending a sales presentation of any description or touring a timeshare property in response to an advertisement placed by any person, including lenders to whom a start-up timeshare purchaser contract is pledged, hypothecated, or conveyed for security purposes.

(10) "Consolidation" means any adding of intervals, real estate, or units of timeshared personal property to a program. Consolidations shall not be construed as amendments to the registration for purposes of determining fees under these rules.

(11) "Amendment" means an amendment of a registration or a public offering statement pursuant to WAC 308-127-040.

(12) "Limited timeshare offering" means a timeshare interval or timeshare intervals offered or sold in which:

(a) None of the owners of interests are owners for the purpose of making a profit from renting, exchanging, or selling the timeshare interests; and none do in fact make a profit from such activities during a three-year term subsequent to establishment of the program; and

(b) The establishment of the timeshare program is not for the purpose of making a profit on behalf of any person; and

(c) All co-owners had personal knowledge of each other prior to the establishment of the program and there is no solicitation of co-owners by means of advertising in public media.

(13) "Public offering statement" means the disclosure document referred to in the Timeshare Act.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-040 MATERIALLY ADVERSE CHANGE. (1) A materially adverse change means any change in the condition of a promoter or its affiliates which causes or might cause loss or risk of loss to the interests of the timeshare purchasers or prospective purchasers.

A materially adverse change occurs under circumstances which include, but are not limited to, the following:

(a) Any bulk sale of all or a significant portion of the timeshare properties;

(b) Any actual or threatened bankruptcy, receivership, or similar proceeding involving the promoter or its affiliates;

(c) Any lien, encumbrance, or similar circumstance which threatens to affect, or does affect, any of the timeshare properties;

(d) Any sale, lease, substitution of, or addition to the inventory of the timeshare properties by the promoter or its affiliates;

(e) Any amendment or change in the timeshare instruments or the timeshare program;

(f) Any change in the affiliation of the promoter or the association with a timeshare exchange company;

(g) Any change in the promoter's or an affiliate's plan of promotion;

(h) Any change in the status of an escrow, trust, bond, letter of credit, impound or other protective device, being utilized in the timeshare program for purposes of purchaser protection;

(i) Any criminal prosecution, civil lawsuit, or administrative proceeding in which the promoter or its affiliates are parties;

(j) Sell-out of the number of intervals registered to be sold to persons residing in the state of Washington;

(k) Any change in the financial status of the promoter or its affiliates that might adversely affect their ability to pay the timeshare expenses, including reserve accounts, during marketing of the timeshares.

(2) Materially adverse changes shall be reported to the agency for purposes of amending or renewing the registration and the public offering statement at the time they are known or proposed by the promoter or its affiliates. Failure to report such changes within 20 days shall result in the assessing of a \$500.00 penalty fee and shall be cause for suspension, revocation, or denial of a registration.

NEW SECTION

WAC 308-127-105 EXEMPTIONS FROM REGISTRATION. (1) Provided that the conditions stated are met, the director may exempt from registration limited timeshare offerings:

(a) The offering contains fewer than four owners or timeshare intervals for at least three years after its establishment; and

(b) There is no soliciting of purchasers in the timeshare program from among the general public; and

(c) There appears to be neither hazard to the public or owners nor violation of the nonregistration provisions of the statute; and

(d) The co-owners of the timeshare program provide the agency with advance notice of their intent to establish a limited timeshare offering. Such notice may be given on a form for this purpose provided by the agency, or otherwise, which shall include the names and addresses of all co-owners of the timeshare program and properties, the identity and location of the timeshare properties, and a description of the timeshare program, including a copy of all agreements and forms that financially commit the owners to the program.

(2) Resales, by an owner, on the owner's own account, shall be exempt from registration provided that any such offering or selling is noncommercial in nature. "Noncommercial" shall mean that the owner of the resale intervals is not in the business of offering or selling timeshare intervals and such offering or selling is only incidental to any profession, occupation, or business of the owner.

(3) Offering resale timeshares for another person's account, by a licensed broker or salesperson under chapter 18.85 RCW, shall be exempt from registration under the Timeshare Act, provided that:

(a) The broker shall act solely in a brokerage capacity; and

(b) The broker shall provide prospective purchasers with information about the timeshares, as required in the Timeshare Act; and

(c) The broker shall ensure the transfer of the timeshares; and

(d) The broker shall not be in a business of marketing as a clearing house for the primary purpose offering or selling timeshares.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-110 DISCLOSURE DOCUMENTS—PROJECTS ALREADY REGISTERED IN FOREIGN JURISDICTIONS. (1) Whenever a timeshare project ((or a significant portion of a timeshare project's properties are)) is sited in a foreign jurisdiction and there has been a prior registration in that jurisdiction under an enactment specifically addressing the regulation of timeshares, the director may accept in whole or in part the disclosure statement of such foreign jurisdiction for purposes of satisfying the disclosure requirements of the Timeshare Act((, sec. 3, chapter 22, Laws of 1983 1st ex. sess)).

(2) Promoters who wish to utilize a disclosure document accepted by a foreign jurisdiction shall forward a copy of the ((foreign state's)) disclosure document to the agency along with the state of Washington registration forms, documents and filing fee ordinarily required of promoters.

(3) If a foreign jurisdiction's disclosure document is incorporated by reference into the state of Washington public offering statement, the state of Washington registration is deficient and void at the moment the ((foreign jurisdiction's)) registration in the foreign jurisdiction expires, or, if for any reason, ((that jurisdiction's)) the disclosure statement in that jurisdiction is or becomes deficient.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-120 FINANCIAL INFORMATION REQUIREMENTS. ((+)) The agency may require that the financial statements provided for in the Timeshare Act, ((sec. 4(1), chapter 22, Laws of 1983 1st ex. sess.)) be prepared and audited by an independent certified public accountant, in a manner which complies with the standards and guidelines established by the American Institute of Certified Public Accountants, under circumstances which include but are not limited to the following:

((a)) (1) For promoters of projects where accommodations or facilities are not completed at the time of the taking of a binding purchaser commitment and review of such statements will assist the agency in determining the promoter's ability to perform; or

((b)) (2) For promoters of right-to-use projects where a review of such statements will assist the agency in determining the ability of the promoter to provide continued future quiet enjoyment of the timeshare; or

((c)) (3) For promoters of projects where the promoter's payment of project expenses and servicing of reserve accounts cannot be assured by means other than reliance upon the promoter's own ability to pay such obligations from the promoter's existing assets.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-130 DISCLOSURE OF NUMBER OF INTERVALS TO BE SOLD TO PERSONS RESIDING IN THE STATE OF WASHINGTON. The public offering statement shall declare the total number of intervals available to be sold to persons residing within the state of Washington.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-140 EXPIRATION AND RENEWAL OF TIMESHARE OFFERING REGISTRATION. A timeshare offering registration shall expire one year from the date of issuance of the registration, or at the time the promoter sells the total number of intervals registered as available to be sold to persons residing in the state of Washington, whichever event occurs first. ((In order)) To continue offering the timeshare project in this state, a promoter shall file for renewal of its timeshare offering registration no later than thirty days

prior to expiration of the registration. Failure to renew within six months after the renewal date shall result in the termination of the registration and all fees for an original application for registration shall apply.

NEW SECTION

WAC 308-127-160 FEES. The following fees shall be charged under the authority of RCW 64.36.081 and 43.24.086:

(1) Registration application fees:

Start-up timeshare program including one project.	\$2500.00
Each additional project in program.	1000.00
Each apartment unit in program.	150.00
The first unit of personal property in the timeshare program.	1000.00
Each additional unit of personal property in the timeshare program.	100.00
Businesses of listing or brokering resale intervals.	500.00

(2) Interval Fees:

For each interval through one thousand.	1.00
Intervals beyond one thousand.	0.00
Each monthly filing of listings of resale intervals (in lieu of interval fees for resale intervals).	10.00

(3) Renewal fees:

Timeshare program including one project.	2000.00
Late renewal fee for timeshare program.	2500.00
Each additional project to a maximum of five projects.	500.00
Each apartment unit - to maximum of twenty-five apartment units.	100.00

(4) Consolidation fees:

Each additional project added.	1000.00
Each additional apartment unit.	150.00
The first additional unit of personal property being consolidated.	500.00
Each additional unit of personal property added in one consolidation.	100.00

(5) Exemption fees:

Programs consisting of a single apartment unit in a single project with fifty-two or fewer intervals.	250.00
All other types of programs.	1000.00

(6) Impound fees:

Initial establishment of an impound, escrow, trust, or other arrangement requiring a depository.	500.00
Each required periodic report.	50.00

(7) Advertising fees:

Each initial submission of advertisement not submitted in a timely manner, whether or not in use at the time of payment.	100.00
Examination of advertisement which are for the purpose of marketing surveys and not involving an examination of project or program instruments.	150.00

(8) Fees for persons in the business of offering commercial promotional programs:

Registration of individual.	500.00
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(9) Salespersons fees:

Registration.	150.00
Renewal.	75.00
Transfer.	75.00
Duplicate license.	25.00

(10) Fees for amendment of registration:

For a timely submission of an amendment filing.	50.00
Penalty fee for failure to file an amendment within twenty days of the occurrence of a materially adverse change.	500.00

(11) Inspection fees:

Applicants and registrants shall pay the cost of inspections conducted pursuant to chapter 64.36 RCW. The inspection fees shall be paid prior to the granting of a registration or consolidation. The inspection fee shall be the actual cost to the department for conducting of the inspection.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-200 ACTIVITIES REQUIRING REGISTRATION AS A TIMESHARE SALESPERSON. (1) An individual acts as a timeshare salesperson whenever the individual induces, solicits, or attempts to encourage a person to acquire a timeshare; or the individual is responsible for causing an advertiser to publicize a timeshare offer.

(2) Unless exempted under the Timeshare Act, or these rules, a timeshare salesperson shall be registered in the state of Washington whenever one of the following apply:

(a) The timeshare salesperson offers a timeshare for sale from a timeshare project in which the principal property of the ((project)) program is located in this state; or

(b) The timeshare salesperson offers a timeshare for sale from a timeshare project in which the principal property of the ((project)) program is located outside of this state, and

- (i) The offer is made in or from this state, or
- (ii) The person receiving the offer is located in this state at the time the offer is received.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-210 RELATIONSHIP OF TIMESHARE PROMOTERS AND SALESPERSONS AND REAL ESTATE BROKERS AND SALESPERSONS. (1) A timeshare salesperson shall be registered to a specific timeshare promoter who has one or more timeshare offerings registered in this state. The promoter shall have full responsibility for all activities of the promoter's timeshare salesperson which relate to offering timeshares for sale.

(2) An active real estate broker or salesperson may act as the brokerage agent of one or more timeshare promoters without registering as a timeshare salesperson. However, this exemption from registration as a timeshare salesperson applies only when the exempted person is performing real estate brokerage in compliance with chapter 18.85 RCW. Further, this exemption only pertains to the timeshare salesperson registration requirement. All other provisions of the Timeshare Act apply to real estate brokers and salespersons offering timeshares for sale.

(3) A natural person may be registered as a timeshare salesperson while ~~((actively))~~ licensed as a real estate broker or salesperson. However, the ~~((natural person))~~ salesperson shall ~~((carry out))~~ conduct timeshare activities and maintain associated business records ~~((in a manner which is))~~ separate and apart from his or her real estate broker or salesperson activities ~~((carried out and records maintained as a real estate broker or salesperson))~~ and records. The term "separate and apart" shall not preclude location of timeshare salesperson and real estate brokerage activities at the same office.

(4) Any individual who is registered as a timeshare salesperson and ~~((actively))~~ licensed as a real estate broker or salesperson shall disclose in writing to the recipient of a timeshare sales offer whether he or she is acting as the timeshare salesperson of a promoter or a real estate broker or salesperson at the time he or she presents the public offering statement ~~((to the prospective purchaser))~~.

NEW SECTION

WAC 308-127-225 ORIGINAL APPLICATION, RENEWAL, TERMINATION, AND FEES FOR A TIMESHARE SALESPERSON REGISTRATION. (1) An individual shall apply for registration as a timeshare salesperson on a form prescribed by the agency. The registration for a timeshare salesperson shall identify the specific promoter responsible for the business activities of the salesperson and shall be valid for a period of one year beginning on the issuance date printed on the registration.

(2) The registration of a timeshare salesperson shall be retained at all times by the timeshare promoter. When a timeshare salesperson ceases to be employed by a timeshare promoter the salesperson's registration shall be terminated. Notice of this termination shall be given by the promoter to the director and this notice shall be accompanied by the timeshare salesperson's registration. A terminated individual who desires to work for the same or another promoter shall apply for and receive registration as a timeshare salesperson before engaging in further timeshare sales activities.

(3) An individual may renew his timeshare salesperson registration for one year if the agency receives the individual's request and renewal fee on or before the expiration of the individual's existing registration. The effective date of the renewal shall be the anniversary date of the previous registration. If the registration is not renewed before the expiration date reregistration is required before timeshare sales activity may be continued.

(4) An application for registration or a renewal of registration is not complete unless it is accompanied by the proper fee. Payment of the fee with a check which is subsequently dishonored is a deficient application. Upon notification to the promoter by the agency, the promoter shall return the registration and cease employment of the applicant as a timeshare salesperson.

AMENDATORY SECTION (Amending Order 733 DOL, filed 12/6/83)

WAC 308-127-300 IMPOUNDMENT. (1) The agency may require impoundment authorized in the Timeshare Act, ~~((sec. 13(1), chapter 22, Laws of 1983 1st ex. sess.))~~ under circumstances which include, but are not limited to, the following:

(a) ~~((For))~~ The registration of any cooperative or right-to-use project whenever adequate assurances of continued quiet enjoyment

cannot be provided by means of bonds, escrows, trusts, or other devices; or ~~((:))~~

(b) ~~((For))~~ The registration of any form of timeshare project whenever the timeshare properties and other facilities promised are not yet constructed or otherwise available, and where completion of construction or delivery of accommodations and facilities cannot be assured by bonds, escrows, trusts, or other devices; or

(c) The registration of persons in the business of listing or brokering resale timeshare intervals whenever any advance fees or funds of any description are to be collected from buyers or sellers of resale timeshare intervals prior to the time of transacting a purchase or sale of a timeshare interval; or

(d) The registration of persons in the business of offering commercial promotional programs whenever any advance fees or funds of any description are to be collected from persons in advance, in connection with delivery by the promisor of gifts, prizes, awards, or any other item of value.

(2) Funds subject to impoundment shall be placed in a separate and independent trust account with a bank or depository institution acceptable to the director. A written consent of the depository to act in such capacity shall be filed with the director.

(3) The director will ~~((authorized))~~ authorize the depository to release to the promoter or an affiliate when appropriate, such amounts of the impounded funds applicable to a specified purpose such as, payment of selling costs or timeshare expenses, purchase of property, or the construction of an improvement, upon a showing that the promoter can satisfy its obligations under the purchaser contracts to furnish purchasers the accommodations, facilities and services promised, or ~~((that))~~ if for other reasons the impoundment is no longer required for the protection of purchasers. ~~((An application for an order of the director authorizing))~~ A request to authorize the release of the impounded funds to the promoter or an affiliate ~~((:))~~ shall ~~((be verified and))~~ contain ~~((:))~~ the following:

(a) A statement of the promoter, or affiliate where appropriate, that all required proceeds from the sale of timeshares have been placed with the depository in accordance with the terms and conditions of the impoundment agreement; ~~((and))~~

(b) A statement of the depository signed by an appropriate officer setting forth the aggregate amount of funds placed with the depository, and any interest earned by these funds; ~~((and))~~

(c) The name of each timeshare contract purchaser and the amount impounded for the account of each purchaser; and

(d) Such other information as the director may request in a particular case.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-127-010 PROMULGATION—AUTHORITY.
WAC 308-127-020 ORGANIZATION.
WAC 308-127-030 DEFINITIONS.
WAC 308-127-100 EXEMPTIONS FROM REGISTRATION.
WAC 308-127-155 FEES.
WAC 308-127-220 ORIGINAL APPLICATION, RENEWAL, TERMINATION, AND FEES FOR A TIMESHARE SALESPERSON REGISTRATION.

WSR 90-04-089

PROPOSED RULES

INSURANCE COMMISSIONER

[Filed February 7, 1990, 1:31 p.m.]

Original Notice.

Title of Rule: Washington Medicare supplement insurance regulation.

Purpose: To conform regulation of Medicare supplement insurance policies to changes in federal Medicare laws and the NAIC Model Act and Rule; and to adopt certain unfair practices. The purpose of this rule is to assure the orderly implementation and conversion of Medicare supplement insurance policies in this state to

comply with changes in the federal Medicare program. The rules provide for the reasonable simplification and standardization of the coverage, terms, and benefits of Medicare supplement insurance policies, and the elimination of policy provisions which may duplicate Medicare benefits as the federal Medicare program changes; facilitate public understanding and comparison of such policies and eliminate provisions contained in such policies which may be misleading or confusing; establish minimum standards for Medicare supplement insurance, an "outline of coverage" and other disclosure requirements; prohibit the use of certain provisions in Medicare supplemental insurance policies; define and prohibit certain acts and practices as unfair methods of competition or unfair or deceptive acts or practices; protect consumers from abusive agent practices particularly those associated with "cold lead" advertising and inappropriate repeated replacement of Medicare supplement insurance policies; and establish loss ratio requirements, policy reserves, filing and reporting procedures.

Other Identifying Information: R 90-4.

Statutory Authority for Adoption: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200.

Statute Being Implemented: RCW 48.66.041, 48.66.050, 48.66.070, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160.

Summary: This proposal conforms regulation of Medicare supplement insurance policies to changes in federal Medicare laws and the NAIC Model Act and Rule; and proposes certain unfair acts and practices.

Reasons Supporting Proposal: These rules propose to continue the policy of this state of remaining in step with the standards required by federal law for certification of Medicare supplement insurance policies.

Congress enacted the Medicare Catastrophic Coverage Repeal Act (hereinafter "Repeal Act") on November 21, 1989, and President George Bush signed it into law on December 13, 1989. The Repeal Act, effective January 1, 1990, affects all in-force Medicare supplement insurance policies and requires the National Association of Insurance Commissioners (hereinafter "NAIC") to adopt minimum standards for benefits and consumer protection.

On December 7, 1989, the NAIC adopted amendments to its model Medicare Supplement Insurance Act and Regulation (hereinafter "NAIC Model Act and Rule") as required by the Repeal Act. The Repeal Act restricts the sale of Medicare supplement insurance policies that do not meet standards at least as protective of insurance consumers as the standards of the amended NAIC Model Act and Rule. This new chapter 284-66 WAC is patterned after the NAIC Model Act and Rule with certain provisions which increase protection to consumers as described.

On December 19, 1989, just six days after the Repeal Act was signed into law by the President, the Insurance Commissioner, by emergency action, adopted the Washington Medicare Supplement Insurance Regulation, creating chapter 284-66 WAC, in essentially the same form as this proposed permanent rule, in order to

allow insurers as much time as possible to alter their policy forms, pricing structures and consumer disclosure materials. It was also necessary for the commissioner to act quickly in order to minimize the disruption of availability of Medicare supplement insurance policies and contracts in this state. This was accomplished by emergency repeal of chapter 284-55 WAC (the now-obsolete Medicare supplement regulation) and emergency adoption of chapter 284-66 WAC.

Medicare supplement insurance regulation is accomplished through a unique blend of federal and state activity. In 1980, the so-called Baucus amendment to the Health Insurance for Aged and Disabled Act (Medicare), codified at 42 U.S.C. Section 1395ss, established a system of voluntary certification of Medicare supplemental health insurance policies by establishing a supplemental health insurance panel (SHIP) which congress authorized to certify that state standards for this insurance meet or exceed those in the NAIC Model Act and Rule. The Baucus amendment was amended to require inclusion of certain additional minimum benefits by the Medicare Catastrophic Coverage Act of 1988; and it was the Baucus amendment that was again amended in 1989 to substantially repeal the 1988 amendments.

In adopting these proposed rules, Washington is continuing its policy of remaining in step with the standards required by federal law for certification of Medicare supplement insurance policies.

In the past it was difficult for insurers to adapt in-force policies to the radical changes in Medicare because such changes were not contemplated by the insurer when the policy form was designed. The commissioner recognizes that additional disruptive changes may occur in the future. He also knows that many Washington residents rely on policies designed many years ago, policies that no longer meet the minimum requirements for Washington Medicare supplement insurance policies. And the commissioner recognizes that the inability of existing policies to meet the changing needs of insurance consumers contributes to the perceived need of consumers to purchase several policies at great expense rather than rely on one comprehensive Medicare supplement insurance policy. Thus for the protection of Washington consumers, these rules follow the NAIC Model Act and Rule by requiring that all in-force Medicare supplement policies be brought up to the minimum benefit standards (WAC 284-66-060 and 284-66-070). In addition, the effect of these rules is to require flexibility of design so that policies can adapt to future changes in the minimum requirements of this state and revisions in the federal Medicare program.

The minimum policy benefits in proposed permanent WAC 284-66-060 (for other than risk sharing contracts) are identical to those in the NAIC Model Act and Rule. Other sections of the NAIC Model Act and Rule were adopted without significant change, including: Limitations on exclusions (WAC 284-66-050); requirements for outlines of coverage (WAC 284-66-080 and 284-66-090); the form for advising consumers about changes to the federal Medicare program in 1990 and in the future (WAC 284-66-100 and 284-66-160); the

notice regarding policies which are not Medicare supplement policies (WAC 284-66-120); addition of certain questions to application and replacement disclosure forms designed to aid agents in providing only necessary and appropriate Medicare supplement insurance to consumers (WAC 284-66-130, 284-66-140 and 284-66-150); prohibition of new preexisting conditions, waiting periods, elimination and probationary periods in replacement policies or certificates so that insureds who replace one Medicare supplement insurance policy with another will not have to wait for coverage to be effective (WAC 284-66-170); requirement that all policies be continuously renewable to keep insurers from cancelling mass blocks of policyholders in order to manipulate premiums, and to assure continuity of coverage for insureds (WAC 284-66-180); requirement that policies not be renewed in this state unless they can change to meet future amendments to the minimum benefit requirements of chapter 284-66 WAC, in order that policies covering residents of this state will change as the federal Medicare program changes in the future, thereby eliminating any need for a consumer to buy more than one Medicare supplement insurance policy (WAC 284-66-040, 284-66-050, 284-66-060, 284-66-070, 284-66-160, 284-66-170 and 284-66-180); filing requirements for out-of-state group policies (WAC 284-66-250); reporting multiple policies in the same insurer (WAC 284-66-320); and standards for determining the appropriateness of certain purchases of Medicare supplement insurance (WAC 284-66-330 and 284-66-340).

Recognizing that Washington state law protects a consumer's choice of medical practitioners, the NAIC provision allowing an exclusion for chiropractic services was deleted.

Certain provisions in these proposed permanent rules come directly from the federal amendments: Providing all applicants for medical or disability insurance with an approved buyers' guide (WAC 284-66-110); offering "reinstitution" of coverage to all those who dropped their Medicare supplement policies in 1989 (WAC 284-66-190); certifying compliance with the Omnibus Budget Reconciliation Act of 1987 (WAC 284-66-270); and requiring all Medicare supplement insurance advertising to be filed with the insurance commissioner prior to use in this state (WAC 284-66-300).

Other sections are unique to Washington state and are carried forward, with some minor changes, in the new rules: Standards for loss ratios (WAC 284-66-200); loss ratio reporting requirements and forms (WAC 284-66-220 and 284-66-230); requirements for riders and endorsements that change benefits (WAC 284-66-260); and a prohibition against attained age rating (WAC 284-66-310).

Filing requirements and premium adjustment requirements have been expanded (WAC 284-66-240).

Other provisions included in proposed chapter 284-66 WAC are new and unique to Washington state:

(1) Minimum standards and requirements for risk sharing contracts, WAC 284-66-070: The Repeal Act specifically exempts from its scope risk sharing contracts. These contracts, as defined at 42 U.S.C. Section 1395mm (g) and (h), provide Medicare coverage plus

some additional benefits which supplement Medicare to members of certain entities, most notably health maintenance organizations. The exemption from the Repeal Act means that the benefits required by the Medicare Catastrophic Coverage Act of 1988 (repealed for all other entities providing Medicare supplement insurance by the Repeal Act) will become a part of these contracts.

The commissioner has determined that a central and essential reason to require uniform disclosure and to specify a core of minimum benefits in Medicare supplement insurance policies of all insurers is to restrict not only the numbers of choices of benefit patterns in order to limit the confusion caused by a multitude of offerings, but also to assure that each package of benefits offered by an insurer gives insureds real, and not illusory, coverage. Thus, the commissioner has determined that certain minimum supplemental benefits should be required of risk sharing contracts as well as other types of Medicare supplemental insurance. For risk sharing contracts, the minimum benefits standards will be those which would have been in effect if congress had not repealed the Medicare Catastrophic Coverage Act of 1988.

Because risk sharing contracts will include markedly different benefits from Medicare supplement insurance policies which are not risk sharing contracts, the commissioner has determined that consumers would be less likely to be deceived and better able to compare policies if the supplemental benefits of all risk sharing contracts were disclosed in essentially the same format as for all other types of Medicare supplement contract. Thus specific consumer disclosure requirements are required for risk sharing contracts.

(2) Policy reserves, WAC 284-66-210: Policy reserves are required for Medicare supplement insurance policies sold on a level premium basis. Claims payments generally increase with an increase in policy duration for all issue ages. Reserves are necessary to assure that the excess premium collected in early policy years will be available later when claims will exceed the premium collected. Reserves serve as a measure of financial solvency. They also serve as an accounting tool to match income received against current and future benefit payments.

(3) Required compensation arrangements, WAC 284-66-350: A significant 1989 consumer protection provision of the amended NAIC Model Act and Rule is a requirement that insurers compensate their agents with commission rates for renewals of at least one-half the rate paid for first year commissions and that commissions be payable over a "reasonable period of time." The NAIC Model Act and Rule also require that commissions for replacements of all existing Medicare supplement insurance be paid at the renewal rate. The NAIC Model Act and Rule as amended December 7, 1989, have become the standard for regulation of Medicare supplement insurance policies. Regulation of commissions by a method at least as favorable to the consumer as that included in the NAIC Model Act and Rule is, therefore, now a required element in the SHIP certification process described above.

The Washington regulation differs from the NAIC Model Rule in that it requires that commissions be paid over the lifetime of the policy at a uniform annual rate. It is the conclusion of the commissioner that: (i) The payment of commissions for a limited period of time; and (ii) The payment of premiums in a pattern that pays a high first year commission and low renewal commissions, both contribute to, and probably drive, repeated inappropriate replacement of Medicare supplement insurance for the principal purpose of generating commission dollars for the agent, without regard to the consumer's best interest. The commissioner has concluded that the NAIC Model does not go far enough to address these problems and, therefore, these rules require level commissions as long as the policy is in force.

Insurers have reported that Medicare supplement insurance policies currently remain in force for an average of six to eight years. It is anticipated that consumers will keep their policies longer as a result of two particular changes proposed in this rule: (1) Continuous renewability will assure insureds the insurer will not be able to arbitrarily cancel their policy; and (2) requiring that Medicare supplement policies be written so that they change as the federal Medicare program changes will mean insureds need buy only one comprehensive policy. These improvements should lengthen the useful life of the policy to the insured.

For these reasons it is anticipated that an insured will continue a single policy in force for a longer period of time than has been the case in past under prior rules. Because policies will remain in force longer, agents can anticipate receiving more compensation under a level commission plan that pays commissions over the life of the policy than under the currently common design: High first year commissions coupled with low renewals for a limited number of years. And, importantly, because a greater percentage of the compensation paid to the agent will be received in future years, it is expected that a more professional agent will result, an agent who will be available to help insureds throughout the years the policy remains in force, not just at time of solicitation.

The commissioner takes no position on whether commissions must be paid over the life of a policy to a particular agent or how agents may be reassigned where a writing or producing agent leaves the company, retires, dies or in some manner becomes ineligible to receive commissions for the sale or servicing of insurance policies. That is for the company and agent to determine between themselves by contract. The rule is intended to require only that commissions be equal from year to year and that they be paid out as long as the policy is in force.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David H. Rodgers, Chief Deputy Insurance Commissioner, Olympia, Washington, 753-7300.

Name of Proponent: Dick Marquardt, Insurance Commissioner, public.

Rule is necessary because of federal law, Medicare Catastrophic Coverage Repeal Act.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule amends existing regulation of Medicare

supplement insurance policies by adopting changes to conform regulation in this state to changes in federal Medicare law and the NAIC Model Act and Rule, and adopts certain unfair acts and practices. Congressional repeal, in November of 1989, of the Medicare Catastrophic Coverage Act of 1988, required immediate and far-reaching amendments to regulations affecting Medicare supplemental insurance policies providing coverage to residents of this state.

The proposed rule, based substantially on the federal Repeal Act and the NAIC Model Act and Rule.

Only certain prescribed exclusions from coverage are permitted, WAC 284-66-050; all existing Medicare supplemental insurance coverage must be brought into compliance with new minimum benefit standards, WAC 284-66-060; minimum benefit standards for risk sharing contracts must coincide with the exemption from the Repeal Act of this unique type of Medicare supplemental coverage, WAC 284-66-070; specific forms must be used for applications, replacement notices, adjustment notices, outlines of coverage and other consumer disclosure materials, WAC 284-66-080, 284-66-090, 284-66-100, 284-66-130, 284-66-140, 284-66-150 and 284-66-160; the buyers' guide prepared jointly by the NAIC and Secretary of Health and Human Services must be used in all sales to people eligible for Medicare by reason of age, WAC 284-66-110 and 284-66-120; agents must investigate the appropriateness of Medicare supplemental insurance products that they suggest to consumers, WAC 284-66-130, 284-66-140, 284-66-330 and 284-66-340; if a policy is replacing an existing Medicare supplement policy a new preexisting condition or other limitation or exception may be imposed by an insurer in the new policy only to the extent such exception or limitation has not been satisfied in the first policy, WAC 284-66-170; Medicare supplemental insurance policies must be continuously renewable, except for nonpayment of premium and material misrepresentation, WAC 284-66-180; benefits in all Medicare supplement insurance policies must be able to change as the federal Medicare program changes in the future, WAC 284-66-060, 284-66-070, 284-66-160, 284-66-170 and 284-66-180; reinstatement of coverage must be offered to all consumers who dropped Medicare supplement insurance during 1989 and did not replace it, WAC 284-66-190; out-of-state group master policies and certificate forms must be filed with the commissioner, WAC 284-66-250; riders and endorsements that increase a policy's benefits or premium must be agreed to or requested by the insured, except where changes are necessary to conform a policy to future changes in the federal Medicare program or this state's minimum benefit standards, WAC 284-66-260; forms and advertising materials must be filed with the commissioner, WAC 284-66-300; insurers must report loss ratios in a prescribed manner, WAC 284-66-200 through 284-66-240; reserves are required for policies sold on a level premium basis, WAC 284-66-210; insurers may not use the increasing age of the insured to set rates, WAC 284-66-310; agents' actions in connection with the solicitation and renewal of coverage must meet specified marketing standards, WAC

284-66-330 and 284-66-340; commissions paid by insurers for solicitation and renewal of Medicare supplement insurance policies must be level and paid to an agent each year the policy is in force, WAC 284-66-350; and certification of compliance with the requirements of the Omnibus Budget Reconciliation Act of 1987, WAC 284-66-270.

Proposal Changes the Following Existing Rules: This proposed permanent rule would permanently repeal chapter 284-55 WAC. Adoption of this rule would permanently replace chapter 284-55 WAC, repealed on an emergency basis December 19, 1989. Since December 19, 1989, Medicare supplement insurance has been regulated under chapter 284-66 WAC, adopted on an emergency basis December 19, 1989, see WSR 90-01-092. This rule would permanently adopt, with minor changes, chapter 284-66 WAC as adopted by emergency action. Differences between regulation of Medicare supplement insurance under the old chapter 284-55 WAC and the new chapter 284-66 WAC are described more fully above.

Small Business Economic Impact Statement: There is no requirement that any insurer engage in the sale of Medicare supplemental insurance coverage to residents of this state; and, therefore, no requirement that these products be developed for sale in Washington.

The commissioner recognizes that there will be start-up costs required of all insurers who choose to develop new Medicare supplemental insurance products. This, however, is more the result of federal action than a result of state regulation of Medicare supplemental insurance policies. Development of new products, marketing materials and commission and salary arrangements will be required of any insurer engaged in the Medicare supplement insurance business in 1990. Most changes are required by federal action; only limited differences exist that will result in added costs to do business in this state.

The proposed rules may place a proportionately higher burden on small insurers than on larger ones. Because the start-up costs for compliance will be similar in insurers whether they have fewer or more than fifty employees, the cost per employee will be higher in the small business. With respect to costs per one hundred dollars of sales, the number of the insurer's employees has little significance.

Insurance agents will be required to do little to comply with the proposed rules, but will be affected by these rules and their implementation by insurance companies. The commissioner recognizes that there will be some initial disruption based on changes in the amount of first-year commissions paid to agents by the insurance companies they represent. Many agents operate on an individual basis. Some are part of large agencies. It is not feasible to determine the impact on their compensation on the basis of their mode of operation or the size of the firm they may belong to.

There are two principal and equally important reasons for requiring level commissions over the lifetime of the policy: To reduce the repeated and, often inappropriate, replacement of Medicare supplement insurance; and to encourage continuing service to insureds by active agents as long as policies remain in force. The commissioner

has determined that the rule can only be implemented if all insurers and all agents play by the same rules. Mitigation of the effects on small business by implementing different standards for large and small business would defeat the twin purposes of the rule.

Regarding replacement of policies, it is the conclusion of the commissioner that: The payment of commissions for a limited period of time; and the payment of premiums in a pattern that pays a high first year commission and low renewal commissions, both contribute to, and probably drive, the inappropriate repeated replacement of Medicare supplement insurance for the principal purpose of generating commission dollars for the agent, replacements which are seldom to the advantage of the consumer. Additionally, current common patterns of extremely low renewal commission coupled with high first-year commission, gives the agent almost no incentive to remain in touch with the insured after the sale is made. The percentage of premium paid by insurers to their agents on a level commission basis should be higher over all than the percentage paid now for renewal commissions. The commissioner, therefore, has concluded that level commissions will significantly reduce unnecessary, inappropriate and repeated replacement of Medicare supplement insurance policies and, at the same time, make it more likely that an agent will actively remain in contact with an insured and provide service after the sale.

In addition, the requirements for level commissions over the life of the policy afford a unique regulatory advantage for the commissioner. The insurer must set rates to produce the required minimum loss ratio. The minimum loss ratio for individual insurance policies is sixty-five percent. The insurer must now pay a level commission rate in each and every policy year over the life of the policy. It is expected that for individual coverage this commission rate will range from 10% to 25%. With these two numbers (minimum loss ratio and level commission rate), it is now possible to judge immediately whether the insurer has determined rates which are reasonable. A reasonable rate should provide acceptable benefits, pay appropriate compensation to the agent, and provide adequate margins for expenses and profit.

With nonlevel commissions it was necessary to know the termination rates before the commissioner could judge whether compensation was reasonable or excessive. With level commissions the commissioner can quickly determine the margin available for expenses and profit. This margin should be expected to be within the range of 10% to 20% of premium. If it is less than 10%, the rates are most likely inadequate: i.e., sufficient margins are not available to meet the expense of doing business.

The Regulatory Fairness Act, chapter 18.85 RCW, requires that a regulatory agency consider and, to the extent that it can, minimize the impact of a rule on small businesses. RCW 19.85.040 requires the agency, in its small business economic impact statement, to analyze the cost of compliance including costs of equipment, supplies, labor and increased administrative costs and compare these costs for both large and small businesses using one of the following bases: Cost per employee, cost

per hour of labor, cost per one hundred dollars of sales, or any combination thereof.

The changes to regulation of Medicare supplement insurance policies and contracts are not easily measured using these criteria. Costs to insurers will be higher or lower depending on their involvement in this particular market place, and will be felt throughout the several states in which each insurer chooses to actively solicit Medicare supplement insurance policies. Costs to agents cannot be measured by the criteria of RCW 19.85.040. The impact on agents will be a shift in the pattern of compensation. Agents will have to adjust the percentage of commissions received in a given year spent on overhead costs, a higher percentage will be required during the first year or so, and then a lower percentage in later years as agents begin to feel the impact of receipt of higher renewal commissions. The impact of the rule will be most noticeable for those few small agencies that are primarily dependent on the sale of Medicare supplement insurance. Most agencies routinely sell a wide variety of insurance products. In the long run, the commissioner has concluded, even the "senior specialty" agents will be better off because the higher renewals should provide a stream of income that will be more stable over a longer period of time.

Hearing Location: Conference Room, Main Floor, General Administration Building, 11th and Columbia Streets, Olympia, Washington, on March 14, 1990, at 9:30 a.m.

Submit Written Comments to: Insurance Commissioner, Insurance Building, AQ-21, Olympia, Washington 98504-0321, by March 14, 1990.

Date of Intended Adoption: March 16, 1990.

February 7, 1990

Dick Marquardt

Insurance Commissioner

By Melodie Bankers

Assistant Deputy Commissioner
for Consumer Protection

Chapter 284-66 WAC

WASHINGTON MEDICARE SUPPLEMENT INSURANCE
REGULATION

NEW SECTION

WAC 284-66-010 PURPOSE. The purpose of this chapter is to effectuate the provisions of RCW 48.20.450, 48.20.460 and 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, and to supplement the requirements of chapter 48.66 RCW, the Medicare Supplemental Health Insurance Act; to assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program; to provide for the reasonable simplification and standardization of the coverage, terms, and benefits of Medicare supplement insurance policies, and to eliminate policy provisions which may duplicate Medicare benefits as the federal Medicare program changes; to facilitate public understanding and comparison of such policies and to eliminate provisions contained in such policies which may be misleading or confusing; to establish minimum standards for Medicare supplement insurance, an "outline of coverage" and other disclosure requirements; to prohibit the use of certain provisions in Medicare supplemental insurance policies; to define and prohibit certain acts and practices as unfair methods of competition or unfair or deceptive acts or practices; and to establish loss ratio requirements, policy reserves, filing and reporting procedures.

NEW SECTION

WAC 284-66-020 APPLICABILITY AND SCOPE. Except as provided by federal law, chapter 48.66 RCW, or as otherwise specifically provided by this chapter, this chapter shall apply to every group and individual policy of disability insurance and to every subscriber contract of an insurer, fraternal benefit society, health care service contractor, or health maintenance organization, which relates its benefits to Medicare, or which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age, including any policy which is governed by a contract between the insurer and the Secretary of Health and Human Services where the policy provides benefits in excess of those provided under Parts A and B of Medicare. All such policies or contracts are referred to in this chapter as "Medicare supplemental insurance" or "Medicare supplement insurance policy" or "Medicare supplement coverage."

NEW SECTION

WAC 284-66-030 DEFINITIONS. For purposes of this chapter:

(1) "Applicant" means:

(a) In the case of an individual Medicare supplement insurance policy, the person who seeks to contract for insurance benefits; and
(b) In the case of a group Medicare supplement insurance policy, the proposed certificate holder.

(2) "Certificate" means any certificate issued under a group Medicare supplement insurance policy, which policy has been delivered or issued for delivery in this state.

(3) "Direct response insurer" means an insurer who, as to a particular transaction, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance agent.

(4) "Disability insurance" is insurance against bodily injury, disablement or death by accident, against disablement resulting from sickness, and every insurance appertaining thereto. For purposes of this chapter, disability insurance shall include policies or contracts offered by an insurer, fraternal benefit society, health care service contractor, or health maintenance organization.

(5) "Health care expense costs" means expenses of a health maintenance organization or health care service contractor associated with the delivery of health care services which are analogous to incurred losses of insurers. Such expenses shall not include home office and overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, and "claims" processing costs.

(6) "Insurer" includes insurance companies, fraternal benefit societies, health care service contractors, and health maintenance organizations.

(7) "Policy" includes agreements or contracts issued by insurers, health maintenance organizations, health care service contractors, and fraternal benefit societies.

(8) "Premium" means all sums charged, received, or deposited as consideration for a Medicare supplement insurance policy or the continuance thereof. An assessment or a membership, contract, survey, inspection, service, or other similar fee or charge made by the insurer in consideration for such policy is deemed part of the premium. "Earned premium" shall mean the "premium" applicable to an accounting period whether received before, during or after such period.

(9) "Reasonable cost basis" means a policy or certificate of a health maintenance organization or competitive medical plan that is governed by a contract between the insurer and the Secretary of Health and Human Services as defined at 42 U.S.C. Section 1395mm(h).

(10) "Replacement" means any transaction in which new Medicare supplement coverage is to be purchased, and it is known or should be known to the proposing agent or other representative of the insurer, or to the proposing insurer if there is no agent, that by reason of such transaction, existing Medicare supplement coverage has been or is to be lapsed, surrendered or otherwise terminated.

(11) "Risk sharing contract" means a policy or certificate of a health maintenance organization or competitive medical plan that is governed by a contract between the insurer and the Secretary of Health and Human Services as defined at 42 U.S.C. Section 1395mm(g).

NEW SECTION

WAC 284-66-040 POLICY DEFINITIONS AND TERMS. No insurance policy may be advertised, solicited, issued for delivery in this state or renewed as a Medicare supplement insurance policy unless such policy contains definitions or terms which conform to the requirements of this section.

(1) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words or description or characterization.

(a) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) Such definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

(2) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall be defined in relation to its status, facilities and available services.

(a) A definition of such home or facility shall not be more restrictive than one requiring that it:

- (i) Be operated pursuant to law;
- (ii) Be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;
- (iii) Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;
- (iv) Provide continuous twenty-four hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and
- (v) Maintain a daily medical record of each patient.

(b) The definition of such home or facility may provide that such term shall not be inclusive of:

- (i) Any home, facility or part thereof used primarily for rest;
- (ii) A home or facility for the aged or for the treatment of chemical dependency; or
- (iii) A home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

(3) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Health Care Organizations.

(a) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

- (i) Be an institution operated pursuant to law; and
- (ii) Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charge is made; and
- (iii) Provide twenty-four hour nursing services by or under the supervision of registered graduate professional nurses (R.N.'s).

(b) The definition of the term "hospital" may state that such term shall not be inclusive of:

- (i) Convalescent homes, convalescent, rest, or nursing facilities;
- (ii) Facilities primarily affording custodial, educational, or rehabilitative care;
- (iii) Facilities for the aged or for the treatment of chemical dependency; or
- (iv) Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

(4) For purposes of exclusions from coverage, "mental or nervous disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

(5) "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse," or "registered nurse" are used without specific instruction, then the use of

such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

(6) "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician." The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(7) "Sickness" shall not be defined to be more restrictive than the following: "Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

NEW SECTION

WAC 284-66-050 PROHIBITED POLICY PROVISIONS. (1) No policy may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement insurance policy unless such policy meets or exceeds the requirements of chapter 48.66 RCW.

(2) No Medicare supplement policy or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

(3) No policy may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement policy if such policy limits or excludes coverage by type of illness, accident, treatment, or medical condition, except as follows:

- (a) Foot care in connection with corn, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;
- (b) Mental or emotional disorders and chemical dependency;
- (c) Illness, treatment, or medical condition arising out of:
 - (i) War or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or units auxiliary thereto;
 - (ii) Suicide (whether sane or insane), attempted suicide, or intentionally self-inflicted injury;
 - (iii) Aviation, other than as a fare-paying passenger on a scheduled or charter flight operated by a scheduled airline;
 - (d) Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection, or other diseases of the involved part;

(e) Treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories, or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

- (f) Dental care or treatment;
- (g) Eye glasses, hearing aids, and examination for the prescription or fitting thereof;
- (h) Rest cures, custodial care, transportation, and routine physical examinations;

(i) Territorial limitations outside the United States: **PROVIDED**, That Medicare supplement insurance policies may not contain, when issued or renewed, limitations or exclusions of the type enumerated in (a), (b), (h) or (i) of this subsection, that are more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

(4) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement insurance policy shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium, or be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

(5) Termination of a Medicare supplement policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous

total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Any provision to the contrary is prohibited.

(6) No Medicare supplement insurance policy shall restrict, exclude or limit benefits for a sickness through use of a probationary, or similar, provision.

(7) No insurer shall require any person covered under a Medicare supplement insurance policy to purchase additional coverage in connection with the amendment thereof.

(8) The terms "Medicare supplement," "Medigap," or words of similar import shall not be used to describe an insurance policy unless such policy is issued in compliance with chapter 48.66 RCW and this chapter.

NEW SECTION

WAC 284-66-060 MINIMUM BENEFIT STANDARDS FOR POLICIES OTHER THAN RISK SHARING CONTRACTS. Except as permitted by WAC 284-66-050(3), effective January 1, 1990, no insurance policy, except a risk sharing contract, may be advertised, solicited, issued for delivery, or renewed in this state as a Medicare supplement policy unless it meets the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards:

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible;

(7) Coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

NEW SECTION

WAC 284-66-070 MINIMUM BENEFIT STANDARDS FOR RISK SHARING CONTRACTS. For calendar year 1990, except as permitted by WAC 284-66-050(3), no risk sharing contract may be advertised, solicited, issued for delivery, or renewed in this state unless it meets the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards:

(1) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.

(2) Coverage for the daily copayment amount of Medicare Part A eligible expenses for the first eight days per calendar year incurred for skilled nursing facility care.

(3) Coverage for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) under Medicare Part A not replaced in accordance with federal regulations.

(4) Coverage for the copayment amount of Medicare eligible expenses (excluding outpatient prescription drugs) under Medicare Part B up to the maximum out-of-pocket amount for Medicare Part B after the Medicare deductible amount, as applicable to calendar year 1990 by the Medicare Catastrophic Coverage Act of 1988.

(5) Coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood

cells, as defined under federal regulations) under Medicare Part B not replaced in accordance with federal regulations.

(6) Coverage for the copayment amount of Medicare eligible expenses for covered home intravenous (IV) therapy drugs (as determined by the Secretary of Health and Human Services) subject to the Medicare outpatient prescription drug deductible amount, if applicable.

(7) Coverage for the copayment amount of Medicare eligible expenses for outpatient drugs used in immunosuppressive therapy subject to the Medicare outpatient prescription drug deductible, if applicable.

NEW SECTION

WAC 284-66-080 OUTLINE OF COVERAGE REQUIRED.

(1) An agent or insurer initiating a sale of an individual or group Medicare supplement insurance policy in this state shall complete and sign a disclosure form, and deliver the completed form to the applicant not later than the time of application for the policy.

(2) The disclosure form to be used shall be the "outline of coverage," and shall be completed in substantially the form set forth in WAC 284-66-090. The form of outline of coverage shall be filed with the commissioner prior to use in this state.

(3) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(4) Except for direct response insurers, an insurer shall obtain an acknowledgement of receipt of such outline from the applicant.

(5) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or health maintenance organization shall substitute appropriate terminology.

(6) Modification of the outline of coverage by an insurer offering coverage under a risk sharing contract or reasonable cost basis contract, may be permitted with the prior agreement of the commissioner.

NEW SECTION

WAC 284-66-090 FORM FOR "OUTLINE OF COVERAGE."

(COMPANY NAME)

OUTLINE OF MEDICARE SUPPLEMENT COVERAGE

(1) Read your policy carefully - This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you read your policy carefully.

(2) Medicare supplement coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine. (Delete if such coverage is provided.)

(3)(a) For insurers using agents:

Neither (insert company's name here) nor its agents are connected with Medicare.

(b) For direct response insurers:

(Insert company's name here) is not connected with Medicare.

(4) A brief summary of the most important medical benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts (with indexed copayments or deductibles, as appropriate) provided by the Medicare supplement insurance policy in the following order.

.....

Service	This Policy Pays **	You Pay
I. Part A		
A. INPATIENT HOSPITAL SERVICES: Semi-private room & board Miscellaneous hospital services and supplies, such as drugs, X-rays, lab tests and operating room		
B. BLOOD		
II. Part B		
A. MEDICAL EXPENSE: Services of a physician/outpatient services		
B. BLOOD		
III. Miscellaneous		
A. HOME INTRAVENOUS (IV) THERAPY DRUGS		
B. IMMUNOSUPPRESSIVE DRUGS		
IV. Additional Benefits		
A. PART A Part A Deductible Private Room In-hospital Private Nurses Skilled Nursing Facility Care		
B. PARTS A & B Home Health Services		
C. PART B Part B Deductible Medical supplies other than prescribed drugs Medical charges in excess of Medicare allowable expenses (percentage paid)		
D. MAMMOGRAPHY SCREENING		
E. OUT-OF-POCKET MAXIMUM		
F. PRESCRIPTION DRUGS		
G. MISCELLANEOUS Respite care benefits Expenses incurred in a foreign country		
H. OTHER		
TOTAL PREMIUM		\$ _____

IN ADDITION TO THIS OUTLINE OF COVERAGE, (INSURANCE COMPANY NAME) WILL SEND AN ANNUAL NOTICE TO YOU THIRTY DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

** If this policy does not provide coverage for a benefit listed above the insurer must state "no coverage" beside that benefit in the first column.

- (5) Statement that the policy does or does not cover the following:
- (a) Private duty nursing;
 - (b) Skilled nursing home care costs (beyond what is covered by Medicare);
 - (c) Custodial nursing home care costs;

- (d) Intermediate nursing home care costs;
 - (e) Home health care above number of visits covered by Medicare;
 - (f) Physician charges (above Medicare's reasonable charge);
 - (g) Drugs and insulin (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
 - (h) Care received outside of United States (and its territories);
 - (i) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for or the cost of eye-glasses or hearing aids.
- (6) An explanation of such terms as "usual and customary," "reasonable and customary," or words of similar import, if used in the policy.
- (7) A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in subsection (4) of this section, including conspicuous statement:
- (a) That the chart summarizing Medicare benefits only briefly describes such benefits; and
 - (b) That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.
- (8) A description of policy provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium.
- (9) The amount of premium for this policy.

(Insurer's Name)
By _____
(Agent's or Officer's Signature)

NEW SECTION

WAC 284-66-100 FORM FOR 1990 ADJUSTMENT NOTICE TO ACCOMPANY OUTLINE OF COVERAGE. For policies or certificates providing Medicare supplement coverage to residents of this state during 1990, the following chart shall accompany the outline of coverage and the form thereof shall be filed with the commissioner prior to use in this state. Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or a health maintenance organization may substitute appropriate terminology. Modification of this chart by an insurer offering coverage under a risk sharing contract or reasonable cost basis contract may be permitted with the prior agreement of the commissioner.

.....
(COMPANY NAME)
NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS TO MEDICARE AND TO YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

(A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.)

SERVICE	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Paid in 1989	Effective 1-1-90, Medicare Will Pay	Your Coverage Paid in 1989	Effective 1-1-90, Your Coverage Will Pay

MEDICARE PART A: SERVICES AND SUPPLIES

Inpatient Hospital Services	Unlimited number of hospital days after \$560 deductible per Calendar year	All but \$592 first 60 days/ benefit period
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SERVICE	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Paid in 1989	Effective 1-1-90, Medicare Will Pay	Your Coverage Paid in 1989	Effective 1-1-90, Your Coverage Will Pay
Semi-Private Room & Board		All but \$148 a day for 61st - 90th day/benefit period		
Misc. Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room		All but \$296 a day for 91st - 150th days (if individual chooses to use 60 nonrenewable lifetime reserve days)		
<u>BLOOD</u>	Pays all costs except payment of deductible (equal to costs for first three pints) in each Calendar year Part A blood deductible reduced to the extent paid under Part B	Pays all costs except non-replacement fees (blood deductible) for first three pints in each calendar year		
<u>SKILLED NURSING FACILITY CARE</u>	There is no prior confinement requirement for this benefit First 8 days - All but \$25.50 a day 9th through 150th day - 100% of costs Beyond 150 days - Nothing	100% of costs for first 20 days (after a 3-day prior hospital confinement)/benefit period All but \$74.00 a day for 21st - 100th days/benefit period Beyond 100 days - Nothing		
<u>MEDICARE PART B: SERVICES AND SUPPLIES</u>	80% of allowable charges (after \$75.00 deductible)	80% of allowable charges (after \$75.00 deductible)		
<u>PRESCRIPTION DRUGS</u>	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive therapy drugs during the first year following covered transplant (after \$75 deductible)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive therapy drugs during the first year following a covered transplant (after \$75 deductible)		
<u>BLOOD</u>	80% of all costs except non-replacement fees (blood deductible) for first three pints (after \$75 deductible/calendar year)	80% of costs except non-replacement fees (blood deductible) for first three pints (after \$75 deductible/calendar year)		

(Any other policy benefits not mentioned in this chart should be added to the chart in the order prescribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about premium adjustments that may be necessary due to changes in Medicare benefits or when premium information will be sent.)

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT (INSURANCE) PROVIDED BY _____ (COMPANY) _____, ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT (POLICY) CONTACT: _____ (COMPANY NAME — OR NAME OF AGENT) (ADDRESS) (PHONE NUMBER) _____.

NEW SECTION

WAC 284-66-110 BUYER'S GUIDE. (1) Insurers issuing disability insurance policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to persons eligible for Medicare by reason of age must provide to all applicants a Medicare supplement "Buyer's Guide."

(2) The "Buyer's Guide" required to be provided is the pamphlet "Guide to Health Insurance for People with Medicare," developed jointly by the National Association of Insurance Commissioners and Health Care Financing Administration, or any reproduction or official revision of that pamphlet. (Specimen copies may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C.)

(3) Delivery of the "Buyer's Guide" must be made whether or not such policies or certificates are advertised, solicited, or issued as Medicare supplement insurance policies.

(4) Except in the case of a direct response insurer, delivery of the "Buyer's Guide" must be made to the applicant at the time of application and acknowledgement of receipt of the "Buyer's Guide" must be obtained by the insurer. Direct response insurers must deliver the "Buyer's Guide" to the applicant upon request but not later than at the time the policy is delivered.

NEW SECTION

WAC 284-66-120 NOTICE REGARDING POLICIES WHICH ARE NOT MEDICARE SUPPLEMENT POLICIES. Any disability insurance policy or certificate (other than a Medicare supplement policy or certificate), disability income protection policy, basic or comprehensive or major medical expense policy, or other policy identified in RCW 48.66.020(1), whether issued on an individual or group basis, which policy purports to provide coverage to residents of this state eligible for Medicare by reason of age, shall notify policyholders or certificate holders that the policy is not a Medicare supplement insurance policy. Such notice shall be printed or attached to the first page of the outline of coverage or equivalent disclosure form, and shall be delivered to the policyholder or certificate holder. Such notice shall be in no less than twelve point type and shall contain the following language: "This (policy, certificate or subscriber contract) is not a Medicare supplement (policy, certificate or subscriber contract). If you are eligible for Medicare, review the Medicare supplement Buyer's Guide available from the company."

NEW SECTION

WAC 284-66-130 REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE COVERAGE. (1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or whether a Medicare supplement insurance policy or certificate is intended to replace any other policy or certificate of a health care service contractor, health maintenance organization, disability insurer, or fraternal benefit society presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions, may be used: PROVIDED, HOWEVER, That where the coverage is sold without an agent, the supplementary application shall be signed by the applicant.

(a) "Do you have another Medicare supplement insurance policy or certificate in force (including coverage provided under risk sharing contracts)?"

(b) "Did you have another Medicare supplement policy or certificate in force during the last twelve months?"

(i) "If so, with which company?"

(ii) "If that policy lapsed, when did it lapse?"

(c) "Are you covered by Medicaid?"

(d) "Do you intend to replace any of your medical or health insurance coverage with this (policy, certificate or subscriber contract)?"

(2) Agents shall list any other medical or health insurance policies sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the past five years which are no longer in force.

(3) Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement insurance policy or certificate, a notice regarding replacement of Medicare supplement insurance coverage. One copy of such notice, signed by the applicant and the agent (except where the coverage is sold without an agent), shall be provided to the applicant and an additional signed copy shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement insurance coverage.

(4) The notice required by subsection (3) of this section for an insurer, other than a direct response insurer, shall be provided in substantially the form set forth in WAC 284-66-140 and shall be filed with the commissioner prior to use in this state.

(5) The notice required by subsection (3) of this section for a direct response insurer shall be in substantially the form set forth in WAC 284-66-150 and shall be filed with the commissioner prior to use in this state.

(6) Except for a policy issued by a direct response insurer, a true copy of the application must be attached to or otherwise made a part of the policy when issued and delivered.

(7) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor or health maintenance organization may substitute appropriate terminology.

(8) Modification of the replacement form by an insurer offering coverage under a risk sharing or reasonable cost basis contract may be permitted with the prior agreement of the commissioner.

NEW SECTION

WAC 284-66-140 FORM FOR "REPLACEMENT NOTICE TO APPLICANT" FOR OTHER THAN DIRECT RESPONSE INSURERS.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurance Company's Name and Address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE!

According to (your application or information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by _____ (insurance company name) _____. Federal and state law provides thirty days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all medical or health coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (BROKER OR OTHER REPRESENTATIVE): (Use additional sheets, as necessary)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under

the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Agent, Broker or Other Representative)

(Typed name and Address of Agent or Broker)

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

NEW SECTION

WAC 284-66-150 FORM FOR "REPLACEMENT NOTICE TO APPLICANT" BY DIRECT RESPONSE INSURERS.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE

(Insurance Company's Name and Address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE!

According to (your application or information you have furnished), you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with a policy to be issued by (insurance company name). Federal and state law provides thirty days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all medical or health coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy for similar benefits to the extent such time was spent (depleted) under the original policy.

(3) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Company name)

NEW SECTION

WAC 284-66-160 ADJUSTMENT NOTICE TO CONFORM EXISTING MEDICARE SUPPLEMENT POLICIES TO CHANGES IN MEDICARE. (1) As soon as practicable, but no later than thirty days prior to the effective date of any Medicare benefit changes, every insurer providing Medicare supplement insurance coverage to a resident of this state shall notify its insureds of modifications it has made to Medicare supplement policies. The adjustment notice is intended to be informational only and for the sole purpose of informing policyholders and certificate holders about changes in Medicare benefits, indexed deductible and copayment provisions, premium adjustments, and the like. The form of an adjustment notice provided to residents of this state shall be filed with the commissioner prior to use.

(2) The form of such notice shall be substantially in the format prescribed by the commissioner for use in 1990 in WAC 284-66-100.

(a) The notice shall include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy.

(b) The notice shall inform each covered person of the approximate date when premium adjustments due to changes in Medicare benefits will be made.

(c) The notice of benefit modifications and any premium changes shall be furnished in outline form and in clear and simple terms so as to facilitate comprehension.

(d) The notice shall not contain or be accompanied by any solicitation.

NEW SECTION

WAC 284-66-170 PROHIBITION AGAINST PREEXISTING CONDITIONS, WAITING PERIODS, ELIMINATION PERIODS, AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy to the extent that similar exclusions have been satisfied under the original policy.

NEW SECTION

WAC 284-66-180 CONTINUOUS RENEWABILITY REQUIRED. (1) Except as authorized by the commissioner, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(2) If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subsection (4) of this section, the insurer shall offer certificate holders an individual Medicare supplement policy, which policy form has been filed in accordance with all appropriate filing requirements of this state. The insurer shall offer the certificate holder at least the following choices:

(a) An individual Medicare supplement policy which provides for continuation of the benefits contained in the group policy; and

(b) An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards.

(3) If membership in a group is terminated, the insurer shall:

(a) Offer the certificate holder such conversion opportunities as are described in subsection (2) of this section; or

(b) At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(4) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage promptly to all persons

covered under the old group policy, such coverage to be effective the date the preceding policy terminates. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

NEW SECTION

WAC 284-66-190 OFFER OF REINSTITUTION OF COVERAGE. (1) Except as provided in subsection (2) of this section, in the case of an individual who had in effect, as of December 31, 1988, a Medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under such policy before the date of the enactment of the Medicare Catastrophic Coverage Repeal Act of 1989, the insurer shall:

(a) Provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder (at that person's most recent available address) of the offer described below; and

(b) Offer the individual, during a period of at least sixty days beginning not later than February 1, 1990, reinstatement of coverage (with coverage effective as of January 1, 1990), under terms which:

(i) Do not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Provide for coverage which is substantially equivalent to coverage in effect before the date of such termination; and

(iii) Provide for classification of premiums on terms which are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

(2) An insurer is not required to make the offer required by subsection (1)(b) of this section in the case of an individual who is a policyholder or certificate holder in another Medicare supplement insurance policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a preexisting condition under such other policy.

NEW SECTION

WAC 284-66-200 STANDARDS FOR LOSS RATIOS. Medicare supplement insurance policies shall return to policyholders in the form of aggregated benefits under such policy, for the entire period for which rates are computed to provide coverage, loss ratios not less than those set forth in this section. Such loss ratios shall be on the basis of incurred claims losses and earned premiums for such period in accordance with accepted actuarial principles. The loss ratio standards of this section are more stringent and more appropriate than those imposed by RCW 48.66.100, and are necessary for the protection of the public interest.

(1) Where coverage is provided on a service rather than reimbursement basis, such loss ratios shall be on the basis of incurred health care expenses and earned premiums for such period.

(2) All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this chapter and are not excessive, inadequate or unfairly discriminatory.

(3) Every insurer providing Medicare supplement policies in this state shall annually file its rates, rating schedules, and supporting documentation including ratios of incurred losses to earned premiums demonstrating that it is in compliance with the applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience. If the period for which the policy is initially rated is more than one year, ratios of incurred losses to earned premiums shall be filed by number of years of policy duration. Supporting documentation shall include the amounts of unearned premium reserve, policy reserves, and claim reserves and liabilities, both nationally and for this state. The form and instructions for filing this information are provided in WAC 284-66-220 through 284-66-230. This annual filing is in addition to filings made by insurers to establish initial rates or request rate adjustments required by WAC 284-66-240.

(4) Incurred losses shall include claims paid and the change in claim reserves and liabilities. Incurred losses shall not include policy reserves, home office or field overhead, acquisition and selling costs, taxes or other expenses, contributions to surplus, profit, or claims processing costs.

(5) The following criteria will be used to determine whether policy forms are in compliance with the loss ratio standards of this section:

(a) For the most recent year, the ratio of the incurred losses to earned premiums is greater than or equal to the applicable percentages contained in this section; and

(b) The expected losses in relation to premiums over the entire period for which the policy is rated complies with the requirements of this section, relying on the judgment of the pricing actuary and acceptable to the commissioner; and

(c) For issue age level premium rated policies, an expected loss ratio for the third policy year, which is greater than or equal to the applicable percentage, shall be demonstrated for policies or certificates in force fewer than three years. For community rated policies the applicable percentage shall be demonstrated for the three most recent accounting periods. The applicable percentage shall be as defined in subsections (6), (7), or (8) of this section.

(d) Similar policy forms shall be grouped together according to the rules set forth in WAC 284-60-040 and 284-66-240(6).

(e) The commissioner may consider additional criteria including, but not limited to:

(i) Equitable treatment of policyholders; and

(ii) The amount of policy reserves as defined for the insurer's statutory annual statement.

(6) Medicare supplement insurance policies issued by authorized disability insurers and fraternal benefit societies shall be expected to return to a policyholder in the form of aggregated loss ratios under the policy, at least sixty-five percent of the earned premiums in the case of individual policies, and seventy-five percent in the case of group policies.

(7) The minimum anticipated loss ratio requirements for health maintenance organizations and health care service contractors shall be seventy percent for individual forms and eighty percent for group contract forms. The minimum anticipated loss ratios are deemed to be met if the health care expense costs of the health maintenance organization or health care service contractor are seventy percent or more of the earned premium charged individual subscribers, or eighty percent or more of the earned premium charged subscribers covered under a group contract.

NEW SECTION

WAC 284-66-210 POLICY RESERVES REQUIRED. This section shall apply to every group and individual policy of disability insurance and to every subscriber contract of an insurer, fraternal benefit society, health care service contractor, or health maintenance organization, which relates its benefits to Medicare. The term "policy reserve" is intended to apply to all types and forms of insurance equally, whether they are called policies, contracts, or certificates. For all forms which are issued on a level premium basis, policy reserves will be required. The policy reserve is in addition to claim reserves and premium reserves. The methods used in determining policy reserves shall be consistent with the methods used for claim reserves. The definition of the date of incurral must be the same for both claim reserves and policy reserves. Policy reserves shall be based upon the following minimum standards:

(1) Morbidity should be based upon a reasonable expectation of future claim costs for the benefits being provided. At time of policy issue this would be the morbidity assumptions used to price the contract. For later durations the morbidity should reflect the experience which emerges including the effects of inflation and utilization. All morbidity assumptions must be reasonable in the view of the commissioner.

(2) The interest rate used may not exceed the maximum rate permitted by statute in the valuation of whole life insurance issued on the same date as the Medicare supplement policy.

(3) Termination rates shall be on the same basis as the mortality table permitted by statute in the valuation of whole life insurance issued on the same date as the Medicare supplement policy.

(4) The minimum reserve is that calculated on the one-year full preliminary term method. This method produces a terminal reserve of zero at the first policy anniversary. The preliminary term method may be applied only in relation to the date of issue of a policy. Reserve adjustments introduced later as a result of rate increases, revisions in assumptions, or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis.

(5) Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy or contract, but the total policy reserve with respect to all benefits combined may not be less than zero.

NEW SECTION

WAC 284-66-220 MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE FORM REQUIRED. The form provided in WAC 284-66-230 shall be filed with the commissioner annually not later than June 30th of each calendar year beginning June 30, 1990. The form is to be filed in addition to the NAIC experience exhibit and not in lieu thereof.

The following instructions must be followed when completing the form:

(1) The data shall be furnished in the same format and order as that shown in WAC 284-66-230.

(2) The name of the insurer must be clearly shown at the top of each page.

(3) Separate data must be shown for each policy form number. For community rated policies, calendar year data for the most recent year should be furnished. For issue age level premium policies, data should be furnished separately for each policy duration of each form.

(4) The current filed rate schedule for each policy form number shall be attached to the experience form and shall show the policy form number for purposes of identification.

(5) Incurred losses shall include claims paid and the change in claim reserves and liabilities. A list of items that are not to be included in incurred losses is provided in WAC 284-66-200.

(6) The loss ratio shall be the ratio of incurred losses to earned premium.

(7) The experience form shall be certified by an officer of the insurer.

(8) Complete data is required for each policy form on both a national basis and for policies sold in the state of Washington.

(9) Policy reserves shall include:

(a) Active life reserves;

(b) Contingency and additional reserves; and

(c) Increased reserves which may be required by the commissioner.

NEW SECTION

WAC 284-66-230 FORM FOR REPORTING MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE. The following form for reporting Medicare supplement loss ratio experience shall be used by all insurers:

MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE

(SUMMARIZED BY POLICY YEAR)

Experience reported for January 1 to December 31 of 19____.

To be filed on or before June 30

of the _____

Address (City, State and Zip Code) _____

NAIC Group Code

NAIC Company Code

CIC Code

National Experience

<u>Form No.</u>	<u>No. of Contracts in Force</u>	<u>Policy Duration</u>	<u>Incurred Losses</u>	<u>Earned Premiums</u>	<u>Loss Ratio</u>	<u>Unearned Premium Reserve</u>	<u>Policy Reserves</u>	<u>Claim Reserves</u>
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Washington Experience

<u>Form No.</u>	<u>No. of Contracts in Force</u>	<u>Policy Duration</u>	<u>Incurred Losses</u>	<u>Earned Premiums</u>	<u>Loss Ratio</u>	<u>Unearned Premium Reserve</u>	<u>Policy Reserves</u>	<u>Claim Reserves</u>
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I hereby certify that I have supervised the preparation of this experience exhibit, that it is complete and accurate to the best of my knowledge, and it is in compliance with RCW 48.66.150, WAC 284.66.200, and WAC 284.66.240.

Signature of Officer

Date

Name and Title of Officer

Prepared by

Phone Number

NEW SECTION

WAC 284-66-240 FILING REQUIREMENTS AND PREMIUM ADJUSTMENTS. (1) Every insurer advertising, soliciting, renewing, or providing Medicare supplement insurance coverage in this state as of December 31, 1989, shall file with the commissioner, in accordance with the applicable filing procedures of this state:

(a) Policy forms, riders or endorsements required to accomplish the modifications necessary to eliminate benefit duplications with Medicare or to bring a Medicare supplement insurance policy form into conformity with amendments to this chapter, such forms providing a clear description of the Medicare supplement benefits provided by the policy; and

(b) Appropriate premium adjustments necessary to produce complying loss ratios originally anticipated for the applicable policies and such supporting documents necessary in the opinion of the commissioner to justify the adjustments, including the information set forth in WAC 284-66-200.

(2) All policy forms, riders, and rates filed for initial use on or after January 1, 1990, and any future rate adjustment thereto, shall demonstrate compliance with the loss ratio requirements of WAC 284-66-200 and policy reserve requirements of WAC 284-66-210. All filings of forms shall be accompanied by the proposed rate schedule and an actuarial memorandum completed and signed by a qualified actuary as defined in WAC 284-05-060. In addition to the actuarial memorandum, the following supporting documentation must be submitted to demonstrate to the satisfaction of the commissioner that rates are not excessive, inadequate, or unfairly discriminatory and otherwise comply with the requirements of this chapter. If any of the items listed below are inappropriate due to the pricing methodology utilized by the pricing actuary, the commissioner may waive the requirements upon request of the insurer.

(a) Filings of issue age level premium rates shall be accompanied by the following:

(i) Anticipated loss ratios stated on a policy year basis for the period for which the policy is rated. Filings of future rate adjustments must contain the actual policy year loss ratios experienced since inception;

(ii) Anticipated total termination rates on a policy year basis for the period for which the policy is rated. The termination rates should be stated as a percentage and the source of the mortality assumption must be specified. Filings of future rate adjustments must include the actual total termination rates stated on a policy year basis since inception;

(iii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iv) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(v) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, such agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(vi) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(b) Filings of community rated forms shall be accompanied by the following:

(i) Anticipated loss ratio for the accounting period for which the policy is rated. The duration of the accounting period must be stated in the filing, established based on the judgment of the pricing actuary, and must be reasonable in the opinion of the commissioner. Filings for rate adjustment must demonstrate that the actual loss ratios experienced during the three most recent accounting periods, on an aggregated basis, have been equal to or greater than the loss ratios required by WAC 284-66-200.

(ii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iii) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(iv) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, such agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(v) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(c) Filings of the rates for all risk sharing contracts shall include the following:

(i) All information filed with, and approved by, the Health Care Financing Administration;

(ii) Rate of per capita reimbursement by the Health Care Financing Administration;

(iii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iv) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(v) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, such agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(vi) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(3) Every insurer providing Medicare supplement coverage to residents of this state shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy as will conform with the minimum loss ratio standards of WAC 284-66-200.

(4) No premium adjustment which would modify the loss ratio experience under the policy, other than the adjustments described in this section, may be made with respect to a policy at any time other than upon its renewal or anniversary date.

(5) Premium refunds or premium credits shall be made to the premium payer no later than upon renewal if a credit is given, or within sixty days of the renewal or anniversary date if a refund is provided.

(6) For purposes of rate making and requests for rate increases, all individual Medicare supplement policy forms of an insurer are considered "similar policy forms" including forms no longer being marketed.

NEW SECTION

WAC 284-66-250 FILING REQUIREMENTS FOR OUT-OF-STATE GROUP POLICIES. Every insurer providing group Medicare supplement insurance benefits to a resident of this state shall file with the commissioner, within thirty days of its use in this state, a copy of the master policy and any certificate used in this state, in accordance with the filing requirements and procedures applicable to Medicare supplement policies issued in this state.

NEW SECTION

WAC 284-66-260 RIDERS AND ENDORSEMENTS. (1) Effective January 1, 1990, subject to RCW 48.66.050(2), and except for riders or endorsements issued in accordance with subsection (2) of this section, no rider, endorsement, waiver, or any other means of modifying contractual benefits may be used by an insurer to exclude, limit, or reduce the coverage or benefits of a Medicare supplement insurance policy issued to a resident of this state. Only riders or endorsements which increase benefits or coverage may be used in this state.

(2) Effective January 1, 1990, except for riders or endorsements issued to bring a policy into compliance with changes to the minimum benefit standards or other contractual benefits required by this chapter or as hereafter amended:

(a) A Medicare supplement insurance policy amendment which increases the premium must be requested or accepted by the policyholder in writing; and

(b) Where separate additional premium is charged for a rider, endorsement or other amendment to the contractual benefits of a Medicare supplement insurance policy, the premium charged shall be set forth in the policy.

NEW SECTION

WAC 284-66-270 COMPLIANCE WITH OMNIBUS BUDGET RECONCILIATION ACT OF 1987. Every insurer to whom it applies shall certify to the commissioner on the Medicare supplement experience exhibit of its annual statement that it has complied with Section 4081 of the Omnibus Budget Reconciliation Act of 1987.

NEW SECTION

WAC 284-66-300 REQUIREMENTS FOR ADVERTISING. (1) At least thirty days prior to use in this state, every insurer who provides Medicare supplement insurance coverage to a resident of this state shall provide the commissioner with a copy of any Medicare supplement advertisement (as advertisement is defined in WAC 284-50-030) intended for use in this state. In the case of radio or television advertising, an audio cassette or VHS cassette shall be supplied on request of the commissioner.

(2) Advertising shall comply with the standards of the Washington disability advertising regulation (WAC 284-50-010 through 284-50-230), and shall set forth the name in full of the insurer and the location of its home office or principal office in the United States (if an alien insurer).

NEW SECTION

WAC 284-66-310 ATTAINED AGE RATING PROHIBITED. With respect to Medicare supplement insurance policies initially sold to residents of this state on or after January 1, 1989, the commissioner has found and hereby defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any insurer, directly or indirectly, to use the increasing age of an insured, subscriber, or participant as the basis for increasing premiums or prepayment charges.

NEW SECTION

WAC 284-66-320 REPORTING OF MULTIPLE POLICIES. (1) On or before March 1st of each year, every insurer providing Medicare supplement insurance coverage in this state shall report to the commissioner the following information for every individual resident of this state for which the insurer has in force more than one Medicare supplement insurance policy or certificate:

- (a) Policy and certificate number; and
 - (b) Date of issuance.
- (2) The items set forth above must be grouped by individual policyholder.

NEW SECTION

WAC 284-66-330 STANDARDS FOR MARKETING. (1) Every insurer marketing Medicare supplement insurance coverage in this state, directly or through its producers, shall:

- (a) Establish marketing procedures to assure that any comparison of policies or certificates by its agents or other producers will be fair and accurate.
- (b) Establish marketing procedures to assure excessive insurance is not sold or issued.
- (c) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "NOTICE TO BUYER: THIS (POLICY, CONTRACT OR CERTIFICATE) MAY NOT COVER ALL OF THE COSTS ASSOCIATED WITH MEDICAL CARE INCURRED BY THE BUYER DURING THE PERIOD OF COVERAGE. THE BUYER IS ADVISED TO REVIEW CAREFULLY ALL POLICY LIMITATIONS."
- (d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has disability insurance and the types and amounts of any such insurance.
- (e) Every insurer marketing Medicare supplement insurance in this state shall establish auditable procedures for verifying compliance with this section.

(2) In addition to the acts and practices prohibited in chapter 48.30 RCW, chapters 284-30 and 284-50 WAC, and this chapter, the commissioner has found and hereby defines the following to be unfair acts or practices and unfair methods of competition, and prohibited practices for any insurer, or their respective agents either directly or indirectly:

- (a) Twisting. Making misrepresentations or misleading comparisons of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy.
- (b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or otherwise applying undue pressure to coerce the purchase of, or recommend the purchase of, insurance.
- (c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

NEW SECTION

WAC 284-66-340 APPROPRIATENESS OF RECOMMENDED PURCHASE AND EXCESSIVE INSURANCE. (1) In recommending the purchase or replacement of any Medicare supplement

policy or certificate an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(2) Any sale of Medicare supplement coverage which will provide an individual more than one Medicare supplement policy or certificate is prohibited: PROVIDED, HOWEVER, That additional Medicare supplement coverage may be sold if, when combined with that individual's coverage already in force, the combined coverages would insure, as to the individual, no more than one hundred percent of actual medical expenses. This subsection does not apply to forms of disability indemnity insurance, such as specified disease and hospital indemnity policies.

NEW SECTION

WAC 284-66-350 PROHIBITED COMPENSATION ARRANGEMENTS. (1)(a) The commissioner has found and hereby defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any insurer, directly or indirectly, to provide commission to an agent or other representative for the solicitation, sale, servicing, or renewal of a Medicare supplement policy or certificate which is delivered or issued for delivery to a resident within this state on or after May 1, 1990, unless the commission is identical, either as to dollar amount or percentage of premium, for every policy year as long as the coverage under the policy or certificate remains in force with premiums being paid, or waived by the insurer, for such coverage.

(b) Each commission payment must be made by the insurer no later than sixty days following the date on which the applicable premiums, upon which the commission is calculated, were paid. Each such payment must be paid to either the producing agent who originally sold the policy or to a successor agent designated by the insurer to replace the producing agent, or shared between them on some basis. The distribution of the commission payments shall be designated by the insurer in its various agents' commission agreements and it may not terminate, reduce or retain the commission payment as long as the policy or certificate remains in force with premiums being paid, or waived by the insurer, for the coverage thereunder.

(c) Where an insurer provides a portion of the total commission for the solicitation, sale, servicing, or renewal of a Medicare supplement policy or certificate to a general agent, sales manager, district representative or other supervisor who has marketing responsibilities (other than a producing or servicing agent), such portion of total commissions shall be identical either as to dollar amount or percentage of premium for every policy year as long as coverage under the policy or certificate remains in force with premiums being paid, or waived by the insurer, for such coverage.

(2) For purposes of this section, "commission" includes pecuniary or nonpecuniary remuneration of any kind relating to the solicitation, sale, servicing, or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, advances on commissions, awards and finders fees.

(3) This section shall not apply to salaried employees of an insurer who have marketing responsibilities if the salaried employee is not compensated, directly or indirectly, on any basis dependent upon the sale of insurance being made, including but not limited to considerations of the number of applications submitted, the amount or types of insurance, or premium volume.

NEW SECTION

WAC 284-66-400 CHAPTER NOT EXCLUSIVE. Nothing contained in this chapter shall be construed to limit the authority of the commissioner to regulate a Medicare supplement insurance policy or certificate under other sections of Title 48 RCW.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 284-55-010	PURPOSE.
WAC 284-55-020	APPLICABILITY AND SCOPE.
WAC 284-55-030	DEFINITIONS.
WAC 284-55-035	POLICY DEFINITIONS AND TERMS.
WAC 284-55-040	PROHIBITED POLICY PROVISIONS.
WAC 284-55-045	MINIMUM BENEFIT STANDARDS.
WAC 284-55-050	OUTLINE OF COVERAGE REQUIRED.
WAC 284-55-060	FORM FOR "OUTLINE OF COVERAGE."
WAC 284-55-065	BUYER'S GUIDE.

- WAC 284-55-067 NOTICE REGARDING POLICIES OR SUBSCRIBER CONTRACTS WHICH ARE NOT MEDICARE SUPPLEMENT POLICIES.
- WAC 284-55-070 REQUIREMENTS FOR APPLICATION FORMS, REPLACEMENT.
- WAC 284-55-080 FORM FOR "REPLACEMENT NOTICE."
- WAC 284-55-090 FORM FOR "REPLACEMENT NOTICE" BY DIRECT RESPONSE INSURER.
- WAC 284-55-095 PROHIBITED COMPENSATION FOR REPLACEMENT WITH THE SAME INSURER.
- WAC 284-55-115 STANDARDS FOR LOSS RATIOS.
- WAC 284-55-120 ATTAINED AGE RATING PROHIBITED.
- WAC 284-55-125 RIDERS AND ENDORSEMENTS.
- WAC 284-55-150 FILING REQUIREMENTS AND PREMIUM ADJUSTMENTS.
- WAC 284-55-155 FILING REQUIREMENTS FOR OUT-OF-STATE GROUP POLICIES.
- WAC 284-55-160 ANNUAL ADJUSTMENT NOTICE TO CONFORM EXISTING MEDICARE SUPPLEMENT POLICIES TO MEDICARE CHANGES.
- WAC 284-55-165 FORM OF ANNUAL ADJUSTMENT NOTICE—POLICY CHANGES EFFECTIVE JANUARY 1, 1989.
- WAC 284-55-172 FORM OF ANNUAL ADJUSTMENT NOTICE—POLICY CHANGES EFFECTIVE JANUARY 1, 1990.
- WAC 284-55-177 FORM OF ANNUAL ADJUSTMENT NOTICE—POLICY CHANGES EFFECTIVE JANUARY 1, 1991.
- WAC 284-55-180 REQUIREMENTS FOR ADVERTISING.
- WAC 284-55-185 COMPLIANCE WITH OMNIBUS BUDGET RECONCILIATION ACT OF 1987.
- WAC 284-55-190 CHAPTER NOT EXCLUSIVE.
- WAC 284-55-205 MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE FORM REQUIRED.
- WAC 284-55-210 FORM OF MEDICARE SUPPLEMENT LOSS RATIO EXPERIENCE.

WSR 90-04-090

**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**
[Memorandum—February 7, 1990]

**Board of Trustees
Proposed Meeting Schedule
1990**

Friday	January 26	9:00 a.m.	EWU Spokane Center
Friday	February 23	9:00 a.m.	Louise Anderson Hall
Friday	March 23	9:00 a.m.	EWU Spokane Center
Friday	April 27	9:00 a.m.	Louise Anderson Hall
Friday	May 25	9:00 a.m.	EWU Spokane Center
Friday	June 22	9:00 a.m.	Louise Anderson Hall
Friday	July 27	9:00 a.m.	EWU Spokane Center
Friday	September 28	9:00 a.m.	Louise Anderson Hall
Friday	October 26	9:00 a.m.	EWU Spokane Center
Friday	December 7	9:00 a.m.	Louise Anderson Hall

Standard schedule provides for meetings on the fourth Friday of each month. Some variations have been made to accommodate holiday and academic schedules.

WSR 90-04-091

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY**
[Memorandum—February 7, 1990]

NOTICE OF INTENTION TO DESIGNATE THE "EAST KING COUNTY GROUND WATER MANAGEMENT AREA" AND DEVELOP A GROUND WATER MANAGEMENT PROGRAM

The Washington State Department of Ecology hereby gives notice of its intention to designate a ground water

management area and develop a ground water management program in accordance with chapter 173-100 WAC, Ground water management areas and programs.

The East King County area has been identified by the department as a probable ground water management area on its 1989 general schedule at the request of the Seattle-King County Health Department.

Designation of the area will allow the development of a comprehensive ground water management program to protect the quality and quantity of ground water, to meet future needs while recognizing existing water rights, and to provide for effective and coordinated management of the ground water resource. The program will be developed by state and local government agencies in conjunction with a local ground water advisory committee.

The Department of Ecology will conduct a public hearing to consider designation of the area at the following time and place:

7:00 p.m., Wednesday, March 14, 1990
Sno-Valley Multi-Service Center
31957 East Commercial Street
Carnation, WA

Designation of the above probable ground water management area will take place on April 27, 1990. Interested persons may request additional information or submit data, views or comments in writing before March 28, 1990 to: Doug Rushton, Water Resources Program, Washington Department of Ecology, Mailstop PV-11, Olympia, Washington 98504.

WSR 90-04-092

**PREPROPOSAL COMMENTS
DEPARTMENT OF ECOLOGY**
[Filed February 7, 1990, 2:56 p.m.]

Subject of Possible Rule Making: A rule for grant programs under chapter 70.105D RCW, the Model Toxics Control Act. The rule will encompass grants for hazardous waste plans and programs and solid waste plans and programs. The rule would define eligibility, criteria for grants, match requirements, and other program elements. The proposed rule would supersede chapter 173-315 WAC, Model Toxics Control Act—Local toxics control account—Interim financial assistance program.

Persons may comment on this subject in writing or by telephone to the Waste Management Grants Section, Julia Woods, Comprehensive Waste Management Grants Rule Development, Waste Management Grants Section, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711, Monday - Friday, 8 a.m. - 5 p.m., (206) 438-6322, 585-6322 scan.

Other Information or Comments by Agency at this Time, if any: This rule will be the subject of a statewide public involvement effort as part of the Department of Ecology's standard rule development process. Notices of

public comment opportunities will be published in the State Register.

February 5, 1990
Fred Olson
Deputy Director

WSR 90-04-093
EMERGENCY RULES
DEPARTMENT OF HEALTH
[Order 030—Filed February 7, 1990, 3:36 p.m.]

Date of Adoption: February 7, 1990.

Purpose: To establish medical physician and physician assistant licensing fees.

Citation of Existing Rules Affected by this Order: Amending WAC 308-52-590 Physician and surgeon fees.

Statutory Authority for Adoption: RCW 43.70.250.

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: RCW 43.70.250 requires each program to be funded through licensing fees. Current fees do not support the physician/physician assistant program, which is necessary for the health and safety and general welfare of the public.

Effective Date of Rule: Immediately.

February 7, 1990
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order PM 854, filed 8/29/89, effective 9/29/89)

WAC 308-52-590 PHYSICIAN AND SURGEON FEES. The following fees shall be charged by the professional licensing division of the department of (~~licensing~~) health:

Title of Fee	Fee
<i>Physician and surgeons:</i>	
Application with examination or reexamination (both components)	\$(375.00) 600.00
Examination or reexamination (component I)	((170.00)) 295.00
Examination or reexamination (component II)	((195.00)) 320.00
Applicants (without full examination)	((150.00)) 300.00
Renewal	((35.00)) 107.50
Renewal effective April 1, 1991	100.00
Late renewal penalty	((15.00)) 225.00

Title of Fee	Fee
Disciplinary assessment	((35.00)) 107.50
Disciplinary assessment effective April 1, 1991	100.00
Surcharge-impaired physician Certification	25.00 ((25.00)) 50.00
Duplicate license	15.00
<i>Limited license:</i>	
Limited license application	((75.00)) 200.00
((Original license	45.00))
Renewal	((35.00)) 100.00
Duplicate license	15.00
Disciplinary assessment	((35.00)) 100.00
Surcharge-impaired physician	25.00
<i>Physician's assistants:</i>	
Application	((25.00)) 50.00
Renewal	((10.00)) 35.00
Duplicate license	15.00

WSR 90-04-094
PERMANENT RULES
DEPARTMENT OF HEALTH
[Order 029—Filed February 7, 1990, 3:38 p.m.]

Date of Adoption: February 7, 1990.

Purpose: To establish professional licensing fees.

Citation of Existing Rules Affected by this Order: WAC 308-180-260 Acupuncture fees; 114-12-136 Chiropractic fees; 308-190-010 Counselor fees; 308-25-065 Dental hygiene fees; 308-40-125 Dentist fees; 308-177-110 Dietitian and nutritionist fees; 308-175-140 Health care assistant fees; 308-50-440 Hearing aid fitter/dispenser fees; 308-115-405 Midwifery fees; 308-34-170 Naturopathic physician licensing fees; 308-173-130 Nursing assistant fees; 308-54-315 Nursing home administrator fees; 308-310-010 Nursing pool fees; 308-138-080 Osteopathic fees; 308-117-500 Practical nurse fees; 308-122-275 Psychology fees; 308-120-275 Registered nurse fees; and 308-152-030 Veterinary fees.

Statutory Authority for Adoption: RCW 43.70.250.

Pursuant to notice filed as WSR 90-01-128 on December 20, 1989.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-180-260, the following changes were made to the proposed rules as a result of testimony from the members of the profession: Application proposed fee was changed from \$250 to \$125; written exam proposed fee was changed from \$300 to \$125; practical exam proposed fee was changed from \$400 to \$250; annual license renewal proposed fee was changed from

\$960 to \$450; and late renewal penalty proposed fee was changed from \$200 to \$100.

WAC 308-190-010, the following changes were made to the proposed rules as a result of testimony from the members of the profession: Certified mental health counselor proposed application and certification fee was changed from \$200 to \$125; certified mental health counselor proposed application assessment fee was changed from \$9 to \$6; certified mental health counselor proposed renewal fee was changed from \$135 to \$70; certified mental health counselor proposed renewal assessment fee was changed from \$9 to \$3.50; certified mental health counselor proposed late renewal penalty fee was changed from \$135 to \$73.50; certified social worker proposed application and certification fee was changed from \$145 to \$105; certified social worker proposed application assessment fee was changed from \$8 to \$5; certified social worker proposed renewal fee was changed from \$135 to \$70; certified social worker proposed renewal assessment fee was changed from \$8 to \$3.50; certified social worker proposed late renewal penalty was changed from \$135 to \$73.50; certified marriage/family therapist proposed application and certification fee was changed from \$200 to \$125; certified marriage/family therapist proposed application assessment fee was changed from \$10 to \$6; certified marriage/family therapist proposed renewal fee was changed from \$200 to \$70; certified marriage/family therapist proposed renewal assessment fee was changed from \$10 to \$3.50; registered counselor proposed application and registration fee was changed from \$100 to \$75; registered counselor proposed application assessment fee was changed from \$5 to \$3.50; registered counselor proposed renewal fee was changed from \$105 to \$70; registered counselor proposed renewal assessment was changed from \$5 to \$3.50; registered counselor proposed late renewal penalty was changed from \$105 to \$73.50; registered counselor-hypnotherapist proposed application and registration fee was changed from \$100 to \$75; registered counselor-hypnotherapist proposed application assessment fee was changed from \$5 to \$3.50; registered counselor-hypnotherapist proposed renewal fee was changed from \$105 to \$70; registered counselor-hypnotherapist proposed renewal assessment was changed from \$5 to \$3.50; and registered counselor-hypnotherapist proposed late renewal penalty fee was changed from \$105 to \$73.50.

WAC 308-177-110, the following fees were changed as a result of testimony from members of the profession: The proposed application fee was changed from \$140 to \$85; the proposed renewal fee was changed from \$110 to \$75; the proposed late renewal fee was changed from \$110 to \$25; the proposed certification fee was changed from \$55 to \$25; and the proposed duplicate fee was changed from \$35 to \$15.

WAC 308-50-440, the following fees were changed as a result of testimony from members of the profession: The proposed trainee transfer of sponsor, within fifteen days fee was changed from \$150 to \$100; the proposed trainee transfer of sponsor, over fifteen days fee was

changed from \$200 to \$150; the proposed fitter/dispenser renewal fee was changed from \$385 to \$325; the proposed fitter/dispenser late renewal penalty was changed from \$385 to \$325; the proposed fitter/dispenser duplicate license was changed from \$25 to \$15; and the proposed fitter/dispenser certification fee was changed from \$100 to \$25.

Effective Date of Rule: Thirty-one days after filing.
February 7, 1990
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order PM 735, filed 7/13/88)

WAC 308-180-260 ACUPUNCTURE FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application(/examination)	\$500.00)
	\$125.00
((Retake examination—Written	200.00))
((Retake)) Written examination((=Practical	300.00)
	125.00
((Partial retake)) Practical examination((=Practical	150.00)
	250.00
Annual license renewal	(960.00))
	450.00
Late renewal penalty	((200.00))
	400.00
Duplicate license	15.00
Certification	25.00
Acupuncture training program application	((300.00))
	500.00

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 114-12-136 CHIROPRACTIC FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application/full examination or reexamination	\$300.00
((Application/partial examination or reexamination	200.00
(Reciprocity and national board waiver)))	((150.00))
Original license	200.00
License renewal	200.00
Late renewal penalty	150.00
Inactive license renewal	100.00
Duplicate	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order PM 669, filed 8/27/87)

WAC 308-190-010 FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title	Fee
Certified mental health counselor:	
Application and certification	((60.00)) \$125.00
Application assessment	((3.00)) 6.00
<u>Examination</u>	145.00
Retake examination	((35.00)) 120.00
Renewal	((60.00)) 70.00
Renewal assessment	((3.00)) 3.50
Late renewal penalty	((10.00)) 73.50
Duplicate license	((15.00)) 62.00
Certification/verification	((25.00)) 50.00
Certified social worker:	
Application and certification	((60.00)) 105.00
Application assessment	((3.00)) 5.00
<u>Examination</u>	140.00
Retake examination	((35.00)) 120.00
Renewal	((60.00)) 70.00
Renewal assessment	((3.00)) 3.50
Late renewal penalty	((10.00)) 73.50
Duplicate license	((15.00)) 62.00
Certification/verification	((25.00)) 50.00
Certified marriage/family therapist:	
Application and certification	((60.00)) 125.00
Application assessment	((3.00)) 6.00
<u>Written examination</u>	140.00
<u>Oral examination</u>	140.00
Retake examination—Written	((35.00)) 140.00
Retake examination—Oral	140.00
Renewal	((60.00)) 70.00
Renewal assessment	((3.00)) 3.50
Late renewal penalty	((10.00)) 200.00
Duplicate license	((15.00)) 62.00
Certification/verification	((25.00)) 50.00

Title	Fee
Registered counselor:	
Application and registration	((30.00)) 75.00
Application assessment	((1.50)) 3.50
Renewal	((30.00)) 70.00
Renewal assessment	((1.50)) 3.50
<u>Late renewal penalty</u>	73.50
Duplicate license	((15.00)) 42.00
Certification/verification	((25.00)) 50.00
Registered counselor-hypnotherapist:	
Application and registration	((30.00)) 75.00
Application assessment	((1.50)) 3.50
Renewal	((30.00)) 70.00
Renewal assessment	((1.50)) 3.50
<u>Late renewal penalty</u>	73.50
Duplicate license	((15.00)) 42.00
Certification/verification	((25.00)) 50.00

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-25-065 DENTAL HYGIENE FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application examination and reexamination	((100.00)) \$200.00
Renewal	((55.00)) 75.00
<u>Late renewal penalty</u>	60.00
((Reciprocity)) <u>Credentiaing application</u>	((100.00)) 300.00
Duplicate license	15.00
Certification	((25.00)) 35.00
<u>Education program evaluation</u>	200.00

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

WAC 308-40-125 DENTIST FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application (examination and reexamination)	(\$400.00) \$650.00
Partial retake	((+20.00)) 250.00
Renewal	((+165.00)) 215.00
Impaired dentist assessment	15.00
Late renewal penalty	((200.00)) 150.00
((Reciprocity)) Credentialing application	((400.00)) 1400.00
Duplicate license	15.00
Certification	((25.00)) 50.00
((Investigation fee	25.00))

AMENDATORY SECTION (Amending WSR 89-17-071, filed 8/16/89, effective 9/16/89)

WAC 308-177-110 DIETITIAN AND NUTRITIONIST FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title	Fee
Application	((75.00)) \$85.00
Renewal	((65.00)) 75.00
Late renewal	25.00
Certification	25.00
Duplicate	15.00
Reexamination	75.00

AMENDATORY SECTION (Amending Order PM 689, filed 11/12/87)

WAC 308-175-140 HEALTH CARE ASSISTANT FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Initial certification	((10.00)) \$25.00
Continuing certification	((15.00)) \$25.00

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

WAC 308-50-440 HEARING AID FITTER/DISPENSER FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Trainee:	
Initial application	\$300.00
Trainee transfer of sponsor—Within fifteen days	((75.00)) 100.00
Trainee transfer of sponsor—Over fifteen days	((100.00)) 150.00
Extension of trainee license	200.00
Fitter/dispenser:	
Examination or reexamination (full)	500.00
Partial reexamination	((175.00)) 250.00
Initial license	250.00
Renewal	((200.00)) 325.00
Late renewal penalty	((150.00)) 325.00
Duplicate license	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order PM 827, filed 3/24/89)

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

Title of Fee	Fee
Initial application	((225.00)) \$337.50
Examination	((250.00)) 375.00
Reexamination (second subsequent or more)	((250.00)) 375.00
Renewal	((175.00)) 275.00
Late renewal penalty	((175.00)) 275.00
Duplicate license	15.00
Certification	25.00
Application fee—Midwife-in-training program	75.00

AMENDATORY SECTION (Amending Order 783, filed 10/5/88)

WAC 308-34-170 NATUROPATHIC PHYSICIAN LICENSING FEES. (1) The following fees are payable to the department of ~~((licensing))~~ health.

Title of Fee	Amount
Application/examination/reexamination	((275.00)) 675.00
Pregraduate basic science examination	((75.00)) 540.00
License renewal	((250.00)) 715.00

Title of Fee	Amount
Late renewal penalty	((+75.00)) 715.00
Duplicate license	((+5.00)) 50.00
Certification	((25.00)) 50.00
<u>Application for reciprocity</u>	<u>715.00</u>

(2) Fees submitted to and processed by the department are nonrefundable.

AMENDATORY SECTION (Amending Order 783, filed 10/5/88)

WAC 308-173-130 NURSING ASSISTANT—FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application – registration	\$ 5.00
Renewal of registration	10.00
Duplicate registration	((+5.00)) 5.00
((Certification)) <u>Verification of registration/education</u>	((25.00)) 10.00
<u>Registration late penalty</u>	<u>10.00</u>
<u>Registration program approval</u>	<u>75.00</u>
<u>Application for certification</u>	<u>5.00</u>
<u>Certification renewal</u>	<u>10.00</u>
<u>Verification certification/education</u>	<u>10.00</u>
<u>Duplicate certification</u>	<u>5.00</u>
<u>Certification late penalty</u>	<u>10.00</u>
<u>Certification program approval</u>	<u>75.00</u>

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

WAC 308-54-315 NURSING HOME ADMINISTRATOR FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application (examination and original license)	((250.00)) \$500.00
Reexamination (partial)	((200.00)) 300.00
Application—Reciprocity	((+50.00)) 400.00
Temporary permit	((+50.00)) 400.00
Renewal	((+60.00)) 380.00
Late renewal penalty	160.00
Duplicate license	((+5.00)) 25.00
Certification	((25.00)) 50.00
<u>Administrator-in-training</u>	<u>275.00</u>

AMENDATORY SECTION (Amending Order 784, filed 10/5/88)

WAC 308-310-010 NURSING POOL FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health.

Title	Fee
Registration application	\$ ((75.00)) 125.00
Registration renewal	((75.00)) 125.00
Duplicate registration	15.00

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-138-080 OSTEOPATHIC FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Osteopath:	
Renewal	((30.00)) \$300.00
Duplicate	15.00
Certification	25.00
Osteopathic physician:	
Endorsement application	((250.00)) 400.00
License renewal	((+70.00)) 300.00
((Reciprocity	250.00
Retake—Single subject	50.00
Retake—Full day	125.00
Retake—Over one day	200.00
Late renewal penalty	50.00
Flex exam/state exam application	600.00
Endorsement/state exam application	500.00
Retake flex I	300.00
Retake flex II	350.00
Reexam	100.00
Duplicate license	15.00
Certification	25.00

Osteopathic physician assistant:	
Application	150.00
Renewal	50.00
Duplicate license	15.00

AMENDATORY SECTION (Amending Order 783, filed 10/5/88)

WAC 308-117-500 PRACTICAL NURSE FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Application (examination and reexamination)	\$(35.00) 55.00
License renewal	((25.00)) 31.00
Late renewal penalty	((10.00)) 35.00
Inactive renewal	((15.00)) 20.00
Inactive late renewal penalty	((5.00)) 20.00
Endorsement – reciprocity	((35.00)) 55.00
Duplicate license	((15.00)) 20.00
Certification	((25.00)) 40.00

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-122-275 PSYCHOLOGY FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
<u>Application</u>	<u>\$100.00</u>
Application—Written examination (initial and retake)	(\$150.00) 200.00
Application—Oral examination (initial and retake)	((150.00)) 200.00
Renewal	210.00
Late renewal penalty	50.00
Duplicate license	15.00
Certificate of qualification application	((30.00)) 100.00
<u>Written examination</u>	<u>200.00</u>
<u>Oral examination</u>	<u>200.00</u>
Certification	25.00
Renewal	210.00
Renewal penalty	50.00
Amendment of certificate of qualification	30.00

AMENDATORY SECTION (Amending Order 783, filed 10/5/88)

WAC 308-120-275 REGISTERED NURSE FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application – examination	\$(30.00) 40.00
License renewal	20.00

Title of Fee	Fee
Late renewal penalty	((15.00)) 20.00
Inactive license renewal	10.00
Inactive late renewal penalty	5.00
Endorsement ((=reciprocity))	25.00
Duplicate license	15.00
Examination (((second= subsequent))) retake (((or more)))	((30.00)) 40.00
((Certification)) <u>Verification of licensure/education</u>	((25.00)) 15.00
ARNP application	25.00
ARNP renewal	20.00
<u>ARNP late renewal penalty</u>	<u>15.00</u>
<u>ARNP with prescriptive authorization</u> application	30.00
<u>ARNP with prescriptive authorization</u> renewal	((20.00)) 40.00
<u>ARNP with prescriptive late renewal penalty</u>	15.00

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-152-030 VETERINARY FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Veterinarian:	
National board examination (NBE) (initial/retake)	\$(110.00) 150.00
Clinical competency test (CCT) (initial/retake)	((85.00)) 130.00
State examination (initial((/ retake))) exam/initial license	((75.00)) 225.00
State examination (retake)	150.00
<u>Impaired veterinarian assessment</u>	25.00
Temporary permit	((35.00)) 100.00
((Initial license	40.00)) 100.00
Renewal	((75.00)) 115.00
<u>Impaired veterinarian assessment</u>	25.00
Late renewal penalty	((25.00)) 140.00
Duplicate license	15.00
Certification	25.00

Title of Fee	Fee
Animal technician:	
National examination (initial/retake)	((70.00)) 95.00
State examination (initial/retake)	((50.00)) 100.00
Initial license	((30.00)) 60.00
Renewal	((30.00)) 60.00
Late renewal penalty	((10.00)) 60.00
Duplicate license	15.00
Certification	25.00

WSR 90-04-095
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed February 7, 1990, 3:39 p.m.]

Original Notice.

Title of Rule: Physical therapist licensure requirements.

Purpose: To update licensure requirements.

Statutory Authority for Adoption: Chapter 18.74 RCW.

Statute Being Implemented: Chapter 18.74 RCW.

Summary: Removes language designating the former examination service. Amends reciprocity requirements and amends physical therapist assistant scope of practice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Neva, 1300 Quince Street, Olympia, WA, 753-3132.

Name of Proponent: Board of Physical Therapy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Updates physical therapy licensure requirements and special requirements for physical therapy assistants.

Proposal does not change existing rules.

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

Hearing Location: Best Western Airport Executel, 20717 Pacific Highway South, Seattle, WA 98188, on March 20, 1990, at 9:30 a.m.

Submit Written Comments to: Department of Health, Physical Therapy Section, P.O. Box 1099, Olympia, WA 98507-1099, by March 10, 1990.

Date of Intended Adoption: March 20, 1990.

February 7, 1990
 Yvonne Braeme
 Program Administrator

AMENDATORY SECTION (Amending Order PM 619, filed 9/16/86)

WAC 308-42-045 EXAMINATION. (1) The examination acceptable to and approved for use under the provisions of RCW 18.74-.035 shall be the examination for physical therapists as ((prepared))

recognized by the ((Professional Examining Service of New York)) American Physical Therapy Association. A passing score is not less than sixty percent raw score on each of the three examination parts.

(2) If a candidate fails to receive a passing score on the examination, he or she will be required to retake only the section(s) failed.

(3) Where necessary, applicant's score will be rounded off to the nearest whole number.

AMENDATORY SECTION (Amending Order PM 619, filed 9/16/86)

WAC 308-42-060 RECIPROCITY—REQUIREMENTS FOR LICENSURE. (1) Before reciprocity is extended to any individual licensed to practice physical therapy under the law of another state, territory, or District of Columbia, the board shall determine the qualifications of the applicant as prescribed by law based in part on the ((Professional Examining Service examination)) examination approved by the board with not less than sixty percent raw score on each of the three examination parts.

(2) If the decision to extend reciprocity is based on an examination other than the ((Professional Examining Service)) examination approved by the board, the board shall determine if such examination is equivalent to that required by the laws of this state.

(3) The board shall not recommend to the director that a person be registered as a physical therapist under the reciprocity provisions of RCW 18.74.060, unless said applicant shall have taken and passed the ((Professional Examining Service examination)) examination approved by the board, or other examination equivalent to that required by the laws of this state.

AMENDATORY SECTION (Amending Order PM 859, filed 9/8/89, effective 10/9/89)

WAC 308-42-145 SPECIAL REQUIREMENTS FOR PHYSICAL THERAPIST ASSISTANT UTILIZATION. The physical therapist assistant may function under immediate, direct or indirect supervision if the following requirements are met:

(1) Patient reevaluation must be performed by a supervising licensed physical therapist every five visits or once a week if treatment is performed more than once a day.

(2) Any change in the patient's condition not consistent with planned progress or treatment goals necessitates a reevaluation by the licensed physical therapist before further treatment is carried out.

(3) Following an evaluation and reevaluation by the licensed physical therapist, the tasks delegated to and performed by the physical therapist assistant are to be determined, taught and supervised by the licensed physical therapist and shall remain the responsibility of the supervising licensed physical therapist. The supervising licensed physical therapist must be on the premises and there must be documentation of the training, delegation and supervision of the tasks.

WSR 90-04-096
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed February 7, 1990, 3:40 p.m.]

Original Notice.

Title of Rule: Chapter 308-171 WAC, Occupational therapy.

Purpose: To define licensure requirements for occupational therapists.

Statutory Authority for Adoption: Chapter 18.59 RCW.

Statute Being Implemented: Chapter 18.59 RCW.

Summary: Updates definitions, recognized educational programs and continued education requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Neva, 1300 Quince Street, Olympia, WA, 753-3132.

Name of Proponent: Occupational Therapy Practice Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Updates definitions, education programs and adding continuing competency requirements.

Proposal does not change existing rules.

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

Hearing Location: Best Western Airport Executel, 20717 Pacific Highway South, Seattle, WA 98188, on March 20, 1990, at 9:30 a.m.

Submit Written Comments to: Department of Health, Occupational Therapy Section, P.O. Box 1099, Olympia, WA 98507-1099, by March 10, 1990.

Date of Intended Adoption: March 20, 1990.

February 7, 1990

Yvonne Braeme
Program Administrator

AMENDATORY SECTION (Amending Order PM 645, filed 4/14/87)

WAC 308-171-001 DEFINITIONS. (1) The following terms in RCW 18.59.020(2) shall mean:

(a) "Scientifically based use of purposeful activity" is the treatment of individuals using established methodology based upon the behavioral and biological sciences and includes the analysis, application and adaptation of activities for use with individuals having a variety of physical, emotional, cognitive and social disorders. Use of purposeful activity includes a process of continually modifying treatment to meet the changing needs of an individual. Purposeful activity is goal-oriented and cannot be routinely prescribed.

(b) "Teaching daily living skills" is the instruction in daily living skills based upon the evaluation of all the components of the individual's disability and the adaptation or treatment based on the evaluation. Components of a disability are physical, sensory, social, emotional and cognitive functions.

(c) "Developing prevocational skills and play and avocational capabilities" is not only the development of prevocational skills and play and avocational capabilities but involves the scientifically based use of purposeful activity.

(d) "Designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment" is not specific occupational therapy services if a person designs, fabricates, or applies selected orthotic and prosthetic devices or selected adaptive equipment for an individual if the device or equipment is prescribed or ordered by a health care professional authorized by the laws of the state of Washington to prescribe the device or equipment or direct the design, fabrication, or application of the device or equipment.

(e) "Adapting environments for the handicapped" is the evaluation of all the components of an individual's disability and the adaptation of the environment of the individual based on the evaluation. Components of a disability are physical, sensory, social, emotional and cognitive functions.

(2) "Supervision" and "regular consultation" of an occupational therapy assistant by an occupational therapist in RCW 18.59.020(4) and "direct supervision" of a person holding a limited permit by an occupational therapist in RCW 18.59.040(7) shall mean face to face meetings between the occupational therapist and occupational therapy assistant and between the occupational therapist and holder of a limited permit occurring at intervals as determined necessary by the occupational therapist to establish, review, or revise the client's treatment objectives. The meetings shall be documented and the documentation shall be maintained in each client's treatment record. The failure to meet to establish, review, or revise the client's treatment objectives at sufficient intervals to meet the client's needs shall be grounds for disciplinary action against the occupational therapist's license and/or the occupational therapy assistant's license to practice in the state of Washington and/or the limited permit pursuant to WAC 308-171-300 (4) and (14), 308-171-301 (2) and (3) and RCW 18.59.100 for conduct occurring prior to June 11, 1986 and pursuant to RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(3) "Professional supervision" of an occupational therapy aide in RCW 18.59.020(5) shall mean:

(a) Documented training by the occupational therapist of the occupational therapy aide in each specific occupational therapy technique for each specific client and the training shall be performed on the client;

(b) Face to face meetings between the occupational therapy aide and the supervising occupational therapist or an occupational therapy assistant under the direction of the supervising occupational therapist occurring at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once every two weeks; and

(c) The occupational therapist shall observe the occupational therapy aide perform on the client the specific occupational therapy techniques for which the occupational therapy aide was trained at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once a month.

The meetings and client contacts shall be documented and the documentation shall be maintained in the client's treatment records. The failure to meet at sufficient intervals to meet the client's needs shall be grounds for disciplinary action against the occupational therapist's license to practice in the state of Washington pursuant to WAC 308-171-300 (4) and (14), 308-171-301 (2) and (3) and RCW 18.59.100 for conduct occurring prior to June 11, 1986 and pursuant to RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(4) Sections (2) and (3) of this rule shall not be effective until July 1, 1985.

(5) "Clients" include patients, students, and those to whom occupational therapy services are delivered.

(6) "Evaluation" is the process of obtaining and interpreting data necessary for treatment, which includes, but is not limited to, planning for and documenting the evaluation process and results. The evaluation data may be gathered through record review, specific observation, interview, and the administration of data collection procedures, which include, but are not limited to, the use of standardized tests, performance checklists, and activities and tasks designed to evaluate specific performance abilities.

(7) "Work site" in RCW 18.59.080 means the primary work location.

(8) "In association" for RCW 18.59.040(7) shall mean practicing in a setting in which another occupational therapist licensed in the state of Washington is available for consultation and assistance as needed to provide protection for the clients' health, safety and welfare.

(9) One "contact hour" is considered to be sixty minutes.

AMENDATORY SECTION (Amending Order PM 805, filed 12/20/88)

WAC 308-171-010 RECOGNIZED EDUCATIONAL PROGRAMS—OCCUPATIONAL THERAPISTS. The board recognizes and approves courses of instruction conducted by schools that have obtained accreditation of the program in occupational therapy from the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the American Occupational Therapy Association as recognized in the ((1987-1988)) 1989-1990 Listing of Educational Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc. ((The following school program is also approved: Worcester State College.))

AMENDATORY SECTION (Amending Order PM 805, filed 12/20/88)

WAC 308-171-020 RECOGNIZED EDUCATIONAL PROGRAMS—OCCUPATIONAL THERAPY ASSISTANTS. The board recognizes and approves courses of instruction conducted by schools that have obtained approval of the occupational therapy assistant associate degree programs and occupational therapy assistant certificate programs from the American Occupational Therapy Association as recognized in the ((1987-1988)) 1989-1990 Listing of Educational Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc. ((The following school programs are also approved: Austin Community College, Cincinnati Technical College, and Williamsport Area Community College.))

NEW SECTION

WAC 308-171-041 CONTINUING COMPETENCY. Beginning January 1, 1991, evidence of continuing competency for the practice of occupational therapy shall include a minimum of thirty contact hours of continuing education per license renewal period. The thirty contact hours may be obtained through inservices, coursework, conferences, or workshops which have specified goals and objectives relating to the practice of occupational therapy as defined in RCW 18.59.020 and WAC 308-171-001.

WSR 90-04-097
PROPOSED RULES
DEPARTMENT OF
COMMUNITY DEVELOPMENT

[Filed February 7, 1990, 3:42 p.m.]

Original Notice.

Title of Rule: Chapter 212-17 WAC, Fireworks, regulates the manufacture, importing, sale at wholesale or retail, or the use of fireworks in supervised public displays.

Purpose: To implement the state fireworks law, administered and enforced by the director of fire protection.

Other Identifying Information: Proposed rule effects only the supervised public display of fireworks.

Statutory Authority for Adoption: RCW 70.77.250(3).

Statute Being Implemented: Chapter 70.77 RCW, State fireworks law.

Summary: Allows the use of alternate methods and equipment, found to be safer than those presently allowed. Increases distance requirements between firing area and spectator area for greater public safety.

Reasons Supporting Proposal: Current rule based on nationally-recognized safety standards, which recently have been revised. Proposal brings rule into conformance with the latest safety standards.

Name of Agency Personnel Responsible for Drafting and Implementation: Mike Sturgeon, 9th and Columbia Building, Olympia, (206) 753-3605; and Enforcement: Dick Small, 9th and Columbia Building, Olympia, (206) 586-3442.

Name of Proponent: National Fire Protection Association and American Pyrotechnics Association, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Substantive language of latest model code incorporated into proposed rule.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed revision to the existing rule brings the rule into conformance with the *Code for the Outdoor Display of Fireworks*, developed by the National Fire Protection Association, with the assistance and endorsement of the American Pyrotechnic Association.

Proposal Changes the Following Existing Rules: The revision brings the existing rule up-to-date with the current state of the art by incorporating new terminology relating to electrical firing of outdoor displays and the use of nonmetallic mortars.

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

This rule does not change the licensing requirements for public fireworks displays or the pyrotechnic operators, who are the technicians who set up and supervise the actual fireworks discharge. The rule recognizes improved methods and materials and authorizes use of those methods and materials in addition to those currently in use, recognizes electrical remote firing and the use of nonmetallic mortars in addition to the manual firing and steel mortars currently used. The rule, in requiring additional distances between firing and spectator viewing areas may preclude the use of some existing marginally safe sites, but does make allowances for continued use of these sites if the shell size is limited. Experience has shown that this requirement is necessary for public safety. Local government is authorized to charge a fee for inspection and approval of firing sites. This remains unchanged. The new rule merely provides different distance requirements to use in determining suitability of the site.

Hearing Location: 9th and Columbia Building, 3rd Floor Hearing Room, Olympia, Washington, on March 13, 1990, at 9:00 a.m.

Submit Written Comments to: Mike Sturgeon, Chief Deputy, 9th and Columbia Building, GH-51, Olympia, Washington 98504, by March 13, 1990.

Date of Intended Adoption: March 20, 1990.

February 5, 1990

Chuck Clarke
Director

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-300 PUBLIC DISPLAY—DEFINITIONS. For the purpose of this section, the following terms shall have the meanings shown:

(1) Assistant. A person who works under the direction of the pyrotechnic operator in charge to put on an outdoor fireworks display. The duties of an assistant include such tasks as: Loading mortars, spotting the bursting location of aerial shells, tending a ready box, setting up and cleaning the discharge site, igniting fireworks, etc.

(2) Barrage. A rapidly fired sequence of aerial fireworks. Mortars are loaded prior to the display and the aerial shells are chain fused to fire in rapid sequence.

(3) Black match. A fuse made from thread impregnated with black powder and used for igniting pyrotechnic devices.

((fz)) (4) Boxed finale. A number of mortars grouped closely together and contained by a suitable frame. The mortars are loaded prior to the display and fused for rapid sequence firing.

((fz)) (5) Break. An individual effect from an aerial shell; generally either color (stars) or noise (salute). Aerial shells can be single-break (having only one effect) or multiple-break (having two or more effects).

((fz)) (6) Chain fusing. A series of two or more aerial shells fused so as to fire in sequence from a single ignition. Finales and barrages are typically chain fused.

(7) Colored pot. A paper tube containing pyrotechnic composition that produces a colored flame on ignition. Colored pots are used in the construction of ground display pieces.

((fz)) (8) Discharge site. The area immediately surrounding the mortars used to fire the aerial shells.

((fz)) (9) Electric match. A device consisting of wires terminating at a high resistance element surrounded with a small quantity of heat sensitive pyrotechnic composition. When a sufficient electric current is passed through the wire circuit, the heat that is generated ignites the pyrotechnic composition, producing a small burst of flame. This flame can be used to ignite a fuse or a lift charge in a fireworks device.

(10) Electrical firing unit. The source of electrical current used to ignite electric matches. Generally the firing unit will have switches to control the routing of the current to various firework items and shall have test circuits and warning indicators, etc.

(11) Electrical ignition. A technique used to discharge fireworks in which an electric match and source of electric current are used to ignite fuses or lift charges. The electric matches are attached prior to the display, generally with wires connected to an electrical firing unit during the display.

(12) Fallout area. The area over which aerial shells are fired. The shells burst over this area, and unsafe debris and malfunctioning aerial shells fall into this area.

(13) Finale. A rapidly fired sequence (barrage) of aerial fireworks, typically fired at the end of a display. The mortars are loaded prior to the display and the aerial shells are chain fused to fire in rapid sequence.

(14) Finale rack. A row of closely spaced two-inch (51 mm) or three-inch (76 mm) inside diameter, mortars held in a wooden frame. It is similar to a boxed finale.

((+)) (15) Fireworks display. An outdoor display of special fireworks performed as entertainment.

(16) Flash powder. Explosive composition intended for use in firecrackers and salutes. Flash powder produces an audible report and a flash of light when ignited. Typical flash powder composition contains potassium chlorate or potassium perchlorate, sulfur or antimony sulfide, and powdered aluminum.

(17) Fusee. A highway distress flare, sometimes used to ignite fireworks at outdoor fireworks displays.

(18) Ground display piece. A pyrotechnic device that functions on the ground (as opposed to an aerial shell which functions in the air). Typical ground display pieces include fountains, roman candles, wheels, "set pieces."

((+)) (19) Lance. A thin cardboard tube packed with color-producing pyrotechnic composition used to construct ground display pieces. Lances are mounted on a wooden frame and fused so that ignition of all tubes is simultaneous.

((+)) (20) Lift charge. That part of an aerial shell which actually lifts the shell into the air. It usually consists of a black powder charge ignited by a quick match fuse. A delay fuse then ignites the main part of the shell, producing the desired effect.

((+)) (21) Manual ignition. A technique used to ignite fireworks using a handheld ignition source such as a fusee or port fire.

(22) Monitor. A person designated by the licensee of the display to keep the audience in the intended viewing area and out of the discharge site and fallout area.

(23) Mortar. A metal or heavy cardboard tube from which aerial shells are fired.

((+)) (24) Mortar rack. A strong wooden or metal frame containing closely spaced mortars. Such racks are most often used for barrages and finales, and in electrically ignited displays.

(25) Mortar trough. Above ground structures filled with sand or similar material into which mortars are positioned ready for use in a fireworks display.

(26) Movable ground piece. A ground display piece having movable parts, such as a revolving wheel.

((+)) (27) No-fire current. The maximum current that can be applied to an electric match for five seconds at room temperature without the match igniting.

(28) Operator. The licensed pyrotechnician (pyrotechnic operator) responsible for setting up and firing a public fireworks display.

((+)) (29) Potential landing area. The area over which shells are fired. The shells will normally burst over this area, but debris and malfunctions will fall into this area; therefore, it must be kept clear of spectators.

((+)) (30) Quick match. Black match that is encased in a loose-fitting paper sheath. While exposed black match burns slowly, quick match propagates flame extremely rapidly, almost instantaneously. Quick match is used in fuses for aerial shells and for simultaneous ignition of a number of pyrotechnic devices, such as lances in a ground display piece.

((+)) (31) Safety cap. A paper tube, closed at one end, that is placed over the end of the fuse of an aerial shell to protect it from accidental ignition. The cap is not removed until just before firing of the shell.

((+)) (32) Salute. A special firework that is designed to produce a loud report.

(33) Salute powder. A pyrotechnic composition which makes a loud report when ignited and constitutes the sole pyrotechnic mixture in a salute.

(34) Shell (aerial). A cylindrical or spherical cartridge containing pyrotechnic composition, a long fuse, and a black powder lift charge. The shells are most commonly three-inch (76 mm) to six inch (152 mm) outside diameter and are fired from mortars. Upon firing, the fuse and lift charge are consumed.

(35) Theatrical flash powder. A pyrotechnic composition intended for use in theatrical shows. Theatrical flash powder produces a flash of light when ignited. Typical theatrical flash powder burns more slowly than salute powder and may also produce a shower of sparks. Theatrical flash powder is not intended to produce a loud report.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-305 PUBLIC DISPLAY—CONSTRUCTION OF SHELLS. (1) Shells shall be classified and described only in terms of the inside diameter of the mortar in which they can be safely used (e.g., 3-inch shells are only for use in 3-inch mortars).

(2) Shells shall be constructed so that the difference between the inside diameter of the mortar and the outside diameter of the shell is no less than 1/8 inch (3.2 mm) and no more than 1/4 inch (6.4 mm) for two-inch (51 mm) and three-inch (76 mm) shells or 1/2 inch (12.7 mm) for shells larger than three-inch (76 mm).

(3) Shells shall be labeled with the type of shell, the diameter measurement, and the name of the manufacturer or distributor. Shells shall also carry a warning label complying with 16 CFR 1500.121, 1981.

(4) The label or wrapper of any type of aerial salute shall be conspicuously marked with the work "salute."

(5) Single-break salute shells shall not exceed three inches in diameter or three inches in length (exclusive of the propellant charge). The maximum quantity of salute powder in such salutes shall not exceed 2.5 ounces (71 g).

(6) For single-break shells containing multiple internal salutes and for multibreak shells, the maximum quantity of salute powder per internal unit shall not exceed 2.5 ounces (71 g) with no more than 5 ounces (142 g) total salute powder in any one shell.

(7) The length of the internal delay fuse and the amount of lift charge shall be sized to insure proper functioning of the shells in their mortars. Quick match fuse shall be long enough to allow not less than 6 inches (152 mm) of fuse to protrude from the mortar after the shell has been properly inserted.

Exception: For electrically ignited displays, the requirement shall be that the length of wire on the electric match shall be long enough that not less than 6 inches (152 mm) protrude from the mortar when the shell has been properly inserted.

((+)) (8) The length of exposed black match on a shell shall not be less than 3 inches (76 mm) and the fuse shall not be folded or doubled back under the safety cap. ((Also, the time delay between ignition of the tip of the exposed black match and ignition of the lift charge shall not be less than 4 seconds to allow the operator to retreat safely.))

In order to allow the person igniting the aerial shells to safely retreat, the time delay between igniting the tip of the shell's fuse and the firing of the shell shall not be less than three seconds or more than six seconds.

Exception: For electrically ignited displays, there is no requirement for a delay period.

((+)) (9) A safety cap shall be installed over the exposed end of the fuse. The safety cap shall be of a different color than that used for the paper of the fuse.

Exception: For electrically ignited displays, there is no requirement for safety caps except that there shall be no exposed pyrotechnic composition.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-310 PUBLIC DISPLAY—STORAGE OF SHELLS. (1) As soon as the fireworks have been delivered to the display site, they shall not be left unattended nor shall they be allowed to become wet.

(2) All shells shall be inspected upon delivery to the display site by the display operators. Any shells having tears, leaks, broken fuses, or showing signs of having been wet shall be set aside and shall not be

fired. After the display, any such shells shall either be returned to the supplier or be destroyed according to the supplier's instructions.

Exception: Minor repairs shall be allowed. Also, for electrically ignited displays, attachment of electric matches and other similar tasks shall be permitted.

(3) All shells shall be separated according to diameter and stored in tightly covered containers of metal, wood, or plastic or in fiber drums or corrugated cartons meeting United States Department of Transportation specifications for transportation of fireworks. A flame-resistant tarpaulin shall be permitted to be used as a covering over the containers, if additional protection is desired.

(4) The shell storage area shall be located at a minimum distance of not less than 25 feet (7.6 m) from the discharge site.

(5) During the display, shells shall be stored upwind from the discharge site. If the wind should shift during the display, the shell storage area should be relocated so as to again be upwind from the discharge site.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-315 PUBLIC DISPLAY—INSTALLATION OF MORTARS. (1) Mortars shall be inspected for dents, bent ends, and cracked or broken plugs prior to ground placement. Mortars found to be defective in any way shall not be used. Any scale on the inside surface of the mortars shall be removed.

(2) Mortars shall be positioned so that the shells are carried away from spectators and into a clear area acceptable to the authority having jurisdiction.

(3) Mortars shall be either buried securely into the ground to a depth of 2/3 to 3/4 of their length or fastened securely in mortar boxes or drums. In soft ground, heavy timber (e.g. 4-inch thick) or rock slabs shall be placed beneath the mortars to prevent their sinking or being driven into the ground during firing.

Exception: Boxed finales and finale racks.

(4) In damp ground, a weather-resistant bag shall be placed under the bottom of the mortar prior to placement in the ground to protect the mortar against moisture.

(5) Weather-resistant bags shall be placed over the open end of the mortar in damp weather to keep moisture from accumulating on the inside surface of the mortar.

(6) Sand bags, dirt boxes, or other suitable protection shall be placed around the mortars to protect the operator from ground bursts. This requirement shall not apply to the down-range side of the discharge site.

(7) Mortars shall be inspected before the first shells are loaded to be certain no water or debris has accumulated in the bottom of the mortar.

~~(8) (Metal mortars shall be deemed acceptable for use with all shells. Paper mortars shall only be used for discharge of single-break and double-break shells. A thirty-second cooling period shall be allowed between firing and reloading of paper mortars.)~~

(9) Paper mortars shall be constructed of convolute wound paper, except that spiral wound paper shall be permitted for 3-inch (76 mm) diameter mortars only. Wall thickness of paper mortars shall conform to the following:

WALL THICKNESS OF PAPER MORTARS

Mortar Type	Mortar Diameter In. (mm)	Wall Thickness In. (mm)
Convolute	2-inch (51)	1/4 inch (6.4)
Convolute or Spiral	3-inch (76)	3/8 inch (9.5)
Convolute	4-inch (102)	1/2 inch (12.7)
Convolute	5-inch (127)	3/4 inch (19.0)
Convolute	6-inch (152)	3/4 inch (19.0)

Exception: For 3-inch (76 mm) single-fire mortars, such as used in finales, a wall thickness of 1/4 inch (6.4 mm) shall be permitted.

(+0)) If steel mortars are placed in troughs or drums, the minimum distance from the mortar to the wall of the trough or drum shall be at least two times the diameter of the mortar.

(9) If troughs and drums are used, they shall be filled with sand or soft dirt; in no case shall stones or other possibly dangerous debris be present.

(10) If mortars which are generally considered not capable of generating dangerous flying debris are placed in troughs or drums, the minimum distance from the mortar to the wall of the trough or drum shall be at least equal to one-half the diameter of the mortar. Commonly used mortars which are considered generally not capable of generating dangerous flying debris include paper and high density polyethylene mortars.

(11) Whenever shells are to be chain fused, such as for barrages and finales, additional measures are required to prevent adjacent mortars from being repositioned in the event that a shell detonates in a mortar causing it to burst. For buried mortars, this shall be accomplished by placing the mortars with a minimum separation of three times their diameter. For mortars in racks this shall be accomplished by using mortar racks that have sufficient strength to successfully withstand such a failure.

(12) When mortars are to be reloaded during a display, mortars of various sizes shall not be intermixed. Mortars of the same size shall be placed in groups and the groups must be separated from one another.

To the extent practical, when mortars are to be reloaded during a display, groups of one size mortar should not be placed adjacent to mortars of only one inch different diameter. This will reduce the likelihood that shells will be loaded into oversized mortars. For example, an arrangement of mortar groups such as 5"-3"-6"-4" is greatly preferred over an arrangement such as 3"-4"-5"-6".

(13) Mortars may be constructed of steel, paper or high-density polyethylene.

(14) Steel mortars shall be deemed acceptable for use with all shells except salutes. Steel mortars shall be either seamed or seamless; however, seamed mortars must be placed such that the seam is facing either right or left as one faces the line of mortars. Steel mortars shall conform to the following:

MINIMUM MORTAR WALL THICKNESS (INCHES)

Mortar ID (in)	Spherical	Cylindrical Single-Break	Cylindrical Multi-Break
3	0.04	0.11	0.21
4	0.05	0.12	0.23
5	0.06	0.13	0.25
6	0.07	0.14	0.27
8	0.09	0.16	0.31
10	0.11	0.18	0.35
12	0.13	0.20	0.39

The tensile strength of steel pipe shall be at least 40,000 psi.

(15) Paper mortars shall only be used for discharge of single-break and double-break shells. A thirty second cooling period shall be allowed between firing and reloading of paper mortars. Paper mortars shall be constructed of convolute wound paper, except that spiral wound paper shall be permitted for 3-inch diameter mortars only. Paper mortars shall conform to the following:

MINIMUM MORTAR WALL THICKNESS (INCHES)

Mortar Type	Mortar Diameter	Wall Thickness
Convolute	2-inch	1/4 inch
Convolute or Spiral	3-inch	3/8 inch
Convolute	4-inch	1/2 inch
Convolute	5-inch	3/4 inch
Convolute	6-inch	

Exception: For 3-inch single-fire mortars, such as finales, a wall thickness of 1/4 inch shall be permitted.

The cross-grain tensile strength of the paper shall be at least 2,300 psi.

(16) Plastic reusable mortars shall be of high density polyethylene pipe, marked with identification markings "high density polyethylene" or "HDPE" and certified by "ASTM" with an accompanying certification standard identifier subscript. Plastic mortars shall conform to the following:

MINIMUM MORTAR WALL THICKNESS (INCHES)

Mortar ID	Spherical	Cylindrical Single-Break
3	0.15	0.20
4	0.20	0.26
5	0.25	
6	0.30	

The tensile strength of plastic shall be at least 3,500 psi.

(17) Mortars shall be of sufficient length to cause aerial shells to be propelled to safe heights. Mortar lengths shall conform to the following:

MINIMUM INSIDE MORTAR LENGTH (INCHES)

Mortar ID (in)	Single-Break	Double-Break	Up To 4-Break
3	15	18	21
4	20	23	27
5	24	28	32
6	28	32	37
8	34	40	46
10	40	46	54
12	46	52	62

(18) A cleaning tool shall be provided for cleaning debris out of the mortars between firings.

Exception: When mortars are not to be reloaded during a display, there is no requirement for a cleaning tool.

NEW SECTION

WAC 212-17-317 ELECTRICAL FIRING UNIT. (1) At no point shall electrical contact be allowed to occur between any wiring associated with the electrical firing unit and any metal object in contact with the ground.

(2) If the electrical firing unit is powered from AC power lines, some form of line isolation shall be employed (e.g., a line isolation transformer).

(3) The electrical firing unit shall include a key operated switch or other similar device that greatly reduces the possibility that unauthorized or unintentional firings can occur.

Exception: When the electrical firing unit is very small in size, and is only in the immediate area and attached to the wire running to electric matches for the brief duration of the actual firing, there is no requirement for a key operated switch.

(4) Manually activated electrical firing units shall be designed such that at least two positive actions must be taken to apply electric current to an electric match. For example, this might be accomplished with two switches in series, both of which must be operated in order to pass current.

(5) Computer activated electrical firing units shall have some form of "dead-man-switch," such that all firings will cease the moment the switch is released.

(6) If the electrical firing unit has a built-in test circuit, the unit shall be designed to limit the test current (into a short circuit) to 0.05 ampere or to twenty percent of the no-fire current of the electric match, whichever is less. Multitesters such as Volt-Ohm Meters shall not be used for testing unless their maximum current delivering potential has been measured and found to meet these requirements.

(7) When any testing of firing circuits is performed, no person shall be allowed to be present in the immediate area of fireworks that have been attached to the electrical firing unit.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-325 PUBLIC DISPLAY—DISCHARGE SITE. (1) The area selected for the discharge of aerial shells shall be so located that the trajectory of the shells will not come within 25 feet (7.6 m) of any overhead object.

(2) Ground display pieces shall be located at a minimum distance of 75 feet (22.9 m) from spectator viewing areas and parking areas.

Exception: For movable ground pieces, such as wheels, this minimum distance shall be increased to 150 feet (45.7 m).

(3) Mortars shall be separated from spectator viewing areas, parking areas and (~~permanent structures as follows~~) occupied residences by at least 40 feet per inch of internal mortar diameter, except as noted.

~~((2-inch mortar...50 feet (15.2 m) — 5-inch mortar...100 feet (30.5 m) — 3, 4-inch mortar...75 feet (22.9 m) — 6-inch mortar...150 feet (45.7 m)))~~

SEPARATION DISTANCES

Mortar Sizes	Minimum Distance from Mortars to Viewing, Parking Areas, Dwellings	Minimum Diameter of Fallout Area
Under 3 in.	100 ft.	200 ft.
3 in.	120 ft.	300 ft.
4 in.	160 ft.	400 ft.
5 in.	200 ft.	500 ft.
6 in.	240 ft.	600 ft.
8 in.	320 ft.	800 ft.
10 in.	400 ft.	1000 ft.
12 in.	480 ft.	1200 ft.

Over 12 in. As approved by local fire official

When the fireworks display includes only a single shell of the largest diameter, then the separation distance for that single largest shell shall be that distance required for the next smaller size shell. (For example, if the display includes the use of only one 8" shell, separation distance would be 240 ft., the distance normally required for a 6" shell, rather than 320 ft.)

(4) Mortars shall be separated from public buildings or hazardous storage facilities by a minimum distance of 500 feet ((~~152.4 m~~)).

(5) A clear landing area ((~~of at least 150 feet (45.7 m)~~)) shall be provided in the trajectory direction of the mortar.

(6) The potential landing area shall be a large, clear, open area which has been approved by the local fire official.

(7) Spectators, vehicles, or any readily combustible materials shall not be located within the potential landing area during the display.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-330 PUBLIC DISPLAY—OPERATION. General requirements.

(1) The licensee of the display shall provide adequate fire protection for the display, as required by the local fire official.

(2) The licensee shall consult with the local fire official to determine the level of fire protection and crowd control necessary.

(3) Monitors whose sole duty shall be the enforcement of crowd control shall be located around the display area by the licensee. The local fire and/or police officials shall determine the number of monitors needed and their placement.

(4) Monitors shall be located around the discharge site to prevent spectators or any other unauthorized persons from entering the discharge site. The discharge site shall be so restricted throughout the display and until the discharge site has been inspected after the display. Where practical, fences and rope barriers shall be used to aid in crowd control.

(5) If, in the opinion of local fire and/or police officials or the pyrotechnic operator, lack of crowd control should pose a danger, the display shall be immediately discontinued until such time as the situation is corrected.

(6) The pyrotechnic operator has the primary responsibility for safety. While the operator is allowed to actively participate in the firing of the fireworks display, the operator shall not become so busy as to allow interference with attention to safety.

(7) The pyrotechnic operator is responsible to ensure that a sufficient number of assistants are on hand for the safe conduct of the fireworks display. Only the operator and necessary assistants shall be permitted in the discharge area while the display is in progress.

(8) The pyrotechnic operator is responsible to ensure that all assistants are fully trained in the proper performance of their assigned tasks, and that they are knowledgeable of safety hazards.

(9) If, at any time, high winds or unusually wet weather prevail, such that in the opinion of local officials or the pyrotechnic operator a definite danger exists, the public display shall be postponed until weather conditions improve to an acceptable level.

~~((7))~~ (10) Light snow or mist need not cause cancellation of the display; however, all materials used in the display shall be protected from the weather by suitable means until immediately prior to use.

~~((8))~~ (11) Display operators and assistants shall use only flashlights or electric lighting for artificial illumination.

~~((9))~~ (12) No smoking or open flames shall be allowed in the shell storage area as long as shells are present. Signs to this effect shall be conspicuously posted.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-335 PUBLIC DISPLAY—FIRING OF SHELLS.

(1) Shells shall be carried from the storage area to the discharge site only by their bodies, never by their fuses.

(2) Shells shall be checked for proper fit in their mortars prior to the display.

(3) When loaded into mortars, shells shall be held by the thick portion of their fuses and carefully lowered into the mortar. At no time shall the operator place any part of his body over the throat of the mortar.

(4) The operator shall be certain that the shell is properly seated in the mortar.

(5) Shells shall not, under any circumstances, be forced into a mortar too small to accept them. Shells that do not fit properly into the mortars shall not be fired; they shall be disposed of according to the supplier's instructions.

(6) Shells shall be ignited by lighting the tip of the fuse with a fusee, torch, portfire, or similar device. The operator shall never place any part of his body over the mortar at any time. As soon as the fuse is ignited, the operator shall retreat from the mortar area.

Exception: Alternatively, electrical ignition may be used.

(7) The safety cap protecting the fuse shall not be removed by the operator responsible for igniting the fuse until immediately before the shell is to be fired.

Exception: Where electrical ignition is used.

(8) The first shell fired shall be carefully observed to determine that its trajectory will carry it into the intended firing range and that the shell functions over, and any debris falls into, the potential landing area.

(9) The mortars shall be re-angled or reset if necessary at any time during the display.

(10) In the event of a shell failing to ignite in the mortar, the mortar shall be left alone for a minimum of ~~((five))~~ fifteen minutes, then carefully flooded with water. Immediately following the display, the mortar shall be emptied into a bucket of water. The supplier shall be contacted as soon as possible for proper disposal instructions.

Exception: When electrical ignition is used and the firing failure is electrical in nature or the aerial shell was intentionally not fired, the shell may be salvaged by the pyrotechnic operator.

(11) It is the responsibility of the person igniting the aerial shells to detect when a shell does not fire from a mortar. The person shall warn others in the area and shall immediately cause the mortar to be marked to indicate the presence of an unfired aerial shell.

Exception: When electrically firing, it is not necessary to mark the mortar; however, persons entering the area after the fireworks display shall be warned that an unfired shell remains.

(12) Operators shall never attempt to repair a damaged shell nor shall they attempt to dismantle a dry shell. In all such cases, the supplier shall be contacted as soon as possible for proper disposal instructions.

~~((+2))~~ (13) Operators shall never dry a wet shell, lance, or pot for reuse. In such cases, the shell, lance, or pot shall be handled according to disposal procedures.

~~((+3))~~ (14) The entire firing range shall be inspected immediately following the display for the purpose of locating any defective shells. Any shells found shall be immediately doused with water before handling. The shells shall then be placed in a bucket of water. The supplier shall then be contacted as soon as possible for proper disposal instructions.

~~((+4))~~ (15) When fireworks are displayed at night, the licensee shall insure that the firing range is inspected early the following morning.

~~((+5))~~ (16) The operator of the display shall keep a record, on a form provided by the director of fire protection, of all shells that failed to ignite or fail to function. The form shall be completed and returned

to the director of fire protection. Failures shall also be reported to the supplier.

WSR 90-04-098

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 7, 1990, 3:53 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-011 Wildlife classified as protected wildlife.

Purpose: To identify within the category of protected wildlife, the subcategories of threatened, sensitive, or other protected wildlife, and classify the species identified into these subcategories.

Statutory Authority for Adoption: RCW 77.12.020.

Statute Being Implemented: RCW 77.12.020.

Summary: See Purpose above.

Reasons Supporting Proposal: Adoption of federally listed species identified under compatible state classification.

Name of Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary above.

Proposal Changes the Following Existing Rules: Amends WAC 232-12-011 as indicated in Purpose and Summary above.

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

Hearing Location: North Thurston School District, Administrative Center Board Room, 305 College Street N.E., Lacey, WA 98506, on March 23, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 7, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 392, filed 5/19/89 [5/18/89])

WAC 232-12-011 PROTECTED WILDLIFE CLASSIFIED AS THREATENED, SENSITIVE, AND OTHER (~~PROTECTED WILDLIFE~~). (1) Threatened species.

Wildlife classified as threatened include ferruginous hawk, *Buteo regalis*; bald eagle, *Haliaeetus leucocephalus*; western pond turtle, *Clemmys marmorata*; green sea turtle, *Cheloniia mydas*; loggerhead sea turtle, *Caretta caretta*; silverspot butterfly, *Speyeria zerene hippolyta*; pygmy rabbit, *Brachylagus idahoensis*.

(2) Sensitive species

(3) Other protected wildlife.

Other ((P)) protected wildlife include((s)) all birds not classified as game birds, predatory birds, threatened, sensitive, or endangered species; and fur seal, Callorhinus ursinus; fisher, Martes pennanti; wolverine, Gulo luscus; western gray squirrel, Sciurus griseus; Douglas squirrel, Tamiasciurus douglasii; red squirrel, Tamiasciurus hudsonicus; flying squirrel, Glaucomys sabrinus; golden-mantled ground squirrel, Callospermophilus saturatus; chipmunks, Eutamias; cony or pika, Ochotona princeps; hoary marmot, Marmota caligata and olympus; ((pygmy rabbit, Brachylagus idahoensis;)) all wild turtles not otherwise classed as threatened, sensitive, or endangered species; mammals of the order Cetacea, including whales, porpoises, and mammals of the suborder Pinnipedia not otherwise designated as threatened, sensitive, or endangered species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

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

WSR 90-04-099
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 7, 1990, 3:56 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-12-297 Endangered, threatened, and sensitive wildlife species classification.

Purpose: To identify and classify native wildlife species that have need of protection and/or management to ensure their survival as free-ranging populations in Washington and to define the process by which listing, management, recovery and delisting of a species can be achieved. These rules are established to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, threatened or sensitive.

Statutory Authority for Adoption: RCW 77.12.020.

Statute Being Implemented: RCW 77.12.020.

Summary: Establishes the formal process the Department of Wildlife will use to classify wildlife species as endangered, threatened or sensitive. The WAC includes definitions, listing criteria, provisions for public review, components of a species status report, and recovery plan development.

Reasons Supporting Proposal: There are certain wildlife species in Washington whose biological status is of concern to the Department of Wildlife and should be considered for classification as endangered, threatened or sensitive. These rules are written to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, threatened or sensitive.

Name of Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and **Enforcement:** Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose, Summary and Reasons Supporting Proposal 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: North Thurston School District, Administrative Center Board Room, 305 College Street N.E., Lacey, WA 98506, on March 23, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 7, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-12-297 ENDANGERED, THREATENED, AND SENSITIVE WILDLIFE SPECIES CLASSIFICATION

PURPOSE

- 1.1 The purpose of this rule is to identify and classify native wildlife species that have need of protection and/or management to ensure their survival as free-ranging populations in Washington and to define the process by which listing, management, recovery, and de-listing of a species can be achieved. These rules are established to ensure that consistent procedures and criteria are followed when classifying wildlife as endangered, threatened, or sensitive.

DEFINITIONS

For purposes of this rule, the following definitions apply:

- 2.1 "Classify" and all derivatives means to list or de-list wildlife species to or from endangered, threatened, or sensitive.
- 2.2 "List" and all derivatives means to change the classification status of a wildlife species to endangered, threatened, or sensitive.
- 2.3 "De-list" and its derivatives means to change the classification of endangered, threatened, or sensitive species to a classification other than endangered, threatened, or sensitive.
- 2.4 "Endangered" means any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.
- 2.5 "Threatened" means any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.
- 2.6 "Sensitive" means any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats.
- 2.7 "Species" means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.
- 2.8 "Native" means any wildlife species naturally occurring in Washington for purposes of breeding, resting, or foraging, excluding introduced species not found historically in this state.
- 2.9 "Significant portion of its range" means that portion of a species' range likely to be essential to the long term survival of the population in Washington.

LISTING CRITERIA

- 3.1 The Commission shall list a wildlife species as endangered, threatened, or sensitive solely on the basis of the biological status of the species being considered, based on the preponderance of scientific data available, except as noted in Section 3.4.
- 3.2 If a species is listed as endangered or threatened under the federal Endangered Species Act, the Agency will recommend to the

Commission that it be listed as endangered or threatened as specified in Section 9.1. If listed, the Agency will proceed with development of a recovery plan pursuant to Section 11.1.

- 3.3 Species may be listed as endangered, threatened, or sensitive only when populations are in danger of failing, declining, or are vulnerable, due to factors including but not restricted to limited numbers, disease, predation, exploitation, or habitat loss or change, pursuant to Section 7.1.
- 3.4 Where a species of the class Insecta, based on substantial evidence, is determined to present an unreasonable risk to public health, the Commission may make the determination that the species need not be listed as endangered, threatened, or sensitive.

DE-LISTING CRITERIA

- 4.1 The Commission shall de-list a wildlife species from endangered, threatened, or sensitive solely on the basis of the biological status of the species being considered, based on the preponderance of scientific data available.
- 4.2 A species may be de-listed from endangered, threatened, or sensitive only when populations are no longer in danger of failing, declining, or are no longer vulnerable, pursuant to Section 3.3, and when it no longer meets the definitions in sections 2.4, 2.5, or 2.6.

INITIATION OF LISTING PROCESS

- 5.1 Any one of the following events will initiate the listing process.
 - 5.1.1 The Agency determines that a species population may be in danger of failing, declining, or vulnerable, pursuant to Section 3.3.
 - 5.1.2 A petition is received at the Agency from an interested person. The petition should be addressed to the Director. It should set forth specific evidence and scientific data which shows that the species may be failing, declining, or vulnerable, pursuant to Section 3.3. Within 60 days, the Agency shall either deny the petition, stating the reasons, or initiate the classification process.
 - 5.1.3 An emergency, as defined by the Administrative Procedure Act, Chapter 34.05 RCW. The permanent listing of any species previously classified under emergency rule shall be governed by the provisions of this Section.
- 5.2 Upon initiation of the listing process the Agency shall publish a public notice in the Washington Register, and notify those parties who have expressed their interest to the department, announcing the initiation of the classification process and calling for scientific information relevant to the species status report under consideration pursuant to Section 7.1.

INITIATION OF DE-LISTING PROCESS

- 6.1 Any one of the following events will initiate the de-listing process:
 - 6.1.1 The Agency determines that a species population may no longer be in danger of failing, declining, or vulnerable, pursuant to Section 3.3.
 - 6.1.2 The Agency receives a petition from an interested person. The petition should be addressed to the Director. It should set forth specific evidence and scientific data which shows that the species may no longer be failing, declining, or vulnerable, pursuant to Section 3.3. Within 60 days, the Agency shall either deny the petition, stating the reasons, or initiate the de-listing process.
- 6.2 Upon initiation of the de-listing process the Agency shall publish a public notice in the Washington Register, and notify those parties who have expressed their interest to the Department, announcing the initiation of the de-listing process and calling for scientific information relevant to the species status report under consideration pursuant to Section 7.1.

SPECIES STATUS REVIEW AND AGENCY RECOMMENDATIONS

- 7.1 Except in an emergency under 5.1.3 above, prior to making a classification recommendation to the commission, the Agency shall prepare a preliminary species status report. The report will

include a review of information relevant to the species' status in Washington and address factors affecting its status, including those given under Section 3.3. The status report shall be reviewed by the public and scientific community. The status report will include, but not be limited to an analysis of:

- 7.1.1 Historic, current, and future species population trends
 - 7.1.2 Natural history, including ecological relationships (e.g. food habits, home range, habitat selection patterns).
 - 7.1.3 Historic and current habitat trends.
 - 7.1.4 Population demographics (e.g. survival and mortality rates, reproductive success) and their relationship to long term sustainability.
 - 7.1.5 Historic and current species management activities.
- 7.2 Except in an emergency under 5.1.3 above, the Agency shall prepare recommendations for species classification, based upon scientific data contained in the status report. Documents shall be prepared to determine the environmental consequences of adopting the recommendations pursuant to requirements of the State Environmental Policy Act (SEPA).

PUBLIC REVIEW

- 8.1 Except in an emergency under 5.1.3 above, prior to making a recommendation to the commission, the Agency shall provide an opportunity for interested parties to submit new scientific data relevant to the status report, classification recommendation, and any SEPA findings.
 - 8.1.1 The Agency shall allow at least 90 days for public comment.
 - 8.1.2 The Agency will hold at least one public meeting in each of its administrative regions during the public review period.

FINAL RECOMMENDATIONS AND COMMISSION ACTION

- 9.1 After the close of the public comment period, the Agency shall complete a final status report and classification recommendation. SEPA documents will be prepared, as necessary, for the final Agency recommendation for classification. The classification recommendation will be presented to the Commission for action. The final species status report, Agency classification recommendation, and SEPA documents will be made available to the public at least 30 days prior to the Commission meeting.
- 9.2 Notice of the proposed Commission action will be published at least 30 days prior to the Commission meeting.

PERIODIC SPECIES STATUS REVIEW

- 10.1 The Agency shall conduct a review of each endangered, threatened, or sensitive wildlife species at least every five years after the date of its listing. This review shall include an update of the species status report to determine whether the status of the species warrants its current listing status or deserves reclassification.
 - 10.1.1 The Agency shall notify any parties who have expressed their interest to the department of the periodic status review. This notice shall occur at least one year prior to end of the five year period required by Section 10.1.
- 10.2 The status of all de-listed species shall be reviewed at least once, five years following the date of de-listing.
- 10.3 The Department shall evaluate the necessity of changing the classification of the species being reviewed. The Agency shall report its findings to the Commission at a Commission meeting. The Agency shall notify the public of its findings at least 30 days prior to presenting the findings to the Commission.
 - 10.3.1 If the Agency determines that new information suggests that classification of a species should be changed from its present state, the Agency shall initiate classification procedures provided for in these rules starting with Section 5.1.
 - 10.3.2 If the Agency determines that conditions have not changed significantly and that the classification of the

species should remain unchanged, the Agency shall recommend to the Commission that the species being reviewed shall retain its present classification status.

- 10.4 Nothing in these rules shall be construed to automatically delist a species without formal Commission action.

RECOVERY AND MANAGEMENT OF LISTED SPECIES

- 11.1 The Agency shall write a recovery plan for species listed as endangered or threatened. The Agency will write a management plan for species listed as sensitive. Recovery and management plans shall address the listing criteria described in Sections 3.1 and 3.3, and shall include, but are not limited to:

11.1.1 Target population objectives

11.1.2 Criteria for reclassification

11.1.3 An implementation plan for reaching population objectives which will promote cooperative management and be sensitive to landowner needs and property rights. The plan will specify resources needed from and impacts to the Department, other agencies (including federal, state, and local), tribes, landowners, and other interest groups. The plan shall consider various approaches to meeting recovery objectives including, but not limited to regulation, mitigation, acquisition, incentive, and compensation mechanisms.

11.1.4 Public education needs

11.1.5 A species monitoring plan, which requires periodic review to allow the incorporation of new information into the status report.

- 11.2 Preparation of recovery and management plans will be initiated by the Agency within one year after the date of listing.

11.2.1 Recovery and management plans for species listed prior to 1990 or during the five years following the adoption of these rules shall be completed within 5 years after the date of listing or adoption of these rules, whichever comes later. Development of recovery plans for endangered species will receive higher priority than threatened or sensitive species.

11.2.2 Recovery and management plans for species listed after five years following the adoption of these rules shall be completed within three years after the date of listing.

11.2.3 The Agency will publish a notice in the Washington Register and notify any parties who have expressed interest to the department, of the initiation of recovery plan development.

11.2.4 If the deadlines defined in Sections 11.2.1 and 11.2.2 are not met the Department shall notify the public and report the reasons for missing the deadline and the strategy for completing the plan at a Commission meeting. The intent of this Section is to recognize current Department personnel resources are limiting and that development of recovery plans for some of the species may require significant involvement by interests outside of the Department, and therefore take longer to complete.

- 11.3 The Agency shall provide an opportunity for interested public to comment on the recovery plan and any SEPA documents.

CLASSIFICATION PROCEDURES REVIEW

- 12.1 The Agency and an ad hoc public group with members representing a broad spectrum of interests, shall meet as needed to accomplish the following:

12.1.1 Monitor the progress of the development of recovery and management plans and status reviews, highlight problems, and make recommendations to the department and other interested parties to improve the effectiveness of these processes.

12.1.2 Review these classification procedures six years after the adoption of these rules and report its findings to the Commission.

AUTHORITY

13.1 The Commission has the authority to classify wildlife as endangered under RCW 77.12.020. Species classified as endangered are listed under WAC 232-12-014, as amended.

13.2 Threatened and sensitive species shall be classified as subcategories of protected wildlife. The Commission has the authority to classify wildlife as protected under RCW 77.12.020. Species classified as protected are listed under WAC 232-12-011, as amended.

WSR 90-04-100

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 7, 1990, 3:59 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-022 Game management units (GMUS)—Special game areas—Boundary descriptions; and repealing WAC 232-28-218 1989-90 General hunting seasons and rules.

Purpose: To establish state game management units (GMUs) and special game areas and to provide boundary descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Regulation establishes game management units for state of Washington.

Reasons Supporting Proposal: Provides boundary description.

Name of Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose 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: Nendels Motor Inn, 15901 West Valley Road, Tukwilla, WA 98188, on April 20-21, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by April 10, 1990.

Date of Intended Adoption: April 20, 1990.

February 7, 1990

Lee S. Smith

Administrative Regulations Officer

Reviser's note: The material contained in this filing will appear in the 90-06 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 90-04-101
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 7, 1990, 4:02 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-61802 1990-92 Washington game fish seasons and catch limits—Sauk River.

Purpose: To modify catch and size limits for the 1990-92 Washington game fish seasons on the Sauk River.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Changes the wild steelhead release regulations on the Sauk River.

Reasons Supporting Proposal: To provide for proper management of the steelhead resources on the Sauk River for the 1990-92 Washington game fish seasons.

Name of Agency Personnel Responsible for Drafting and Implementation: Pat Doyle, AD, Fisheries Management Division, Olympia, (206) 753-5713; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will establish the trout/steelhead regulations for the Sauk River in that portion from the mouth of the White Chuck River to headwaters, including North and South Forks as follows: June 1-Oct. 31 season. TROUT - catch limit - 2, min. lgth. 12", max. lgth. 20". Retaining steelhead over 20" in length is prohibited. BAIT PROHIBITED. This rule provides protection for the steelhead resources in this portion of the river. This rule changes the regulation adopted October 6, 1989, WAC 232-28-618, by adding a maximum length of 20" on trout and prohibiting retaining steelhead over 20" in length.

Proposal does not change existing rules.

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

Hearing Location: North Thurston School District, Administrative Center Board Room, 305 College Street N.E., Lacey, WA 98506, on March 23, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 6, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61802 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - SAUK RIVER. Notwithstanding the provisions of WAC 232-28-618 for the Sauk River, effective April 15, 1990, the following regulations apply:

SAUK RIVER, 150, from its mouth to the mouth of the White Chuck River: June 15-last day of Feb. season. TROUT - catch limit - 2, min. lgth. 12".

From the mouth of the White Chuck River to headwaters, including North and South Forks: June 1-Oct. 31 season. TROUT - catch limit - 2, min. lgth. 12", max. lgth. 20". Retaining steelhead over 20" in length is prohibited. BAIT PROHIBITED.

From its mouth to the Darrington Bridge: additional Mar. 1-Apr. 30 season. Catch-and-Release Only, Selective Fishery Regulations, see pages 3 and 5.

All other provisions of WAC 232-28-618 remain in effect and unchanged.

WSR 90-04-102
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 7, 1990, 4:05 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-61803 1990-92 Washington game fish seasons and catch limits—Tye River.

Purpose: To modify catch and size limits for the 1990-92 Washington game fish seasons on the Tye River.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Changes the steelhead regulations on the Tye River.

Reasons Supporting Proposal: To provide for better management and protection of the steelhead resources by use of consistency in catch and size limit regulations for the Tye River and Skykomish River South Fork tributaries for the 1990-92 Washington game fish seasons.

Name of Agency Personnel Responsible for Drafting and Implementation: Pat Doyle, AD, Fisheries Management Division, Olympia, (206) 753-5713; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will establish steelhead regulations for the Tye River as follows: TROUT - catch limit - 2, min. lgth. 12". WILD STEELHEAD RELEASE. BAIT PROHIBITED. Additional Nov. 1-last day of Feb. season for WHITEFISH only. This change will bring the Tye River steelhead WILD STEELHEAD RELEASE regulations in line (consistent) with the regulations adopted October 6, 1989, WAC 232-28-618, for the Skykomish, South Fork, (all tributaries to the South Fork). The Tye River is a tributary of the South Fork, therefore, steelhead management and regulations should be consistent.

Proposal does not change existing rules.

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

Hearing Location: North Thurston School District, Administrative Center Board Room, 305 College Street N.E., Lacey, WA 98506, on March 23, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 6, 1990

Lee S. Smith

Administrative Regulations Officer

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 6, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61083 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - TYE RIVER. Notwithstanding the provisions of WAC 232-28-618 for the Tye River, effective April 15, 1990, the following regulations apply:

TYE RIVER: TROUT - catch limit - 2, min. lgth. 12". WILD STEELHEAD RELEASE, see page 3. BAIT PROHIBITED. Additional Nov. 1-last day of Feb. season for WHITEFISH only.

All other provisions of WAC 232-28-618 remain in effect and unchanged.

WSR 90-04-103

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 7, 1990, 4:06 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-61804 1990-92 Washington game fish seasons and catch limits—Toutle River, South Fork.

Purpose: To modify catch limits for the 1990-92 Washington game fish seasons on the Toutle River, South Fork.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Changes the steelhead regulations on the Toutle River, South Fork, to WILD STEELHEAD RELEASE.

Reasons Supporting Proposal: To provide for better management and protection of the steelhead resources in the South Fork, Toutle River for the 1990-92 Washington game fish seasons.

Name of Agency Personnel Responsible for Drafting and Implementation: Pat Doyle, AD, Fisheries Management Division, Olympia, (206) 753-5713; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will establish WILD STEELHEAD RELEASE regulations on the South Fork of the Toutle River from June 15-January 31. This rule will provide protection of early wild winter returns. This change will bring the Toutle River, South Fork, regulations in line with the intent of other regulations adopted October 6, 1989, WAC 232-28-618, on the South Fork, Toutle River.

Proposal does not change existing rules.

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

Hearing Location: North Thurston School District, Administrative Center Board Room, 305 College N.E., Lacey, WA 98506, on March 23, 1990, at 8:00 a.m.

NEW SECTION

WAC 232-28-61804 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - TOUTLE RIVER, SOUTH FORK. Notwithstanding the provisions of WAC 232-28-618 for the Toutle River, South Fork, effective April 15, 1990, the following regulations apply:

TOUTLE RIVER, South Fork, 188, mouth to 4100 road bridge (Note: all tributaries CLOSED): June 15-Jan. 31 season. Open only to the taking of steelhead over 20". WILD STEELHEAD RELEASE, see page 3. Additional Feb. 1-Mar. 31 season, open on Fridays and Saturdays only. Steelhead - catch and possession limit - 1, min. lgth. 20". Open only to steelhead fishing.

From 4100 road bridge to source, including all tributaries: CLOSED WATERS.

All other provisions of WAC 232-28-618 remain in effect and unchanged.

WSR 90-04-104

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 7, 1990, 4:07 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-61805 1990-92 Washington game fish seasons and catch limits—Spokane River.

Purpose: To modify catch and size limits for the 1990-92 Washington game fish seasons on the Spokane River.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Changes the trout and walleye regulations on the Spokane River.

Reasons Supporting Proposal: To provide for better management of the fisheries resources by use of consistency in season and catch regulations for the Spokane River and Lake Roosevelt for the 1990-92 Washington game fish seasons.

Name of Agency Personnel Responsible for Drafting and Implementation: Pat Doyle, AD, Fisheries Management Division, Olympia, (206) 753-5713; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will establish trout and walleye size and catch limits for the Spokane River as follows: TROUT - catch limit - 5, no more than 2 over 20". WALLEYE - catch limit - 8, no more than 1 over 20". Only walleye less than 16" or over 20" may be kept; CLOSED Apr. 1-May 31. This change will bring the Spokane River trout and walleye catch and size limits in line (consistent)

with the Roosevelt Lake trout and walleye regulations adopted October 6, 1989, WAC 232-28-618. The Spokane River is in very close proximity to Lake Roosevelt, therefore trout and walleye management and regulations should be consistent.

Proposal does not change existing rules.

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

Hearing Location: North Thurston School District, Administrative Center Board Room, 305 College Street N.E., Lacey, WA 98506, on March 23, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, 600 Capitol Way North, Olympia, WA 98501-1091, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 6, 1990

Lee S. Smith

Administrative Regulations Officer

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose 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: North Thurston School District, Administrative Center Board Room, 305 College Street N.E., Olympia, WA 98506, on March 23, 1990, at 8:00 a.m.

Submit Written Comments to: Lee S. Smith, Department of Wildlife, 600 Capitol Way North, Olympia, WA, by March 13, 1990.

Date of Intended Adoption: March 23, 1990.

February 6, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61805 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - SPOKANE RIVER. Notwithstanding the provisions of WAC 232-28-618 for the Spokane River, effective April 15, 1990, the following regulations apply:

SPOKANE RIVER, from the mouth at Lake Roosevelt upstream to the Greene St. Bridge in Spokane, including Long Lake, formed by Long Lake Dam: year around season. TROUT - catch limit - 5, no more than 2 over 20". WALLEYE - catch limit - 8, no more than 1 over 20". Only walleye less than 16" or over 20" may be kept; CLOSED Apr. 1-May 31.

From Greene St. Bridge in Spokane upstream to the Idaho/Washington state line: Apr. 22, 1990-Sep. 30, 1990 and Apr. 21, 1991-Sep. 30, 1991 seasons. TROUT - catch limit - 1, min. lgth. 8"; BAIT PROHIBITED.

All other provisions of WAC 232-28-618 remain in effect and unchanged.

WSR 90-04-105

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 7, 1990, 4:09 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-812 1990 Mountain goat, sheep, moose, cougar and lynx hunting seasons; and repealing WAC 232-28-811 1989 Mountain goat, sheep, moose, cougar and lynx hunting seasons.

Purpose: To establish 1990 Mountain goat, sheep, moose, cougar, and lynx hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: See Purpose above.

Reasons Supporting Proposal: Resource management.

Name of Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Wildlife Commission, governmental.

NEW SECTION

WAC 232-28-812 1990 MOUNTAIN GOAT, SHEEP, MOOSE, COUGAR, AND LYNX HUNTING SEASONS

PERMIT APPLICATION INSTRUCTIONS

You must have a valid hunting license to apply for any special hunting season permit.

Application Cards: Application must be made on special application cards which may be secured without charge at any license dealer or Department of Wildlife office. A check or money order made payable to "Department of Wildlife" must accompany all applications. Mail application and check to Olympia address shown below. Applicants for goat, sheep, and moose who are not selected will receive a refund of the application fee less five dollars. If hunters apply on a partnership application, the fee for both hunters must be submitted with the application card. If a partnership application is drawn, both hunters will receive a permit and both hunters can take an animal. If the check does not clear or if no check or money order is received, the application will be eliminated from the drawing. Applications for cougar and lynx require a two dollar application fee. The same person may apply for sheep, goat, moose, cougar and lynx permits provided they are eligible as specified below.

Application Deadline: Applications must be postmarked no later than July 5, 1990, or received not later than 5:00 p.m., July 5, 1990, at the Washington Department of Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091, or any Department of Wildlife Regional Office.

Computer Drawing: Drawings for goat, bighorn sheep, moose, cougar and lynx will be done by computer selection. All applicants will be notified by August 10, 1990.

Sheep Hunter Orientation: Each hunter who draws a bighorn sheep permit must attend an orientation session before receiving a permit. Permit holders will be notified of Hunter Orientation locations and dates.

Disqualification: Anyone who submits more than one application for each species will be disqualified for drawings for that species.

Incomplete Applications: To be eligible for the permit drawing, applications must contain unit number and name, date of birth, hunting license number, complete name and address including zip code.

Permit Hunting Report: A hunting report will be sent to each permittee. This report must be returned to the Department of Wildlife within ten days after the close of the hunting season.

Cougar Skull, Pelt, and Tooth Requirement: Successful cougar permittees must present the unfrozen pelt and skull of cougar to a state wildlife agent for tagging and tooth extraction within five days of kill.

MOOSE

Open Season: Oct. 1 to Nov. 30, 1990 both dates inclusive.

Who may apply: Anyone with a 1990 Washington hunting license. Only one moose permit will be issued during an individual's lifetime.

Bag Limit: One moose of either sex.

Moose Unit 1 Selkirk Mountain Area: 5 Special Moose Permits will be issued.

Open Area: Pend Oreille County, east of the Pend Oreille River.

Moose Unit 2 Mt. Spokane: 1 Special Moose Permit will be issued.

Open Area: Spokane County.

MOUNTAIN SHEEP (BIGHORN)

Open Season: Separate seasons are indicated for each bighorn sheep unit.

Who may apply: Anyone with a valid 1990 Washington hunting license; EXCEPT those who drew bighorn permits during 1985, 1986, 1987, 1988 or 1989.

Bag Limit for Permit Holders: One bighorn ram.

Any Legal Weapon

Sheep Unit 1 Okanogan: Open Season: Sept. 8-30, 1990, both dates inclusive. 1 Special Permit will be issued.

Open Area: Okanogan County west of the Okanogan River.

Sheep Unit 2 Vulcan Mountain Area: Open Season: Sept. 22-Oct. 7, 1990 both dates inclusive. 2 Special Permits will be issued.

Open Area: Ferry County north of the Kettle River.

Sheep Unit 3 Tucannon River Area: Open Season: Sept. 8-30, 1990, both dates inclusive. 1 Special Permit will be issued.

Open Area: The Tucannon River drainage in Columbia and Garfield counties.

Sheep Unit 9 Blackbutte: Open Season: Sept. 1-18, 1990, both dates inclusive. 2 Special Permits will be issued.

Open Area: That part of Asotin County within the following described boundary: all of GMU 184 (Joseph), 185 (Blackbutte), and that part of GMU 181 (Couse)* that drains into the Grande Ronde River between the mouth of said river and State Highway No. 129.

*Note: Most of GMU 181 is privately owned land. Field Springs State Park is closed to hunting.

Sheep Unit 10 Mt. Hull: Open Season: Sept. 8-30, 1990, both dates inclusive. 1 Special Permit will be issued.

Open Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews, then east to the Dry Gulch Road; then north to the Molson Grade Road; then west to Oroville and the point of beginning.

Sheep Unit 11 Wenaha Wilderness: Open Season: Sept. 8-30, 1990, both dates inclusive. 1 Special Permit will be issued.

Open Area: The Crooked Creek drainage in Asotin, Garfield, and Columbia Counties within the boundary of GMU 169.

Muzzleloading Sheep Hunt

Sheep Unit 5 Umtanum Area: Open Season: Sept. 22-30, 1990, both dates inclusive. 1 Special Permit will be issued.

Open Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of Interstate Highway 90.

Archery Sheep Hunt

Sheep Unit 6 Murray Area: Open Season: Nov. 10-25, 1990, both dates inclusive. 4 Special Permits will be issued.

Open Area: That part of Yakima County north of Wenas Creek and that part of Kittitas County south of Interstate Highway 90.

MOUNTAIN GOAT

Open Season: Sept. 22 to Oct. 31, 1990, both dates inclusive, in all goat units.

Who may apply: Anyone with a valid 1990 Washington hunting license; EXCEPT those who drew goat permits in 1985, 1986, 1987, 1988, or 1989.

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. The Department of Wildlife urges hunters to refrain from shooting nannies with kids.

Any Legal Weapon

Goat Unit 2-1 Mount Chopaka Area: 3 Special Permits will be issued. Open Area: Okanogan County within the following described boundary: Beginning where the Similkameen River crosses the Canadian boundary near Mt. Chopaka; then south down said river and up Palmer Lake and Sinlahekin Creek to Toats Coulee Creek; then west up said creek and north up the North Fork Toats Coulee Creek to Snowshoe Mountain and the Canadian boundary; then east along the Canadian boundary to the Similkameen River and point of beginning; EXCEPT CLOSED in Township 39 North, Range 25EWM, which includes Grandview Mountain.

Goat Unit 3-1 East Stevens Pass: 5 Special Permits will be issued.

Open Area: Chelan County within the following described boundary: Beginning at Stevens Pass; then north along the Cascade Summit to Cady Pass and the source of the Little Wenatchee River; then down the Little Wenatchee River, Lake Wenatchee and the Wenatchee River to U.S. Highway No. 2; then north and west along U.S. Highway No. 2 to Stevens Pass and point of beginning EXCEPT those lands within 1/2 mile of Alpine Lookout.

Goat Unit 3-2 North Wenatchee Mountains Area: 5 Special Permits will be issued.

Open Area: Chelan County south of the Stevens Pass Highway, west of the Blewett Pass Highway, and north of Ingalls Creek, AND Kittitas County north of the following described line: Beginning at Ingalls Peak; then down Fortune Creek to the Cle Elum River; then up the Cle Elum River to the Cascade Summit at Deception Pass.

Goat Unit 3-4 Snoqualmie: 5 Special Permits will be issued.

Open Area: Kittitas County within the following described boundary: Beginning at Snoqualmie Pass; then north along the Cascade Crest to Deception Pass and the headwaters of the Cle Elum River; then south along the Cle Elum River to the Trail Creek Trail #1322; then southwest along the Trail Creek Trail to the Waptus River Trail #1310; then southeast along the Waptus River Trail to the Cle Elum River at the Salmon la Sac Campground; then south along the Cle Elum River to the Cooper Pass Road (USFS #4600); then west along the Cooper Pass Road, through Cooper Pass to the road end near the Kachess River; then south along the Kachess River and Kachess Lake to Interstate Highway 90; then west along Interstate Highway 90 to Snoqualmie Pass and point of beginning.

Goat Unit 3-6 Naches Pass Area: 8 Special Permits will be issued.

Open Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to Forest Road 19 and continuing to SR 410; then west along SR 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River Area: 5 Special Permits will be issued.

Open Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to Forest Road 18; then north to SR 410; then east to SR 12; then west along SR 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River Area: 5 Special Permits will be issued.

Open Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakima Indian Reservation boundary; then east to Forest Road 1137; then west to Forest Road 1000; then north to Forest Road 12; then north to SR 12; then west on SR 12 to point of beginning. *Boundary change 1990

Goat Unit 4-1 Ruth Creek Area: 10 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning on the Nooksack River at the range line between Ranges 6 and 7 E.W.M.; north along said range line to the Canadian Border; then east along the Canadian line to the boundary of the North Cascades National Park; then south and west along the Park boundary to the northwest corner of Sec. 22 T39N R9E; then west to White Salmon Road #3920; then west along the White Salmon Road to the Mt. Baker Highway; then northwest along the Mt. Baker Highway to the North Fork Nooksack River; then west along the North Fork of the Nooksack River to the range line between Ranges 6 & 7 E.W.M. and the point of beginning.

Goat Unit 4-3 Chowder Ridge Area: 2 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning where Wells Creek intersects the North Fork Nooksack River; then up Wells Creek to Bar Creek; then southwest up Bar

Creek to the Mazama Glacier; then continue southwest up Mazama Glacier to the summit of Mt. Baker; then northwest between Roosevelt Glacier and Coleman Glacier to Kulshan Cabin and the headwaters of Kulshan Creek and Grouse Creek to Smith Creek; then north down Smith Creek to Glacier Creek; continue north down Glacier Creek to the North Fork Nooksack River, then east along the North Fork Nooksack River to Wells Creek and the point of beginning.

Goat Unit 4-4 Lincoln Peak Area: 2 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning where Glacier Creek intersects with the Mt. Baker Highway (No. 547); then south up Glacier Creek to Smith Creek; then south up Smith Creek to Grouse Creek; then continue up Grouse Creek in a south direction to Kulshan Creek; then southeast up Kulshan Creek to Kulshan Cabin; then continue southeast between Roosevelt Glacier and Coleman Glacier to the summit of Mt. Baker; then south down Eastern Glacier to Baker Pass and the Baker Pass Trail No. 603 (5,000 ft.); then west along Baker Pass Trail No. 603 to the Ridley Creek Trail (No. 690); then northwest on the Ridley Creek Trail to Ridley Creek; then down Ridley Creek to the Middle Fork Nooksack River; then west down the Middle Fork Nooksack River to the Mosquito Lake Road; then north on the Mosquito Lake Road to the Mt. Baker Highway (542); then north and east on Mt. Baker Highway to Glacier Creek and the point of beginning.

Goat Unit 4-6 Dillard Creek Area: 5 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning at the intersection of U.S.F.S. Road No. 3725 and the Baker Lake Road (No. 394); then west along U.S.F.S. Road No. 3725 to Sulphur Creek; then northwest up Sulphur Creek to the Baker Pass Trail (No. 603) to Baker Pass (5,000 ft. elevation); then northeast up Eastern Glacier to the summit of Mt. Baker; then southeast down Park Glacier to the headwaters of Park Creek; then continue southeast down Park Creek to the Baker Lake Road (No. 394); then south along the Baker Lake Road (No. 394) to the U.S.F.S. Road No. 3725 and the point of beginning.

Goat Unit 4-7 Avalanche Gorge Area: 5 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning at the intersection of the Baker Lake Road (No. 394) and Park Creek; then northwest up Park Creek to Park Glacier; then continue northwest up Park Glacier to the summit of Mt. Baker; then northeast down Mazama Glacier to the 6,500 ft. elevation; then east to the Portals; then continue east along ridgeline to Coleman Pinnacle; then northeast along the Kamp Kiser Trail No. 683 (Ptarmigan Ridge) to the extreme southeast extension of Kulshan Ridge; then due east to the Lake Ann Trail No. 600; then east along the Lake Ann Trail No. 600 to the boundary of the North Cascades National Park; then south and east along the Park boundary to the Baker River and down the Baker River to the Baker Lake Road (No. 394); then west along the Baker Lake Road (No. 394) to Park Creek and the point of beginning.

Goat Unit 4-8 East Ross Lake Area: 10 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning at the point the U.S.-Canada boundary meets the east boundary of the North Cascades National Park; then south along the Park boundary to Stetattle Creek; then south down Stetattle Creek to Gorge Lake; then southwest along Gorge Lake to Highway No. 20; then east and north along Highway No. 20 to Ross Dam; then north along the east shoreline of Ross Lake (Note: Exclude Ruby Arm) to Devil's Creek; then east up Devil's Creek to a tributary extending south to ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7292 ft. elevation); continue south over this ridge line into the Crater Creek Basin and Crater Creek; then down Crater Creek to its confluence with Ruby Creek; then east up Ruby Creek to Granite Creek; then continue east up Granite to the Cascades Summit; then north along the Cascades Summit to the U.S.-Canada boundary; then west along the Canadian line to the east boundary of the North Cascades National Park and the point of beginning. (Notice: Jack Mountain not included in GMU No. 4-8 (East Ross Lake Area) See Unit Description 4-9 (Jack Mountain Area).

Goat Unit 4-9 Jack Mountain Area: 2 Special Permits will be issued.

Open Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mtn. (7292 ft. elev.); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along

the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-10 Majestic Mountain Area: 5 Special Permits will be issued.

Open Area: Whatcom and Skagit counties within the following described boundary: Beginning at the intersection of Pyramid Creek and Highway No. 20; then south up Pyramid Creek to the North Cascades National Park boundary; then east along the Park boundary to the Cascades Summit; then north along the Cascades Summit to Granite Creek; then west down Granite Creek to Ruby Creek and Ruby Arm, then continue west along Ruby Arm to Ross Lake and Ross Dam; then southwest from Ross Dam to Highway No. 20; then southwest and northwest along Highway No. 20 to Pyramid Creek and the point of beginning.

Goat Unit 4-12 Mt. Tommy Thompson Area: 3 Special Permits will be issued.

Open Area: Skagit county within the following described boundary: Beginning at the confluence of Illabot Creek on the Skagit River; then east up Illabot Creek to its headwaters; then continue east over the ridgeline to the northern-most extension of Buck Creek; then north over the ridgeline at 6,921 foot elevation to the southern-most extension of Muchler Creek; then northeast down Muchler Creek to Kindy Creek; then north down Kindy Creek to the Cascade River; then north and west down the Cascade River to the Skagit River; then west down the Skagit River to Illabot Creek and the point of beginning.

Goat Unit 4-14 Mt. Buckindy Area: 3 Special Permits will be issued.

Open Area: Skagit and Snohomish counties within the following described boundary: Beginning at the confluence of Buck Creek on the Suiattle River; then east up the Suiattle River to Sulphur Creek; then continue east up Sulphur Creek to Dome Creek; then north to Sinister Mountain and the Cascades Summit; then north along the Cascades Summit to Mt. Formidable; continue north into the headwaters at the Middle Fork Cascade River; then west down the Middle Fork Cascade River to the main Cascade River; continue west along the Cascade River to Kindy Creek; then south up Kindy Creek to Muchler Creek; then southwest up Muchler Creek to its southern-most extension; then continue southwest over the ridgetop at 6,921 foot elevation to the northern-most extension of Buck Creek; then continue southwest down Buck Creek to the Suiattle River and the point of beginning.

Goat Unit 4-16 Glacier Peak Area: 5 Special Permits will be issued.

Open Area: Snohomish County within the following described boundary: Beginning at Tenpeak Mountain on the Cascades Crest; then northeast to three lakes (approximately 1.75 miles northeast of Tenpeak Mountain); then north and west down the Suiattle River to Mill Creek; then up the Mill Creek Trail (No. 790) and the Pacific Crest Trail (No. 2000) to Mica Lake, Fire Creek Pass, and Glacier Creek; continuing down Glacier Creek to the White Chuck River; then up the White Chuck River to White Mountain at the Cascade Crest, then northeast along said crest to Tenpeak Mountain and the point of beginning.

Goat Unit 4-30 Tolt River Area: 3 Special Permits will be issued.

Open Area: King and Snohomish counties within the following described boundary: Beginning at the point the Tolt River intersects the Weyerhaeuser Mainline Truck Road (approximately one mile west of the Tolt River South Fork Reservoir); then north along said road to the junction with State Highway 2; then east along said highway to the junction with the South Fork Skykomish River; then east and south up said river to the confluence of Money Creek; then west up Money Creek to Lake Elizabeth; then west to the headwaters of the South Fork Tolt River near Lake Elizabeth; then west down the South Fork Tolt River to the point of beginning.**

**Except Closed: All of the Mount Index and Mount Persis as follows: Beginning at confluence of South Fork Skykomish River and Index Creek; then west up said creek and its northern fork to Ink Lake; then west up the ridge to the 4915 elevation point; then southwest down the ridge (approximately one and one-half miles) to the confluence of Titacaed Creek and the North Fork Tolt River; then west along said river to the Weyerhaeuser Mainline Truck Road; then north along said road to State Highway 2; then east along said highway to where it intersects the South Fork Skykomish River; then east along said river to the point of beginning.

Goat Unit 4-32 Foss River Area: 10 Special Permits will be issued.

Open Area: King and Snohomish counties within the following described boundary: Beginning at intersection of State Highway 2 and the King County line at Stevens Pass; then south along the King County line to the headwaters of the Middle Fork Snoqualmie River near Dutch Miller Gap; then west and south down said river to the confluence with the Dingford Creek; then north and east up said creek to its headwaters intersection with U.S.F.S. Trail #1005; then north up said trail to Little Myrtle Lake; then west and north to Marlene Lake (approximately 4 mile); then north down the stream outlet from Marlene Lake to the junction with U.S.F.S. Trail #1002 near Dorothy Lake; then north along said trail to the junction with the East Fork Miller River headwaters; then north down said river to the confluence with the South Fork Skykomish River; then east up said river to the junction with State Highway 2; then east along said highway to the point of beginning.

Goat Unit 4-34 Pratt River Area: 10 Special Permits will be issued.

Open Area: King County within the following described boundary: Beginning at the point where the Weyerhaeuser Mainline Truck Road intersects the Middle Fork Snoqualmie River (near the confluence of the North Fork and Snoqualmie Rivers); then northeast up the Middle Fork Snoqualmie to its headwaters near Dutch Miller Gap at the King County line; then south along the King County line to Snoqualmie Pass and the intersection with Interstate Highway 90 (I-90); then west along I-90 to the point nearest the Middle Fork Snoqualmie River (approximately one mile east of North Bend); then north and east up the Middle Fork Snoqualmie River and to the point of beginning. Except closed; Snoqualmie Mountain and the watersheds of Denny Creek and South Fork of the Snoqualmie above Denny Creek.

Goat Unit 5-2 Tatoosh Area: 5 Special Permits will be issued.

Open Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park boundary and State Route 123; then south along SR 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (U.S.F.S. 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park boundary; then east along the southern Park boundary to the point of beginning.

Goat Unit 5-4 Goat Rocks Area: 10 Special Permits will be issued.

Open Area: Lewis County south of the White Pass Highway (U.S. 12) and east of the Johnson Creek road (U.S.F.S. 1302).

Muzzleloading Goat Hunts

Goat Unit 3-5 Cle Elum: 5 Special Permits will be issued.

Open Area: Kittitas and Chelan counties within the following described boundary: Beginning at the point where Interstate Highway 90 crosses the Cle Elum River; then north along the Cle Elum River to Fortune Creek; then east along Fortune Creek to Ingals Peak and the headwaters of Ingals Creek; then south and east along Ingals Creek to U.S. Highway 97; then south along Highway 97 and Highway 970 to Interstate Highway 90 at Cle Elum; then west along Interstate Highway 90 to the Cle Elum River and point of beginning.

Goat Unit 3-8 Bumping River Area: 10 Special Permits will be issued.

Open Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to Forest Road 18; then north to SR 410; then east to SR 12; then west along SR 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 4-24 Sloan Peak Area: 7 Special Permits will be issued.

Open Area: Snohomish County with the following described boundary: Beginning at the confluence of the South Fork and the North Fork of the Sauk River; then east up to the North Fork Sauk River to Sloan Creek; then south and southeast up Sloan Creek to June Mountain; then due south to U.S.F.S. Trail No. 1051; then southwest along said trail to U.S.F.S. Road No. 63; then continue southwest on said road to Silver Creek; then north up Silver Creek to Silver Lake; then north on U.S.F.S. Trail No. 708 to Glacier Creek; then west along said creek to the South Fork Sauk River; then north down the South Fork Sauk River to the confluence of the North Fork Sauk River and the point of beginning.

Goat Unit 4-25 Vesper Peak Area: 3 Special Permits will be issued.

Open Area: Snohomish County within the following described boundary: Beginning at the Mountain Loop Highway bridge over Bear Creek (approximately three miles east of Verlot); then east up said highway to U.S.F.S. Trail No. 707; then southwest on said trail (between

Sperry Peak and Morning Star Peak) to the Sultan River; then west down said river and Spada Lake to Culmbach Dam; then north up unnamed creek to the Pilchuck-Sultan divide; then northwest along said divide to Ritz Creek; then northeast down Ritz Creek to the Pilchuck River; then northwest down said river to Wilson Creek; then northwest up Wilson Creek to Ashland Lakes on the Pilchuck-Stillaguamish divide; then north down Black Creek and Bear Creek drainage to the Mountain Loop Highway bridge over Bear Creek and the point of beginning.

Archery Goat Hunts

Goat Unit 3-3 Goat and Davis Mountain Area: 10 Special Permits will be issued.

Open Area: Kittitas County west of the Cle Elum River, north of the Waptus River, and east and south of Trail Creek Trail.

Goat Unit 4-18 Sauk River Area: 4 Special Permits will be issued.

Open Area: Snohomish County within the following described boundary: Beginning at the confluence of the Whitechuck River and Pugh Creek; then south up Pugh Creek to Round Lake; then south to USFS Trail 646; then west and south down this trail to the North Fork Sauk River; then east up said river to Sloan Creek; then up Sloan Creek to June Mountain; then due south to USFS Trail 1051; then east along said trail to the Pacific Crest Trail (2000); then north along the Pacific Crest Trail to White Mountain; then down the Whitechuck River to the confluence with Pugh Creek and the point of beginning.

Goat Unit 4-21 Liberty Mountain Area: 5 Special Permits will be issued.

Open Area: Snohomish County within the following described boundary: Beginning at the Boulder River bridge on the Darrington-Arlington Highway (Highway No. 530) to the town of Darrington; then east along said highway to the Darrington-Clear Creek Road (FS Road 20); then southeast along that road to the bridge over Clear Creek; then south up Clear Creek to the confluence with Helena Creek and southeast up Helena Creek to Windom Lake; then southeast over an unnamed ridge to Independence Lake and down Forest Service Trail 712 to intersection with Forest Service Road 4060; then south down said road to the South Fork Stillaguamish River; then west down said river to Canyon Creek; then northeast up Canyon Creek; North Fork Canyon Creek and Meadow Creek to Tupso Creek; then east up Tupso Creek to its easternmost point; then continue northeast to boulder River; then north down Boulder River to the bridge on Highway 530 and the point of beginning.

Goat Unit 4-23 Twin Peaks Area: 4 Special Permits will be issued.

Open Area: Snohomish County within the following described boundary: Beginning at the intersection of Falls Creek and the Mt. Loop Highway (U.S.F.S. Road 322); then west up Falls Creek and along U.S.F.S. Trail No. 645 to U.S.F.S. Road No. 3006; then south down said road to the Mt. Loop Highway; then east and north on said highway to Falls Creek and the point of beginning.

Goat Unit 4-38 Corral Pass Area: 4 Special Permits will be issued.

Open Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to U.S.F.S. Trail #1188; then northwest along said trail to U.S.F.S. Trail #1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 6-1 Elwha River Area: 3 Special Permits will be issued.

Open Area: Clallam and Jefferson counties outside the Olympic National Park and west of the Dungeness River.

Goat Unit 6-2 Quilcene River Area: 25 Special Permits will be issued.

Open Area: Clallam and Jefferson counties outside the Olympic National Park, east of the Dungeness River and north of the Dosewallips River.

Goat Unit 6-3 Hamma Hamma River Area: 10 Special Permits will be issued.

Open Area: Jefferson and Mason counties outside the Olympic National Park and south of the Dosewallips River.

COUGAR

PURSUIT-ONLY SEASON (Cougar may not be killed or injured.)

Options for consideration:

- a. September 1-30 and November 21-January 15, 1991 in the cat units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest September 1-October 12.
- b. November 21-January 15, 1991 in the cat units listed below.
- c. September 1-30 and November 21-December 31, 1990 in the cat units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest September 1-October 12.
- d. September 1-30 and November 21-December 9, 1990 in the cat units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest September 1-October 12.
- e. Close pursuit seasons.
- f. At least one kill permit will be required for each party of hunters pursuing cougar in late pursuit seasons. This option can be considered for options a, b, c, and d.

SPECIAL COUGAR PERMIT SEASONS (Cougar may be killed by permit holders only.)

Bag Limit: One (1) cougar during the 1990-91 hunting season PROVIDED that it is unlawful to kill or possess spotted cougar kittens or adult cougar accompanied by spotted kittens.

Who May Apply: Anyone with a valid 1990 Washington hunting license may submit one (only) special permit application for cougar during the 1990-91 season. Successful cougar applicants must purchase a cougar tag by October 1, 1990. Special permits assigned to those hunters failing to purchase a cougar tag by the deadline will be redrawn and cougar tags issued to other applicants. Cougar permit hunters failing to return their cougar hunting questionnaire by January 31, 1991 will be ineligible to apply for a permit the following year.

COUGAR PERMIT SEASONS (Cougar may be killed by permit holders only.)

Permit Season: November 21 to January 15, 1991.

Unit	Description	Permits
1	Pend Oreille GMU 113	25
2	Colville GMUs 108, 111, 118, and 119	35
3	Republic GMUs 100, 103, 105, 200, and 206	25
4	Spokane GMUs 121 and 124	10
5	Blue Mountains GMUs 145 through 185	30
6	Okanogan GMUs 203, 209-242, and 300	20
7	Wenatchee GMUs 301-368	25
8	Nooksack GMU 418	5
9	Skagit GMUs 426, 433, 440-448, and 450	5
10	Snoqualmie GMUs 455, 460, 466, 472, 490	8
11	Olympic Peninsula GMUs 601-651	25
12	Rainier GMUs 478, 484, 505, 510, 512, 514, 516 and 667	5

Game Management Unit (GMU) descriptions are printed in the 1990 Hunting Seasons and Rules pamphlet.

CANADA LYNX

PERMIT REQUIRED TO HUNT AND/OR TRAP LYNX

Bag Limit: One (1) lynx during the 1990-91 permit only harvest season as shown below, PROVIDED that it is unlawful to kill or possess

lynx kittens or adult lynx accompanied by kittens. Successful lynx permittees must turn in the carcass of their lynx to a state wildlife agent when the pelt is sealed.

Who May Apply: Anyone with a valid 1990 Washington hunting license may submit one (only) special permit application for lynx during the 1990-91 season.

Note: Lynx permits for both hunting and trapping will be drawn at the same time. Persons drawn with hunting license may only hunt lynx. Persons drawn with trapping license may only trap lynx. Lynx permittees failing to return their questionnaire by January 31, 1991 will be ineligible to apply for a permit the following year.

SPECIAL LYNX PERMIT SEASON

Permit Season: November 21 to January 15, 1991 (Lynx may be killed by permit holders only.)

Unit Description	Permits
1 That part of Okanogan County west of the Okanogan River except closed within the following described boundary: Beginning at Okanogan, thence westerly along State Route No. 20 to Twisp; thence northerly along the Methow River to the Chewuk River; thence northerly along the Chewuk River to the Pasayten Wilderness boundary; thence easterly and northerly along same boundary to the U.S.-Canadian border; thence easterly along said border to U.S. highway No. 97; thence southerly along U.S. Highway No. 97, to Okanogan and point of beginning.	2

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-811 1989 MOUNTAIN GOAT, SHEEP, MOOSE, COUGAR, AND LYNX HUNTING SEASONS

WSR 90-04-106
PROPOSED RULES
PARKS AND RECREATION COMMISSION
[Filed February 7, 1990, 4:10 p.m.]

Original Notice.

Title of Rule: Ocean beach driving.

Purpose: The purpose of this chapter is to implement the provisions of RCW 43.51.650 through 43.51.765, which require local governments, which have a portion of the seashore conservation area within their boundaries, to prepare recreation management plans for the ocean beaches designating at least forty percent of the beach for use by pedestrians and nonmotorized vehicles from April 15 to the day following Labor Day of each year.

Statutory Authority for Adoption: RCW 43.51.040.

Statute Being Implemented: RCW 43.51.650 and 43.51.765.

Summary: This rule will describe those areas on the ocean beaches that are exclusive pedestrian/nonmotorized vehicle use areas. It also sets the rules for recreational activities and driving of motorized vehicles on the beach.

Reasons Supporting Proposal: The adoption of the ocean beach recreation management plans will have the effect of repealing the current vehicular traffic rules. It is, therefore, necessary for the commission to replace

those rules in order to control vehicular traffic on the ocean beaches.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lynn Genasci, 7150 Cleanwater Lane, Olympia, WA, 753-5761.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In 1988 the legislature passed SHB 1862 (RCW 43.51.695) Seashore conservation area—Recreation management plans for the ocean beaches. The purpose of RCW 43.51.695 was to have local jurisdictions, which have a portion of the seashore conservation area, to submit a beach recreation management plan that would close at least 40% of that beach to vehicular traffic from April 15 to the day after Labor Day of the same year. The statute requires that state park commissioners approve and adopt the locally developed and adopted ocean beach management plans by repealing state parks' original administrative codes and substituting the new ocean beach plans as their new administrative codes.

Proposal Changes the Following Existing Rules: The new rule has three new sections: North Beach, South Beach and Long Beach Peninsula. In these sections the areas that are exclusive pedestrian/nonmotorized vehicle use areas are described as well as the length of time they are closed to vehicular traffic use. There is also a new section that identifies conditions under which motor vehicles may be used in the exclusive pedestrian/nonmotorized use areas.

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

Hearing Location: Tye Hotel, 500 Tye Drive, Tumwater, WA, on March 16, 1990, at 9:00 a.m.

Submit Written Comments to: Lynn Genasci, 7150 Cleanwater Lane, Olympia, WA 98504, by March 14, 1990.

Date of Intended Adoption: March 16, 1990.

February 7, 1990

Nina Carter

Executive Assistant

Chapter 352-37 WAC
OCEAN BEACHES

NEW SECTION

WAC 352-37-010 PURPOSE. The purpose of this chapter is to implement the provisions of RCW 43.51.650 through 43.51.765 which require local governments which have a portion of the Seashore Conservation Area within their boundaries to prepare recreation management plans for the ocean beaches designating at least forty percent of the beach for use by pedestrians and nonmotorized vehicles from April 15 to the day following Labor Day of each year.

This chapter sets forth those sections of the plans which the commission has adopted as rules.

NEW SECTION

WAC 352-37-020 DEFINITIONS. Whenever used in this chapter the following terms shall have the meanings herein defined unless the context clearly indicates otherwise:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission or his/her designee.

(3) "Persons" shall mean all natural persons, firms, partnerships, or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(4) "Ocean beaches" shall mean all lands fronting on the Pacific Ocean between Cape Disappointment and Leadbetter Point; between Toke Point and the south jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation, and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located, or as defined in RCW 43.51.655, provided, that the ocean beaches shall not include any lands within the established boundaries of any Indian reservation.

(5) "Long Beach Peninsula" shall mean that area of the ocean beaches as defined in subsection (4) of this section lying between Cape Disappointment on the south and Leadbetter Point on the north.

(6) "South Beach" shall mean that area of the ocean beaches as defined in subsection (4) of this section lying between Toke Point on the south and the south jetty on Point Chehalis on the north.

(7) "North Beach" shall mean that area of the ocean beaches as defined in subsection (4) of this section lying between Damon Point on the south and Cape Flattery on the north.

(8) "Hard sand area" shall mean that area over which the tide ebbs and flows on a daily basis; and which is sufficiently hard or firm to support the weight of, and to provide unhindered traction for, an ordinary passenger vehicle.

(9) "Dry sand area" shall mean that area lying above and to the landward side of the hard sand area as defined in subsection (8) of this section.

(10) "Driveable beach" shall mean that area of the ocean beaches lying between the upper or landward limit of the hard sand area and the clam beds.

(11) "Motor vehicle" shall mean any self-propelled device capable of being moved upon a public highway, and in, upon, or by which any persons or property may be transported or drawn, and shall include, but not be limited to, automobiles, trucks, motorcycles, motor bikes, motor scooters, mopeds, jeeps, or similar type four-wheel drive vehicles, buses, camper trucks, motor homes, and other self-propelled recreational vehicles. A motor vehicle must have a means of propulsion associated or attached directly to the device, and not receive motive power from a source independent or outside of the device. A motor vehicle must be certificated and licensed according to the provisions of chapter 46.12 RCW (Certificates of ownership and registration), and chapter 46.16 RCW (Vehicle licenses).

(12) "Wind/sand sailer" shall mean a wheeled, wind-driven recreational conveyance.

(13) "Parasail" shall mean a parachute-type device attached to a rope pulled by a motor vehicle, resulting in the participant being lifted from the ground by the force of the wind.

(14) "Hovercraft" shall mean a powered vehicle supported by a cushion of air capable of transporting persons.

NEW SECTION

WAC 352-37-030 VEHICULAR TRAFFIC—WHERE PERMITTED—GENERALLY. Subject to the restrictions set forth in subsequent sections of this chapter, and except at the point of intersection of any access road and the beach, the use of motor vehicles on and along the ocean beaches shall be permitted only on that area between the extreme upper or landward limit of the hard sand area and the clam beds, and defined as the "driveable beach" in WAC 352-37-020. The operation, or parking, of any vehicle is prohibited above and on the landward side of the driveable beach. The provisions of this section shall not apply to official vehicles engaged in authorized law enforcement, maintenance, or sanitary patrol activities or emergency vehicles while engaged in the performance of any necessary service.

Areas identified within the Long Beach Peninsula, South Beach, and North Beach Recreation Management Plans as referenced in RCW 43.51.650 through 43.51.765, adopted by local governments located on the same beach and approved by the commission, identify those areas where the operation or parking of any vehicle is prohibited. Exceptions that allow for the use of any vehicles in these areas identified as exclusive pedestrian/nonmotorized use areas are found in WAC 352-37-070.

NEW SECTION

WAC 352-37-040 LONG BEACH PENINSULA. (1) Leadbetter Point exclusive pedestrian/nonmotorized vehicle use area is described as the area from the northern tip of Leadbetter Point to the north side of the Oysterville beach access road.

(a) Motor vehicles are not allowed year round in the area located between the northern tip of Leadbetter Point and the southern boundary of Leadbetter Point State Park.

(b) Motor vehicles are not allowed in the area located between the southern boundary of Leadbetter Point State Park to the north side of the Oysterville beach access road, from April 15 to the day following Labor Day of the same year.

(2) Long Beach/Seaview exclusive pedestrian/nonmotorized vehicle use area is described as the area from the south side of the Bolstad Avenue beach access road south to the north side of the Seaview beach access road at 38th Avenue.

Motor vehicles are not allowed from April 15 to the day following Labor Day of the same year.

(3) Ft. Canby unit exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north jetty of the Columbia River located in Ft. Canby State Park to north head/south boundary of Beard's Hollow State Park.

Motor vehicles are not allowed on Benson Beach in front of Ft. Canby State Park for the entire year. Motor vehicles may not be used on the beach in front of the state park for any clam season at any time of the year.

NEW SECTION

WAC 352-37-050 SOUTH BEACH. (1) East North Cove exclusive pedestrian/nonmotorized vehicle use area is described as the beach on the Pacific County owned property described as the north half of the northeast quarter section of the southwest quarter section of the southwest quarter of Section 4, Township 14N, Range 11 WWM.

Motor vehicles are not allowed from April 15 to the day following Labor Day of the same year.

(2) The Willapa National Wildlife Refuge/Warrenton Cannery road beach access exclusive pedestrian/nonmotorized vehicle use area is described as the area three hundred feet south of the south edge of the Warrenton Cannery beach access road east to east boundary line of the Willapa National Wildlife Refuge.

(a) Part west of Willapa National Wildlife Refuge. In the portion of this area west of the west boundary line of the Willapa National Wildlife Refuge, motor vehicles are not allowed from April 15 to the day following Labor Day of the same year.

(b) Part within the Willapa National Wildlife Refuge. In the portion of this area within Willapa National Wildlife Refuge, motor vehicles are not allowed from April 15 to the day following Labor Day of the same year. Motor vehicles may not be used in the wildlife refuge during the portion of any clam season which is between April 15 and the day following Labor Day of the same year.

(3) Twin Harbors Gap road to the south jetty exclusive pedestrian/nonmotorized vehicle use area is described as that area from the northern edge of the Twin Harbors beach access road to the south jetty on Point Chehalis.

(a) On the beach in front of the Westport Light State Park, motorized vehicles are not allowed from April 15 to the day following Labor Day of the same year. Motor vehicles may not be used on the beach in front of the state park during the portion of any clam season which is between April 15 and the day following Labor Day of the same year.

(b) On the beach in front of Westhaven State Park motorized vehicles are not allowed for the entire year. Motor vehicles may not be used on the beach in front of the state park for any clam season at any time of the year.

(c) In the balance of the area, motorized vehicles are not allowed from April 15 to the day following Labor Day of the same year.

NEW SECTION

WAC 352-37-060 NORTH BEACH. (1) North jetty to Marine View Drive beach access exclusive pedestrian/nonmotorized vehicle use area is described as that area from the south edge of the Marine View Drive beach access to the north jetty of the Chehalis River.

Motor vehicles will not be allowed in this area from April 15 to the day after Labor Day of the same year.

(2) Pacific Way to Chance A La Mer beach access exclusive pedestrian/nonmotorized vehicle use area is described as the area from the

north edge of the Pacific Way beach access road north to the south edge of the Chance A La Mer beach access road.

Motor vehicles are not allowed April 15 to the day after Labor Day of the same year.

(3) Ocean City beach access north for 1.8 miles exclusive pedestrian/nonmotorized vehicle use area is described as that area from the northern edge of the Ocean City beach access road north for 1.8 miles.

Motor vehicles are not allowed in this area from April 15 to the day after Labor Day of the same year.

(4) Benner Gap road north to the north bank of the Copalis River exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Benner Gap beach access road north to the north bank of the Copalis River. If the Copalis River shifts south of the north boundary of Griffiths-Priday State Park, the north boundary of Griffiths-Priday State Park shall be the north boundary of this area.

Motor vehicles are not allowed in this area for the entire year.

(5) Copalis Rock north to Boone Creek exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of Copalis Rock north to the north bank of Boone Creek.

Motor vehicles are not allowed in this area from April 15 to the day following Labor Day of the same year.

(6) Roosevelt Beach Gap road north to Annelyde Gap road exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Roosevelt beach access road to the south edge of the Annelyde beach access road.

Motor vehicles are not allowed in this area from April 15 to the day following Labor Day of the same year.

(7) Moclips Gap road north to the south boundary of the Quinalt Indian reservation exclusive pedestrian/nonmotorized vehicle use area is described as the area from the north edge of the Moclips beach access road (Second Street) to the south boundary of the Quinalt Indian reservation.

Motor vehicles are not allowed in this area from April 15 to the day following Labor Day of the same year.

NEW SECTION

WAC 352-37-070 CONDITIONS UNDER WHICH MOTOR VEHICLES MAY BE USED IN THE EXCLUSIVE PEDESTRIAN/NONMOTORIZED USE AREAS. Unless specifically excepted in the description of the times during which motor vehicles are not allowed for each exclusive pedestrian/nonmotorized vehicle use area, motor vehicles may be used in the pedestrian/nonmotorized vehicle use areas under the following circumstances:

(1) Motor vehicles may be used in the areas during any recreational razor clam digging seasons designated by the department of fisheries which take place partially or entirely during the period when motor vehicles are otherwise not allowed to use the area.

(2) Motor vehicles may also be used in the areas during special events approved by the commission as set forth in WAC 352-37-200 Special group recreation event permit, which specifically allows the use of motorized vehicles. The vehicle may be used for access or in the event.

(3) As provided by RCW 43.51.720, public vehicles operated in the performance of official duties and vehicles responding to an emergency can use the areas at any time.

(4)(a) Motor vehicles may be used to remove sand from a beach access, gap road, or other area provided that all required permits have been obtained and the removal complies with all applicable requirements.

(b) On the Long Beach Peninsula pursuant to RCW 4.24.210, 43.51.045(5), and 43.51.715(3), the Pacific County planning department and the city of Long Beach may issue permits for wood debris removal during any period of closure to vehicular traffic, in their respective jurisdictions, if in the opinion of said jurisdiction the amount, size, and location of such wood debris is determined to constitute a hazard to the general public and/or impede the movement of public vehicles on the ocean beach. Said permits shall be valid for twenty-four hours only. Persons seeking permits for removal of wood debris within the seashore conservation area must apply to the director or his designee for a wood debris removal permit.

(5)(a) Motor vehicles may be used to remove wood debris under RCW 4.24.210 and 43.51.045(5) provided that all required permits have been obtained and the removal complies with all applicable requirements.

(b) On the Long Beach Peninsula in accordance with RCW 43.51.715(4), the Pacific County planning department and the city of

Long Beach may issue permits, on their respective jurisdictions, for the removal of sand on the ocean beach during periods of closure to vehicular traffic. Said sand removal shall occur only on beach access roads and private property under the terms of a covenant, easement, or deed that allows such activity. The local jurisdictions shall exercise good judgment in setting the terms of such sand removal permits. Such terms should prohibit sand removal during weekends, holidays, festivals, and other occasions when and where there is increased use of the ocean beach by the public. The hours of sand removal shall also be specified and shall prohibit this activity from occurring too early or too late in the day in order to minimize disturbance of nearby businesses, residents, and visitors.

(6) Motor vehicles may be used to maintain and construct erosion control devices, including bulkheads, provided that all required permits have been obtained and the operation of the vehicles and the construction complies with all applicable requirements.

NEW SECTION

WAC 352-37-080 EQUESTRIAN TRAFFIC. (1) Equestrian traffic shall be permitted on and along the ocean beaches within the seashore conservation area year round except where prohibited by this rule or other provision of statute or rule.

(2) Equestrian traffic shall be permitted only on that area between the extreme upper and landward limit of the hard sand area and the clam beds.

(3) Equestrian access shall be permitted at the point of intersection of any access road and the beach or any equestrian trail designated by the commission. Upland owners shall also be allowed equestrian access to and from their property, except for commercial purposes.

(4) Within the seashore conservation area, equestrian traffic shall yield the right of way to all pedestrian or vehicular traffic.

(5) Horses shall be ridden at a walk or led through areas of heavy pedestrian concentration.

(6) Equestrian traffic will not be permitted on the Long Beach Peninsula between Bolstad Avenue beach access road and 10th Street beach access road from April 15 to the day following Labor Day of the same year.

NEW SECTION

WAC 352-37-090 PEDESTRIANS TO BE GRANTED RIGHT OF WAY. Vehicular and equestrian traffic shall at all times yield the right of way to pedestrians on the ocean beaches.

NEW SECTION

WAC 352-37-100 PARKING. Parking of vehicles shall be permitted only in an area extending one hundred feet westerly from the upper or landward limit of the hard sand area, or where otherwise specifically designated by the Washington state parks and recreation commission. Beach parking shall only be allowed in areas open for beach driving.

NEW SECTION

WAC 352-37-110 OVERNIGHT PARKING OR CAMPING PROHIBITED. Overnight parking or camping shall be prohibited on any area of the ocean beaches.

NEW SECTION

WAC 352-37-120 OPERATOR'S LICENSE REQUIRED. No person shall operate any motor vehicle on or along the ocean beaches unless such person has in his or her possession a valid Washington state driver's license issued under the provisions of chapter 46.20 RCW: PROVIDED, That the following persons shall be exempt from the provisions of this section:

(1) Any person in the service of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, or in the service of the National Guard of this state or any other state, when furnished with a driver's license by such service and when operating an official motor vehicle in such service; or

(2) A nonresident who is at least sixteen years of age and who has in his possession a valid driver's license issued to him in his home state; or

(3) A nonresident who is at least sixteen years of age and who has in his possession a valid driver's license issued to him in his home country.

NEW SECTION

WAC 352-37-130 SPEED LIMITS. (1) No person shall operate any motor vehicle on or along any ocean beach at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, animal, vehicle or other conveyance on or entering the driveable beach in compliance with legal requirements in the duty of all persons to use due care.

(2) Except when a special hazard exists that requires lower speed for compliance with subsection (1) of this section, the maximum speed limit for operation of motor vehicles on the ocean beaches shall be twenty-five miles per hour.

(3) The driver of every motor vehicle operating on the ocean beaches shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing a beach access road, when approaching one or more parked vehicles, when approaching or traveling past or in the vicinity of a pedestrian or group of pedestrians, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or beach conditions.

NEW SECTION

WAC 352-37-140 CERTAIN PRACTICES PROHIBITED. The following practices while operating any motor vehicle on or along the ocean beaches are specifically prohibited:

(1) Squirreling;

(2) Circling;

(3) Cutting figure eights;

(4) Racing;

(5) The operation of any motor vehicle in such a manner as to constitute a threat to the operator thereof, his or her passengers, pedestrians or equestrians using the beaches, animals or any other vehicle or other property.

NEW SECTION

WAC 352-37-150 RULES OF THE ROAD INCORPORATED. Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches chapter 46.61 RCW, constituting the rules of the road, is herewith expressly incorporated herein, and the practices required or prohibited in that chapter are hereby expressly required or prohibited when operating any motor vehicles on and along the ocean beaches.

NEW SECTION

WAC 352-37-160 CERTAIN VEHICLE LIGHTING AND EQUIPMENT STANDARDS INCORPORATED. Except where otherwise obviously inapplicable to the use and operation of motor vehicles on the ocean beaches, chapter 46.37 RCW, constituting vehicle lighting and other equipment, is herewith expressly incorporated herein, and the requirements of that chapter are hereby expressly required when operating any motor vehicles on and along the ocean beaches.

NEW SECTION

WAC 352-37-170 AIRCRAFT. (1) On the North Beach airplanes may land and take off on the ocean beach in the area commencing at the Copalis River north to the "rocks."

(2) The use of the beach by aircraft shall be subject to the jurisdiction of the aeronautics commission and all state and federal laws applicable to aircraft and pilots. Except as specified in subsection (1) of this section, airplanes shall only be allowed to make emergency landings on the ocean beaches.

NEW SECTION

WAC 352-37-180 VIOLATIONS—PENALTY. In accordance with the provisions of RCW 43.51.180(7), and except where a higher penalty is specifically prescribed by law, the violation of any provision of this chapter shall constitute a misdemeanor, and shall be punishable as such.

NEW SECTION

WAC 352-37-190 EXCLUDED/LIMITED RECREATION ACTIVITIES. The following forms of public outdoor recreation activities or devices are prohibited on the ocean beaches unless specifically authorized by the director as a special recreation event.

- (1) Vehicles not licensed and certificated pursuant to chapters 46.12 and 46.16 RCW.
- (2) Wind/sand sailers.
- (3) Parasails.
- (4) Hovercraft.

NEW SECTION

WAC 352-37-200 SPECIAL GROUP RECREATION EVENT PERMIT. (1) Any person or group desiring to make use of a portion of the ocean beaches for a group recreation event which will require the closure of the area to certain conflicting recreational uses, may apply to the director for a special group recreation event permit. The director, or his/her designee, may issue such a permit after consultation with the appropriate local government, if the event does not unduly interfere with normal public recreation. Such authorization shall include the closure of the specified area to recreational activities, including motor vehicle traffic, which are determined to have the potential to interfere with the event or which could risk the safety of the recreating public or the special event participants. However, no such authorization may result in the unreasonable exclusion of pedestrian recreationists from the specified portion of the ocean beach; all events authorized under this permit shall be open to public participation and/or observation.

(2) In determining whether to issue the permit, the director or designee will review the proposal for consistency with established approval criteria developed by the agency, which are designed to ensure the appropriateness of the event to the ocean beaches, and the basis for any associated public recreation restrictions. The criteria are available upon request from the agency.

(3) A special group recreation event permit shall be issued only for recreational events where there is a reasonable expectation that a minimum of twenty persons will participate. The event must be oriented towards a recreational pursuit. Not more than three permits will be issued to a given applicant for the same event during a one-year period. The group recreation activity must be consistent with the seashore conservation area (RCW 43.51.650 through 43.51.685), and may include an activity otherwise excluded under this chapter. Special group recreation events shall not exceed three days or seventy-two hours.

(4) Persons or organizations that desire to conduct a special group recreation event on the ocean beaches shall submit a permit application provided by the director to the:

Washington State Parks and
Recreation Commission
7150 Cleanwater Lane KY-11
Olympia, WA 98504

Such application shall be submitted at least fifteen days in advance of the proposed date of the event, to allow for necessary internal review and analysis, consultation with local governments, public notice, establishment of permit conditions, and required agency preparations and coordination. The director or his/her designee shall approve or disapprove a permit application and establish the conditions for an approved application. The director or the designee shall determine the need for any fees necessary to cover costs incurred by the agency, as well as the need for any bond, damage deposit, or liability insurance arising from any potential hazards associated with the character of the event. Any such fees, bond, damage deposit, or liability insurance shall be provided prior to the issuance of the permit.

(5) If additional costs are incurred by the commission resulting from the event, the applicant shall reimburse the commission for such costs in a timely manner. If the additional costs are not paid, the director may recover such costs from the bond or damage deposits provided if previously required. Any funds remaining from the bond or damage deposit shall be returned to the applicant.

NEW SECTION

WAC 352-37-210 SEVERABILITY CLAUSE. If any provision of these rules or their application to any person or circumstance is held invalid, the remainder of these rules, or their application to other persons or circumstances is not affected.

WSR 90-04-107

PROPOSED RULES

PARKS AND RECREATION COMMISSION

[Filed February 7, 1990, 4:11 p.m.]

Original Notice.

Title of Rule: Uniform state waterway marking system.

Purpose: The new rule will provide a consistent standard for buoys, signs and markers on Washington's waterways.

Statutory Authority for Adoption: RCW 43.51.040.

Statute Being Implemented: RCW 43.51.404.

Summary: The rule specifies the kinds of waterway markers acceptable to the state and United States Coast Guard. It also describes the types of violations and penalties if the rule is not followed.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim French, 7150 Cleanwater Lane, Olympia, WA, 586-2166.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule describes the materials, size, shape, construction and proper location for waterway markers which will aid boaters when on Washington's waterways. It is intended to set a common standard for all waterway markers.

Proposal does not change existing rules. It sets up a new rule.

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

Hearing Location: Tye Hotel, 500 Tye Drive, Tumwater, WA, on March 16, 1990, at 9:00 a.m.

Submit Written Comments to: Jim French, 7150 Cleanwater Lane, Olympia, WA 98504, by March 14, 1990.

Date of Intended Adoption: March 16, 1990.

February 7, 1990

Nina Carter
Executive Assistant

Chapter 352-66 WAC
UNIFORM WATERWAY MARKING SYSTEM

NEW SECTION

WAC 352-66-010 PURPOSE. (1) The purpose of this chapter is to establish a uniform waterway marking system of aids to navigation, including regulatory markers compatible with the United States lateral system of buoyage, to which all waterway markers owned by state, local government, or private parties shall conform. The uniform waterway marking system is designed to assist the recreational boater in safe navigation and to allow the state and its political subdivisions to provide uniform regulatory information regarding vessel operation on the waters of Washington state not serviced by a marking system administered by the federal government.

NEW SECTION

WAC 352-66-020 DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Buoy" is any waterway marker designed to float on the water while anchored in a fixed position so as to be clearly visible to operators of an approaching vessel and used to convey an official message.

(2) "Lateral system" is a system of waterway markers prescribed in Title 33, Code of Federal Regulations, part 62, employing an arrangement of shapes, colors, numbers, and light characteristics to indicate to a vessel operator the preferred direction of travel for safe passage.

(3) "Sign" is any device designed to carry an official message which is attached to another object, such as a piling, buoy, pier, or the land itself.

(4) "Uniform state waterway marking system (USWMS)" means the system of aids to navigation including regulatory markers, buoys, and signs prescribed in Title 33, Code of Federal Regulations, subpart 66.10, which are used to provide vessel operators guidance for safe navigation and to identify water areas where vessel operation is restricted or controlled.

(5) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(6) "Waters of Washington state" means any waters within the territorial limits of Washington state.

NEW SECTION

WAC 352-66-030 GENERAL REGULATIONS. (1) On the navigable waters of Washington state, marking to assist navigation is accomplished by a lateral system of buoyage for use with nautical charts. The lateral system is used by the United States Coast Guard in the marking of navigable waters of the United States as determined by the United States Coast Guard Commandant. The lateral system may be also used by the state and subdivisions thereof for private aids to navigation only when all applicable permits for private aids to navigation have been approved by the United States Coast Guard and other federal, state, or local authorities.

(2) The USWMS has been developed to provide a means to convey to the small vessel operator, in particular, adequate guidance to indicate safe boating channels by indicating the presence of either natural or artificial obstructions or hazards, marking restricted or controlled areas, and providing directions. The USWMS is suited to use on all waters of Washington state and is designed to satisfy the needs of all types of small vessels. It supplements and is generally compatible with the Coast Guard lateral system aids to navigation.

(3) The USWMS consists of two categories:

- (a) A system of regulatory markers; and
- (b) A system of aids to navigation.

NEW SECTION

WAC 352-66-040 REGULATORY MARKERS. Regulatory markers indicate to a vessel operator the existence of dangerous areas, as well as those areas which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions:

(1) Each regulatory marker shall be colored white with international orange geometric shapes.

(2) When a buoy is used as a regulatory marker it shall be white with horizontal bands of international orange placed completely around the buoy circumference. One band shall be at the top of the buoy body, with a second band placed just above the water line of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of the buoy body visible between the two bands shall be white.

(3) Geometric shapes shall be placed on the white portion of the buoy body and shall be colored international orange. The authorized geometric shapes and meanings associated with them are as follows:

- (a) A vertical open faced diamond shape means danger.
- (b) A vertical open faced diamond shape having a cross centered in the diamond means that a vessel is excluded from the marked area.
- (c) A circular shape to mean that a vessel operated in the marked area is subject to certain operating restrictions.
- (d) A square or rectangular shape with directions or information will have lettering on the inside.

(4) Where a regulatory marker consists of a square or rectangular shaped sign displayed from a structure, the sign shall be white with an international orange border. When a diamond or circular geometric shape associated with the meaning of the marker is included, it shall be centered on the signboard.

NEW SECTION

WAC 352-66-050 AIDS TO NAVIGATION. Aids to navigation used in the USWMS are an organized system of buoys with conspicuous shapes, colors, and markings primarily established to assist vessel operators by indicating position or the safe and proper course on which to proceed.

(1) Aids to navigation used in the lateral system indicate to a vessel operator the preferred direction of travel for safe passage principally by defining the port or left-hand side and the starboard or right-hand side of a route to be followed. Buoys used in the cardinal system indicate to a vessel operator the preferred direction of travel for safe passage through distinct colors which have meaning in relation to the cardinal points of the compass, north, east, south, and west.

(2) On a well-defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation shall normally be a solid colored buoy. A buoy which marks the left side of the channel viewed looking upstream or toward the head of navigation shall be colored all black. A buoy which marks the right side of the channel viewed looking upstream or toward the head of navigation shall be colored all red. On a well defined channel, solid colored buoys shall be established in pairs, one on each side of the navigable channel which they mark, and opposite each other to inform the user that the channel lies between the buoys and that he or she should pass between the buoys.

(3) On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel provided they are spaced at sufficiently close intervals to inform the user that the channel lies between the buoys and that he or she should pass between the buoys.

(4) Where there is no well-defined channel, or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than one direction, supplemental aids to navigation having cardinal meaning may be used. The use of aids to navigation having cardinal meaning is discretionary provided that they are not used on waters considered navigable by the United States Coast Guard Commandant unless specifically permitted by the United States Coast Guard.

(5) Aids to navigation conforming to the cardinal system shall consist of three distinctly colored buoys.

(a) A white buoy with a red top may be used to indicate to a vessel operator that he or she must pass to the south or west of the buoy.

(b) A white buoy with a black top may be used to indicate to a vessel operator that he or she must pass to the north or east of the buoy.

(c) In addition, a buoy showing alternate vertical red and white stripes may be used to indicate to a vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he or she must not pass between the buoy and the shore. The number of white and red stripes is discretionary, provided that the white stripes are twice the width of the red stripes.

NEW SECTION

WAC 352-66-060 SIZE, SHAPE, MATERIAL, AND CONSTRUCTION OF WATERWAY MARKERS. The size, shape, material, and construction of all waterway markers, both fixed and floating, shall be such as to be observable under normal conditions of visibility at a distance such that the significance of the waterway marker will be recognizable before the observer is endangered or is violating a restricted or controlled area.

NEW SECTION

WAC 352-66-070 NUMBERS, LETTERS, OR WORDS ON MARKERS. (1) Numbers, letters, or words on an aid to navigation or regulatory marker shall be placed in a manner to enable them to be clearly visible to an approaching and passing vessel. They shall be block style, well proportioned, and as large as the available space permits. Numbers and letters on red or black backgrounds shall be white; numbers and letters on white backgrounds shall be black.

(2) Odd numbers shall be used to identify solid colored black buoys or black topped buoys; even numbers shall be used to identify solid colored red buoys or red topped buoys. All numbers shall increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary.

(3) Letters only may be used to identify regulatory markers and the white and red vertically striped obstruction markers. When used the letters shall follow alphabetical sequence in an upstream direction. The

letters I and O shall be omitted to preclude confusion with numbers. The use of letters to identify regulatory markers and obstruction markers is discretionary.

NEW SECTION

WAC 352-66-080 REFLECTORS OR REFLECTIVE MATERIALS. (1) The use of reflectors or reflective materials shall be discretionary.

(2) When used on buoys having lateral significance, red reflectors or retroreflective materials shall be used on solid colored red buoys; green reflectors or retroreflective materials shall be used on solid colored black buoys; white reflectors or retroreflective materials only shall be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers.

NEW SECTION

WAC 356-66-090 NAVIGATION LIGHTS. The use of navigational lights on state aids to navigation, including regulatory markers, is discretionary. When used, lights on solid colored buoys shall be regularly flashing, regularly occulting, or equal interval lights. For ordinary purposes the frequency of flashes may not be more than thirty flashes per minute (slow flashing). When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency or flashes may not be less than sixty flashes per minute (quick flashing). When a light is used on a cardinal system buoy or a vertically striped white and red buoy it shall always be quick flashing. The colors of the lights shall be the same as for reflectors; a red light only on a solid colored red buoy; a green light only on a solid colored black buoy; a white light only for all other buoys including regulatory markers.

NEW SECTION

WAC 352-66-100 MOORING (ANCHOR) BUOYS. (1) Mooring buoys for private aids to navigation shall be colored white and shall have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the water line.

(2) A lighted mooring buoy shall normally display a slow flashing white light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it shall display a quick flashing white light.

(3) A mooring buoy shall bear ownership identification provided that the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned.

NEW SECTION

WAC 352-66-110 PLACEMENT TO CONFORM. No person, political subdivision, or agent of the state shall establish, erect, or place any new or replacement regulatory marker or aid to navigation after January 1, 1991, unless such device conforms to the provisions of this chapter.

NEW SECTION

WAC 352-66-120 ABUSE PROHIBITED. (1) No person shall damage, remove, interfere with, moor to, or otherwise obstruct the purpose of any regulatory marker or aid to navigation.

(2) When a vessel is involved with a violation of this chapter, violators shall be subject to the penalties set forth in RCW 88.02.110.

(3) Other violations of this chapter shall subject the violator to the penalties set forth in RCW 43.51.180.

WSR 90-04-108

PROPOSED RULES

PARKS AND RECREATION COMMISSION

[Filed February 7, 1990, 4:12 p.m.]

Original Notice.

Title of Rule: State park fee changes.

Purpose: These rule changes will adjust moorage, camping, group day use and conference center fees. They also explain new types of permits and fees for parking and senior citizen passes. The purpose is to collect enough revenue to pay for operating and maintaining the parks in light of inflation costs.

Statutory Authority for Adoption: RCW 43.51.040.

Statute Being Implemented: Chapter 43.51 RCW.

Summary: The fee changes will make state park fees consistent with neighboring states' fees and clarify parking permits and senior citizen passes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dennis Smith, 7150 Cleanwater Lane, Olympia, WA, 753-5766.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rule changes adjust state park camping, moorage, group day use and conference center fees. They also explain how parking permits for commercial vehicles can be issued, how senior citizens can obtain passes, and set new trailer dump fees. The rule will make our state park fees commensurate with other neighboring states.

Proposal Changes the Following Existing Rules: Increases fees, sets procedures for parking permits and applies a trailer dump fee for sewage.

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

Hearing Location: Tye Hotel, 500 Tye Drive, Tumwater, WA, on March 16, 1990, at 9:00 a.m.

Submit Written Comments to: Dennis Smith, 7150 Cleanwater Lane, Olympia, WA 98504, by March 14, 1990.

Date of Intended Adoption: March 16, 1990.

February 7, 1990

Nina Carter

Executive Assistant

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

WAC 352-12-020 MOORAGE FEES. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the commission shall be charged a nightly moorage fee during the period May 1 through September 30, inclusive, according to the following schedule:

(a) Vessels twenty-six feet in length, and over, ~~\$(6.00))~~ 7.00 per night;

(b) Vessels under twenty-six feet in length, ~~\$(4.00))~~ 4.50 per night: **PROVIDED, HOWEVER,** This fee shall be applicable all year at Blake Island, Cornet Bay, Fort Worden, Jarrell Cove, and Mystery Bay State Parks: **PROVIDED FURTHER,** Vessels properly displaying a valid ~~((seasonal))~~ annual permit shall not be charged a nightly moorage fee: **PROVIDED FURTHER,** There shall be no moorage fee for dinghies, vessels moored to state park buoys, vessels moored to floats not attached to piers, or any vessel riding on its own anchor: **PROVIDED FURTHER,** There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length.

AMENDATORY SECTION (Amending Order 59, filed 3/31/82)

WAC 352-12-030 (~~SEASONAL~~) ANNUAL MOORAGE PERMITS. (1) (~~Seasonal~~) Annual moorage permits may be obtained for the period (~~May~~) January 1 through (Labor Day) December 31, inclusive. Application for such permits may be obtained from most state park managers, or by writing to the Commission Headquarters, 7150 Cleanwater Lane, KY-11, Olympia, WA 98504.

(2) (~~Seasonal~~) Annual moorage permits will be issued for a particular vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued. (~~Seasonal~~) Annual permits for vessels twenty-six feet in length and over shall cost \$40.00; for vessels under twenty-six feet in length shall cost \$24.00: PROVIDED HOWEVER, Effective January 1, 1991, the permit for vessels twenty-six feet in length and over shall cost \$45.00 and for vessels under twenty-six feet in length shall cost \$27.00.

(3) (~~Seasonal~~) Annual permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or if not equipped with a windshield, to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) cabin trunk.

AMENDATORY SECTION (Amending Order 9, filed 11/24/70)

WAC 352-20-010 PARKING. (1) No operator of any automobile, trailer, camper, boat trailer, or other vehicle, shall park such vehicle in any state park area, except where the operator is using the area for a designated recreational purpose and the vehicle is parked either in a designated parking area, or in another area with the permission of a ranger.

(2) No person shall park, leave standing, or abandon a vehicle in any state park area after closing time, except when camping in a designated area, or with permission from the ranger.

(3) No person shall park, leave standing, or abandon a vehicle being used for commercial purposes in any state park area without written permission from the ranger.

(4) Any vehicle found parked in violation of subsection (1) (~~(or)~~), (2), or (3) of this section may be towed away at the owner's or operator's expense.

AMENDATORY SECTION (Amending Order 9, filed 11/24/70)

WAC 352-20-050 TRUCKS AND COMMERCIAL VEHICLES. No person shall cause a truck or other vehicle while being used for commercial purposes to enter upon, use, or traverse any portion of any state park area or any park road therein except in the service of the commission at the request of an employee or concessionaire of the commission, or by express permission of the director for a special activity not inconsistent with state park use: PROVIDED, That the provisions of this section shall not apply to county roads or state highways.

Any vehicle in violation of this section may be towed away at the owner's or operator's expense.

AMENDATORY SECTION (Amending Order 89-01, filed 3/7/89)

WAC 352-32-010 DEFINITIONS. Whenever used in this chapter the following terms shall be defined as herein indicated:

(1) "Commission" shall mean the Washington state parks and recreation commission.

(2) "Director" shall mean the director of the Washington state parks and recreation commission.

(3) "Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 43.51.170, and shall include the park manager in charge of any state park area.

(4) "Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(5) "Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

(6) "Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal and flush comfort station. Each campsite includes a camp stove and picnic table.

(7) "Utility campsite" shall mean a standard campsite with the addition of one or all of the following utility hookups: Domestic water, sewer and electricity.

(8) "Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

(9) "Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

(10) "Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

(11) "Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

(12) "Emergency area" is an area in the park separate from the designated overnight camping area, which may be used for camping between the hours of 9 p.m. and 8 a.m. when no alternative camping facilities are available within reasonable driving distances.

(13) "State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 43.51.655 and as regulated under chapter 352-36 WAC.

(14) "Environmental learning centers (ELC)" shall mean those designated specialized facilities (formerly called resident group camps) designed to promote outdoor camping experiences and environmental education by groups in a residential setting. A group can be formalized group or an organized collection of families wishing to camp or use the ELC. ELCs are located at Camp Wooten, Columbia County; Brooks Memorial State Park, Klickitat County; Sun Lakes State Park, Grant County; Deception Pass State Park, Island and Skagit Counties; Fort Flagler State Park, Jefferson County; Millersylvania State Park, Thurston County; Moran State Park, San Juan County; Fields' Spring State Park, Asotin County; and Sequim Bay State Park, Clallam County.

(15) "Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that more than one hundred persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

(16) "Camping unit" shall mean a group of people (one or more persons) that is organized, equipped and capable of sustaining its own camping activity.

(17) "Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

(a) Camping at a given park for more than twenty days within a thirty-day time period May 1 through September 30; or thirty days within a sixty-day time period October 1 through April 30. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping unit shall be limited to ten consecutive nights May 1 through September 30 and fifteen consecutive nights October 1 through April 30 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

(b) The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

(18) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

(19) "Upland" shall mean all lands lying above mean high water.

(20) "Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

(21) "Sewage" shall mean the water and/or chemical-carried human or domestic waste from recreation vehicles.

(22) "Graywater" shall mean waste water generated by water-using fixtures and appliances, excluding the toilet.

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

WAC 352-32-045 RESERVATIONS FOR GROUP DAY USE.

(1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A daily permit fee of ten dollars for groups of 20 to 50 persons, (~~twenty~~) twenty-five dollars for groups of 51 to 100 persons, (~~forty~~) fifty dollars for groups of 101 to 500 persons, and one hundred twenty-five dollars for groups of more than 500 persons shall be charged to reservations granted under this WAC. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20, but not exceeding 50, this deposit shall be \$35. For groups in excess of 50, but not exceeding 100, this deposit shall be \$75. For groups in excess of 100, but not exceeding 500, this deposit shall be \$150. For groups in excess of 500, this deposit shall be \$300. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

AMENDATORY SECTION (Amending Order 91, filed 2/25/86)

WAC 352-32-050 PARK PERIODS. The director shall establish for each state park area, according to existing conditions, times, and periods when it will be open or closed to the public. Such times and periods shall be posted at the entrance to the state park area affected

and at the park office. No person shall enter or be present in a state park area after the posted closing time except (~~when camping, in a designated campsite or camping area, who has paid the applicable camping fee, as a state parks employee, or as a guest of a state parks employee~~):

(1) Currently registered campers who are camping in a designated campsite or camping area;

(2) Guests of a currently registered camper who may enter and remain until 10:00 p.m.;

(3) Guests of a state park employee.

AMENDATORY SECTION (Amending Order 89-01, filed 3/7/89)

WAC 352-32-250 STANDARD FEES CHARGED. The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping - standard campsite: ~~\$(7.00)~~ 7.50 per night;

(2) Overnight camping - utility campsite: ~~\$(7.00)~~ 7.50 per night plus a nightly fee of ~~\$(1.50)~~ .75 for domestic water hookup, ~~\$(1.50)~~ .75 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not except when otherwise specified by a ranger;

(3) Overnight camping - primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.50 per night for motorized vehicle;

(4) Overnight camping - reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite.

(6) Group camping area - certain parks: \$.50 per person per day and/or night; nonrefundable reservation fee - \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center - overnight camping: \$3.40 per camper per night: PROVIDED, HOWEVER, The fee shall be \$3.65 per camper per night, effective June 15, 1989;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: \$3.80 per camper per night: PROVIDED, HOWEVER, The fee shall be \$4.05 per camper per night, effective June 15, 1989;

(b) Environmental learning center - day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group - whichever is higher;

(8) Hot showers: \$.25 for a minimum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks - not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle charge: \$3.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities - see WAC 352-12-020 and 352-12-030;

(13) Overnight camping - emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(14) Unattended vehicle overnight parking permit: Unoccupied vehicles parked overnight in designated areas must obtain a permit by registering and paying the \$3.00 per night permit fee. The permit must be prominently displayed in the vehicle.

(15) Trailer dumping fee. Individuals shall pay \$3.00 per use to dump sewage and/or graywater into park dump stations which have been designated as fee facilities by the director. Individuals are exempt from this fee when using dump facilities in the park in which they are current registered campers.

AMENDATORY SECTION (Amending WSR 89-22-073, filed 10/31/89, effective 12/1/89)

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)	\$ 64.25/unit
Officers' row buildings—#5, #6, and #7 (6 units, each with 3.5 bedrooms)	\$ 103.70/unit
Officers' row buildings—#4 and #11 (4 units, each with 6 bedrooms)	\$ 172.10/unit
Charge for additional rollaway beds	\$ 9.75 per bed

(b) Nonrenovated housing

Officers' row building—#9, #10 and #16 (5 units, each with 3 bedrooms)	\$ 79.75/unit
Officers' row buildings—#15 (1 unit with 5 bedrooms)	\$ 125.90/unit
Charge for additional rollaway beds	\$ 9.75 per bed
Bliss vista building—#235 (1 unit with 1 bedroom)	\$ 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 rented.

Standard meal charges (meals optional for above-listed housing)

Breakfast.....	\$ 2.85
Lunch.....	\$ 3.95
Dinner.....	\$ 5.80
Total.....	\$ 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.....	\$ 22.60/person/day
3 - 13 days	\$ 20.75/person/day
14 or more days.....	\$ 19.20/person/day
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.....	\$ 20.80/person/day
3 - 13 days	\$ 19.15/person/day
14 or more days.....	\$ 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 \$ 6.85 and \$ 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—\$ 105.00 per day; for rehearsals—\$ 27.30 per night. For larger performances or events, the balloon hangar pavilion is available at the following rental rates:

Commercial events.....\$800 per day (plus \$100 or 10% of the net profit, whichever is greater)

Nonprofit or charitable events (with admission fee)

Nonprofit or charitable events (without admission fee)

Rehearsals

Pavilion rates apply to users except as otherwise provided under separate contracts pertaining to project funding. The kitchen shelter is available for the minimum fee of \$ 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.

AMENDATORY SECTION (Amending Order 106, filed 9/19/88)

WAC 352-32-252 OFF-SEASON SENIOR CITIZEN PASS—

FEE. (1) Persons who are senior citizens, are at least sixty-two years of age, and have been residents of Washington state for at least one year shall, upon application to the commission, receive an off-season senior citizen pass which entitles the holder and the holder's camping unit to thirty nights of camping at any camping areas made available by the commission, as well as use of agency mooring facilities, at no cost beyond the charges provided for in subsection (3) of this section, between the day following the Labor Day legal holiday and April 30. Each such pass shall be valid only during one off-season period and may be renewed after being used for thirty nights of camping.

(2) Applications for off-season senior citizen passes shall be made on forms prescribed by the commission and shall be accepted only after August 15 for the following off-season period.

(3) The fee for each off-season senior citizen pass and renewal shall be ~~\$(+5.00))~~ 20.00. A surcharge equal to the fee for an electrical hookup established in WAC 352-32-250 shall be assessed for each night an off-season senior citizen pass holder uses a campsite with an electrical hookup.

(4) For pass holders who travel by car or recreational vehicle a camping unit shall include the pass holder and up to seven guests of the holder who travel with the holder and use one campsite or portion of a designated group camping or emergency area. One additional vehicle without built-in sleeping accommodations may be part of the camping unit of a holder at one campsite or portion of a designated group camping or emergency area, when in the judgment of a ranger, the constructed facilities so warrant and the total number of guests of the holder do not exceed seven.

(5) For pass holders who travel by a mode of transportation other than car or recreational vehicle a camping unit shall include the pass holder and up to five guests who travel with the holder and use one campsite or portion of a designated group camping or emergency area.

(6) If a pass holder changes residency to a place outside Washington state during the time period when a pass is valid, the pass holder shall return the pass to the commission.

WSR 90-04-109
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 7, 1990, 4:13 p.m.]

Original Notice.

Title of Rule: Applications of pesticides in Benton County and portions of Franklin and Walla Walla counties, chapter 16-230 WAC.

Purpose: Restrictions were placed on the use of pesticides to protect public health, beneficial insects and prevent damage to nontargeted crops.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Statute Being Implemented: Chapters 17.21 and 15.58 RCW.

Reasons Supporting Proposal: To further reduce the possibility of damage to nontargeted crops.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ted Maxwell, Compliance Program Manager, 406 General Administration Building, 753-5064.

Name of Proponent: Tri-Act (Tri City Citizens Against Chemical Trespass), private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Further restricts the use of pesticides in Benton County and portions of Franklin and Walla Walla County. No aerial applications of herbicides and Category I [1] and 2 insecticides in a large portion of the area under order. Applications by air may be made in certain limited areas only after a permit has been issued by the department. Additional restrictions placed on weather conditions, nozzle size and residual herbicides.

Proposal Changes the Following Existing Rules: Provides for four areas in place of six; an expansion of those areas in which aerial application of herbicides and Category 1 and 2 insecticides cannot be applied; creation of an Area 1-A which prohibits aerial applications of all pesticides; more restrictive conditions for weather in which applications are allowed; more restrictive requirements for nozzle requirements (ground applications); and additional restriction for application by ground of all herbicides with a residual life of more than four months in the soil, and that cannot be detected by analysis of the foliage at the lowest levels that can cause damage to plants, crops, humans or animals.

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

Hearing Location: Red Lion Inn, 2525 North 20th, Pasco, WA 99301, on March 13, 1990, at 6:30 p.m.

Submit Written Comments to: Art G. Losey, Assistant Director, 406 General Administration Building, AX-41, Olympia, WA 98504, by March 13, 1990.

Date of Intended Adoption: March 30, 1990.

February 7, 1990
Art G. Losey
Assistant Director

AMENDATORY SECTION (Amending Order 2014, filed 7/31/89, effective 8/31/89)

WAC 16-230-835 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 1. (1) Area 1 description ((~~North-east Horse Heaven Hills~~)). An area including all lands lying within a boundary line beginning at the ((~~southwest corner of Section 24, T8N, R26E; thence north approximately 7 miles along section lines to the intersection with the Kennewick Irrigation District (K.I.D.) main canal; thence easterly along the K.I.D. main canal to the Amon pumping station located in Section 7, T8N, R29E; thence southeasterly along the K.I.D. Division Four Canal to the Columbia River in Section 8, T7N, R31E; thence south approximately one and one-half miles~~

~~along the Columbia River to the south section line of Section 17, T7N, R31E; thence west approximately seventeen miles along section lines to the southwest corner of Section 15, T7N, R28E; thence north one mile along the section line to the northwest corner of Section 15, T7N, R28E; thence west four miles along section lines to the intersection with Badger Canyon Road at the southwest corner of Section 12, T7N, R27E; thence north two miles along Badger Canyon Road and section lines to the intersection with Sellards Road at the southeast corner of Section 35, T8N, R27E; thence west one mile along Sellards Road and the section line to the southwest corner of Section 35, T8N, R27E; thence north one mile along the section line to the intersection with Cemetery Road at the northwest corner of Section 29, T8N, R27E; thence west two miles along Cemetery Road and section lines to)) intersection of the Yakima River and the Benton-Yakima County line in Section 7, T8N, R24E of Benton County; thence northeasterly along the confines of the Yakima River until its intersection with the west section line of Section 12, T9N, R26E; thence south approximately eight miles along section lines to the southwest corner of Section 24, T8N, R26E; thence east two miles along Cemetery Road and section lines to the northwest corner of Section 29, T8N, R27E; thence south one mile along section lines to the southwest corner of Section 29, T8N, R27E; thence east three miles along section lines to the northwest corner of Section 35, T8N, R27E; thence south one mile along section lines to the southwest corner of Section 35, T8N, R27E; thence east one mile along Sellards Road and the section line to the southeast corner of Section 35, T8N, R27E; thence south two miles along the Badger Canyon Road and section lines to the southwest corner of Section 12, T7N, R27E; thence east four miles along section lines to the northwest corner of Section 15, T7N, R28E; thence south one mile along section lines to the southwest corner of Section 15, T7N, R28E; thence east approximately seventeen miles along section lines to the Columbia River and south section line of Section 17, T7N, R31E; thence north approximately one and one-half miles along the Columbia River to its intersection with the K.I.D. Division Four Canal in Section 8, T7N, R31E; thence northwesterly along the K.I.D. Division Four Canal to the Amon pumping station located in Section 7, T8N, R29E; thence westerly along the K.I.D. main canal to its intersection with the west section line of Section 19, T9N, R26E; thence north approximately one-half mile along the section line to the Yakima River near the northwest corner of Section 19, T9N, R26E; thence northwesterly along the Yakima River approximately one mile to the west section line of Section 12, T9N, R26E; thence north approximately four miles along the Whan Road and section lines to the northwest corner of Section 25, T10N, R26E; thence east approximately one mile along the section line to the Yakima River near the southwest corner of Section 19, T10N, R27E; thence easterly along the Yakima River until its intersection with the south section line of Section 29, T10N, R28E; thence east along section lines approximately two and one-half miles to the southeast corner of Section 27, T10N, R28E; thence north and east approximately two and one-half miles along the southern boundary line of the United States Department of Energy Hanford Site to the north section line of Section 14, T10N, R28E; thence east approximately one-half mile across the Columbia River to its east shoreline and the Esquatel Diversion Canal Drain near the southwest corner of Section 12, T10N, R28E; thence east along the Esquatel Channel to its intersection with Road 68; thence southeasterly approximately one mile along Road 68 to its intersection with Fraser Drive near the northeast corner of Section 24, T10N, R28E; thence south one mile along Fraser Drive and section lines to their intersection with the Selph Landing Road in the northwest corner of Section 30, T10N, R29E; thence east seven miles along Selph Landing Road and section lines to the intersection with Highway 395 near the northeast corner of Section 30, T10N, R30E; thence south two miles along Highway 395 to the southeast corner of Section 31, T10N, R30E; thence east three miles along section lines to the northeast corner of Section 3, T9N, R30E; thence south one mile along the section line to the southeast corner of Section 3, T9N, R30E; thence east seven miles along section lines and a portion of the Pasco-Kahlotus Road to its intersection with the Ice Harbor Dam Road at the northeast corner of Section 11, T9N, R31E; thence southerly approximately four miles along Ice Harbor Dam Road and Ice Harbor Drive to the west section line of Section 25, T9N, R31E; thence south approximately eleven miles along section lines to the Walla Walla River; thence west along the Walla Walla River to the Columbia River and the Walla Walla-Benton County~~

line; thence southwesterly along the Columbia River to its intersection with the Benton-Klickitat County line near the southwest corner of Section 7, T4N, R24E; thence north along section lines approximately twenty-four and one-half miles to the Yakima River and the point of beginning.

(2) Area 1 restrictions.

(a) Application by air of ((restricted use pesticides as defined in WAC 16-230-810 is prohibited. PROVIDED, That the department may issue written permits for application of insecticides not containing the signal words danger/poison on the label)) all herbicides and category 1 and 2 insecticides are prohibited.

(b) Ground applications of all herbicides shall be made using nozzles having a minimum orifice of .052 inches.

(c) Pressure shall not exceed twenty-five pounds p.s.i. at the nozzles when applying herbicides.

NEW SECTION

WAC 16-230-839 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 1A. (1) Area 1A description. An area including all lands lying within a boundary line beginning at the Yakima River and west section line of Section 12, T9N, R26E; thence south approximately eight miles along section lines to the southwest corner of Section 24, T8N, R26E; thence east two miles along Cemetery Road and section lines to the northwest corner of Section 29, T8N, R27E; thence south one mile along section lines to the southwest corner of Section 29, T8N, R27E; thence east three miles along section lines to the northwest corner of Section 35, T8N, R27E; thence south one mile along section lines to the southwest corner of Section 35, T8N, R27E; thence east one mile along Sellards Road and the section line to the southeast corner of Section 35, T8N, R27E; thence south two miles along the Badger Canyon Road, and section lines to the southwest corner of Section 12, T7N, R27E; thence east four miles along section lines to the northwest corner of Section 15, T7N, R28E; thence south one mile along section lines to the southwest corner of Section 15, T7N, R28E; thence east approximately seventeen miles along section lines to the Columbia River and south section line of Section 17, T7N, R31E; thence north approximately one and one-half miles along the Columbia River to its intersection with the K.I.D. Division Four Canal in Section 8, T7N, R31E; thence northwesterly along the K.I.D. Division Four Canal to the Amon pumping station located in Section 7, T8N, R29E; thence westerly along the K.I.D. District main canal to its intersection with the west section line in Section 19, T9N, R26E; thence north approximately one-half mile along the section line to the Yakima River near the northwest corner of Section 19, T9N, R27E; thence northwesterly along the Yakima River to the point of beginning.

(2) Area 1A restrictions.

(a) Application of all pesticides by air is prohibited.

(b) Ground applications of all herbicides shall be made using nozzles having a minimum orifice of .052 inches.

(c) Pressure shall not exceed twenty-five pounds p.s.i. at the nozzles when applying herbicides.

AMENDATORY SECTION (Amending Order 2014, filed 7/31/89, effective 8/31/89)

WAC 16-230-845 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA ((3)) 2. (1) Area ((3)) 2 description.

(a) Eastern Yakima Valley. An area including all lands lying within a boundary line beginning at the ((northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence south approximately thirteen miles along the Benton-Yakima County line to the northwest corner of Section 31, T8N, R24E; thence east approximately two miles along section lines to the southeast corner of Section 29, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 29, T8N, R24E; thence east four miles along section lines to the

southeast corner of Section 24, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 24, T8N, R24E; thence east two miles along section lines to the southeast corner of Section 16, T8N, R25E; thence north one mile along Burt James Road and the section line to the intersection with County Well Road at the northeast corner of Section 16, T8N, R25E; thence east two miles along County Well Road and section lines to the southeast corner of Section 10, T8N, R25E; thence north one mile along the section line to the northeast corner of Section 10, T8N, R25E; thence east three miles along section lines to the intersection with Gould Road at the southeast corner of Section 6, T8N, R26E; thence north one mile along Gould Road and the section line to the northeast corner of Section 6, T8N, R26E; thence east four miles along section lines to the southeast corner of Section 35, T9N, R26E; thence north eight miles along section lines)) intersection of the Yakima River and the Benton-Yakima county line in Section 7, T8N, R24E; thence north approximately nine and one-half miles along the Yakima-Benton County line to its intersection with Anderson Road in the northwest corner of Section 30, T10N, R24E; thence east two miles along section lines and Anderson Road to the northeast corner of Section 29, T10N, R24E; thence south one mile along the section line to the southeast corner of Section 29, T10N, R24E; thence east eleven miles along section lines to the southwest corner of Section 29, T10N, R26E; thence north one mile along the section line to the northwest corner of Section 29, T10N, R26E; thence east along section lines approximately four miles to the northwest corner of Section 25, T10N, R26E; thence south along section lines and Wahn Road to the intersection with the Yakima River near the southwest corner of Section 12, T9N, R26E; thence southwesterly along the Yakima River to the point of beginning.

(b) Cold Creek Area. An area including all lands lying within a boundary line beginning at the intersection of the Benton-Yakima County line and the Columbia River in Section 7, T13N, R24E; thence south approximately six and one-half miles along the Benton-Yakima County line to the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence west approximately five miles along the Columbia River to the point of beginning.

(2) Area ((3)) 2 restrictions. Application by air of restricted use herbicides as defined in WAC 16-230-810 is prohibited.

AMENDATORY SECTION (Amending Order 2014, filed 7/31/89, effective 8/31/89)

WAC 16-230-855 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA ((5)) 3. (1) Area ((5)) 3 description.

(a) Cold Creek buffer zone. An area including all lands lying within a boundary line beginning at the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence easterly approximately two miles along the Columbia River to the east section line of Section 6, T13N, R25E, near the Vernita Bridge; thence south approximately eight and one-half miles along section lines to the southeast corner of Section 18, T12N, R25E; thence west seven miles along section lines to the Benton-Yakima County line at the southwest corner of Section 18, T12N, R24E; thence north one mile along the county line to the point of beginning.

(b) Roza buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section ((25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence north two miles along the county line to the northwest corner of Section 18, T10N, R24E; thence east four miles along section lines to the northeast corner of Section 15, T10N, R24E; thence south one mile along the section line to the southeast corner of Section 15, T10, R24E; thence east seven miles along section lines to the southwest corner of Section 13, T10N, R25E; thence north one mile along the section line to the northwest corner of

Section 13, T10N, R25E; thence east six miles along section lines to the northwest corner of Section 13, T10N, R26E; thence south two miles along section lines to the point of beginning.

(c) ~~West Horse Heaven buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 31, T8N, R24E; thence east approximately two miles along section lines to the southeast corner of Section 29, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 29, T8N, R24E; thence east four miles along section lines to the southeast corner of Section 24, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 24, T8N, R24E; thence east two miles along section lines to the southeast corner of Section 16, T8N, R25E; thence north one mile along Burt James Road and the section line to the intersection with County Well Road at the northeast corner of Section 16, T8N, R25E; thence east two miles along County Well Road and section lines to the southeast corner of Section 10, T8N, R25E; thence north one mile along the section line to the northeast corner of Section 10, T8N, R25E; thence east three miles along section lines to the intersection with Gould Road at the southeast corner of Section 6, T8N, R26E; thence north one mile along Gould Road and the section line to the northeast corner of Section 6, T8N, R26E; thence east four miles along section lines to the southeast corner of Section 35, T9N, R26E; thence south seven miles along section lines and a portion of Tyacke Road to the southwest corner of Section 1, T7N, R26E; thence west approximately seventeen miles along section lines to the Benton-Yakima County line at the southwest corner of Section 6, T7N, R24E; thence north two miles along the county line)) 30, T10N, R24E; thence north two miles along the Benton-Yakima County line to the northwest corner of Section 18, T10N, R24E; thence east along section lines four miles to the northeast corner of Section 15, T10N, R24E; thence south one mile along the section line to the southeast corner of Section 15, T10N, R24E; thence east seven miles along section lines to the southwest corner of Section 13, T10N, R25E; thence north one mile along the section line to the northwest corner of Section 13, T10N, R25E; thence east seven miles along section lines to the northeast corner of Section 13, T10N, R26E; thence north one mile along the section line to the northeast corner of Section 12, T10N, R26E; thence east along section lines approximately two and one-half miles to the Yakima River in Section 9, T10N, R27E; thence southwesterly along the Yakima River to the south section line of Section 19, T10N, R27E; thence west along section lines approximately five miles to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the northeast corner of Section 29, T10N, R24E; thence west two miles along section lines and Anderson Road to the point of beginning.~~

(2) Area ((5)) 3 restrictions. Application by air of restricted use herbicides as defined by WAC 16-230-810 may be made by written permit only.

NEW SECTION

WAC 16-230-859 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 4. (1) Area 4 description. United States Department of Energy Hanford Site and Rattlesnake Hills. An area including all lands lying within a boundary line beginning at the northwest corner of Section 18, T10N, R24E; thence north eleven miles along the Yakima-Benton County line to the southwest corner of Section 18, T12N, R24E; thence east seven miles along section lines to the southeast corner of Section 18, T12N, R25E; thence north approximately eight and one-half miles to the Columbia River in Section 5, T13N, R25E; thence easterly along the Columbia River to its intersection with the United States Department of Energy Hanford Site southern boundary line in Section 14, T10N, R28E; thence west approximately one mile and south approximately two and one-half miles along the United States Department of Energy boundary line to the southeast corner of Section 27, T10N, R28E; thence west approximately two and one-half miles to the intersection of the Yakima River and the southern section line of Section 29, T10N, R28E; thence northwesterly along the Yakima River to its intersection with the north section line of Section 9, T10N, R27E; thence west along section lines approximately two and one-half miles to the northeast corner of Section 12, T10N, R26E; thence south one mile along section lines to the southeast corner of Section 12, T10N, R26E; thence west seven miles along section lines to the northwest corner of Section 13, T10N, R25E;

thence south one mile along the section line to the southwest corner of Section 13, T10N, R25E; thence west seven miles along section lines to the southeast corner of Section 15, T10N, R24E; thence north one mile along section lines to the northwest corner of Section 15, T10N, R24E; thence west four miles to the Yakima-Benton County line and point of beginning.

(2) Area 4 restrictions. Records shall be kept as required in WAC 16-228-190.

NEW SECTION

WAC 16-230-861 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—WIND CONDITIONS. The use or application of all herbicides and class 1 and 2 insecticides are prohibited in the area under order listed in WAC 16-230-800 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That applications shall be allowed in higher velocity winds when an approved ground apparatus is used. Ground apparatus shall be approved by the department prior to application. Approval shall be based on research data.

NEW SECTION

WAC 16-230-862 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—WEATHER AND TEMPERATURE CONDITIONS. All herbicides and category 1 and 2 insecticides shall not be applied throughout the year in the area under order listed in WAC 16-230-800 when there is a temperature inversion, or if weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops, and plantings through physical drift or volatilization, or the temperature is eighty-five degrees Fahrenheit or above at the point of application.

NEW SECTION

WAC 16-230-863 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—ADDITIONAL RESTRICTIONS FOR GROUND APPLICATION—AREA 1 AND AREA 1A. Application by ground of all herbicides that have a residual life of more than four months in the soil, and that cannot be detected by analysis of the foliage at the lowest levels, and that can damage plants, crops, humans, or animals is prohibited in Area 1 (see WAC 16-230-835) and Area 1A (see WAC 16-230-839) of the area under order.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-230-805 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—RECORDKEEPING.

WAC 16-230-840 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 2.

WAC 16-230-850 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 4.

WAC 16-230-860 APPLICATION OF PESTICIDES IN BENTON COUNTY AND PORTIONS OF FRANKLIN AND WALLA WALLA COUNTIES—AREA 6.

WSR 90-04-110
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed February 7, 1990, 4:49 p.m.]

Original Notice.

Title of Rule: WAC 308-48-800 Funeral director/embalmer fees.

Purpose: To fix fees for funeral directors/embalmers.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 43.24.086.

Summary: This proposal will establish new fees for funeral directors, embalmers and funeral establishments.

Reasons Supporting Proposal: A cost study determined current fees must be raised to offset costs of administering the funeral directors and embalmers program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Elvig, 1300 Quince Street, Olympia, (206) 586-4905.

Name of Proponent: Director, Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal will establish new fee levels for funeral directors, embalmers and funeral establishments sufficient to defray the costs of administering that program.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

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

The director has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not because the rule will have minor or negligible impact on funeral directing firms because the fees are adopted to conform with state law.

Hearing Location: Department of Licensing, Executive Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, WA 98504, on March 13, 1990, at 11:00 a.m.

Submit Written Comments to: Paul Elvig, Funeral Directors and Cemetery Boards Service Unit, P.O. Box 9012, Olympia, WA 98504-8001, by March 12, 1990.

Date of Intended Adoption: March 14, 1990.

February 7, 1990
Marsha Tadano Long
Assistant Director
Professional Licensing

Title of fee	Fee
Funeral director:	
State examination or reexamination	((200.00))
	<u>150.00</u>
Renewal	((+25.00))
	<u>100.00</u>
Late renewal penalty	((+00.00))
	<u>50.00</u>
Duplicate Certification	15.00
	25.00
Funeral director apprentice:	
Apprentice application	75.00
Apprentice renewal	45.00
Duplicate license	15.00
Certification	25.00
Funeral establishment:	
Original application	((250.00))
	<u>350.00</u>
Renewal	((200.00))
	<u>300.00</u>
Branch registration and renewal	<u>250.00</u>
Preneed application	((50.00))
	<u>200.00</u>
Preneed renewal	((30.00))
	<u>200.00</u>
Financial statement fee	((25.00))
	<u>50.00</u>
Crematory endorsement registration	((50.00))
	<u>100.00</u>
Endorsement renewal	((40.00))
	<u>50.00</u>

AMENDATORY SECTION (Amending Order PM 650, filed 5/1/87)

WAC 308-48-800 FUNERAL DIRECTOR/EMBALMER FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of fee	Fee
Embalmers:	
State examination or reexamination	\$150.00
Renewal	((75.00))
	<u>100.00</u>
Late renewal penalty	((40.00))
	<u>50.00</u>
Duplicate	15.00
((Reciprocity application	50.00))
Certification	25.00
Embalmer apprentice:	
Apprentice application	((50.00))
	<u>75.00</u>
Apprentice renewal	((35.00))
	<u>45.00</u>
Duplicate	15.00
Certification	25.00

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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16-230-839	NEW-P	90-04-109	16-318-415	NEW	90-03-026	51-18-010	NEW	90-02-110
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16-230-855	AMD-P	90-04-109	16-400-210	AMD-E	90-03-034	51-18-050	NEW	90-02-110
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16-230-861	NEW-P	90-04-109	16-403-155	AMD-W	90-03-036	113-12-161	REP-P	90-04-029
16-230-862	NEW-P	90-04-109	16-403-190	AMD-E	90-03-035	113-12-200	AMD-P	90-04-029
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16-318-215	NEW	90-03-026	51-04-030	NEW	90-02-108	132E-400-020	NEW-P	90-03-021
16-318-220	NEW	90-03-026	51-04-035	NEW	90-02-108	132E-400-030	NEW-P	90-03-021
16-318-225	NEW	90-03-026	51-04-037	NEW	90-02-108	132E-400-040	NEW-P	90-03-021
16-318-230	NEW	90-03-026	51-04-040	NEW	90-02-108	132H-108-005	REP-P	90-03-077
16-318-235	NEW	90-03-026	51-04-050	NEW	90-02-108	132H-108-005	REP-E	90-03-079
16-318-240	NEW	90-03-026	51-04-060	NEW	90-02-108	132H-108-010	REP-P	90-03-077
16-318-300	NEW	90-03-026	51-04-070	NEW	90-02-108	132H-108-010	REP-E	90-03-079
16-318-305	NEW	90-03-026	51-06-010	AMD	90-02-108	132H-108-020	REP-P	90-03-077
16-318-310	NEW	90-03-026	51-06-020	AMD	90-02-108	132H-108-020	REP-E	90-03-079
16-318-315	NEW	90-03-026	51-06-030	REP	90-02-108	132H-108-030	REP-P	90-03-077
16-318-320	NEW	90-03-026	51-06-040	REP	90-02-108	132H-108-030	REP-E	90-03-079
16-318-325	NEW	90-03-026	51-06-050	REP	90-02-108	132H-108-040	REP-P	90-03-077
16-318-330	NEW	90-03-026	51-06-060	REP	90-02-108	132H-108-040	REP-E	90-03-079
16-318-335	NEW	90-03-026	51-06-070	AMD	90-02-108	132H-108-050	REP-P	90-03-077
16-318-340	NEW	90-03-026	51-06-080	REP	90-02-108	132H-108-050	REP-E	90-03-079
16-318-345	NEW	90-03-026	51-06-090	REP	90-02-108	132H-108-060	REP-P	90-03-077
16-318-350	NEW	90-03-026	51-06-100	REP	90-02-108	132H-108-060	REP-E	90-03-079
16-318-355	NEW	90-03-026	51-06-110	REP	90-02-108	132H-108-070	REP-P	90-03-077
16-318-360	NEW	90-03-026	51-06-120	AMD	90-02-108	132H-108-070	REP-E	90-03-079
16-318-365	NEW	90-03-026	51-08-010	AMD	90-02-108	132H-108-080	REP-P	90-03-077
16-318-370	NEW	90-03-026	51-10	AMD	90-02-110	132H-108-080	REP-E	90-03-079
16-318-375	NEW	90-03-026	51-12-220	AMD	90-02-110	132H-108-090	REP-P	90-03-077
16-318-380	NEW	90-03-026	51-12-403	AMD	90-02-110	132H-108-090	REP-E	90-03-079
16-318-385	NEW	90-03-026	51-12-404	AMD	90-02-110	132H-108-100	REP-P	90-03-077
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16-318-395	NEW	90-03-026	51-12-601	AMD	90-02-110	132H-108-110	REP-P	90-03-077
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132H-108-120	REP-P	90-03-077	132L-108-060	NEW-E	90-03-074	154-12-107	REP-P	90-02-086
132H-108-120	REP-E	90-03-079	132L-108-070	NEW-E	90-03-074	154-12-110	AMD-P	90-02-086
132H-108-130	REP-P	90-03-077	132L-108-080	NEW-E	90-03-074	154-24-010	AMD-P	90-02-086
132H-108-130	REP-E	90-03-079	132L-133-020	NEW-E	90-03-074	154-32-010	AMD-P	90-02-086
132H-108-140	REP-P	90-03-077	132L-400-010	NEW-E	90-03-073	154-32-020	AMD-P	90-02-086
132H-108-140	REP-E	90-03-079	132N-400-010	NEW-P	90-04-079	154-40	AMD-P	90-02-086
132H-108-150	REP-P	90-03-077	132N-400-020	NEW-P	90-04-079	154-40-010	AMD-P	90-02-086
132H-108-150	REP-E	90-03-079	132N-400-030	NEW-P	90-04-079	154-44-010	AMD-P	90-02-086
132H-108-160	REP-P	90-03-077	132N-400-040	NEW-P	90-04-079	154-64-050	AMD-P	90-02-086
132H-108-160	REP-E	90-03-079	132S-01-010	NEW-P	90-03-082	173-18-090	AMD-C	90-02-107
132H-108-170	REP-P	90-03-077	132S-01-020	NEW-P	90-03-082	173-18-200	AMD-C	90-02-107
132H-108-170	REP-E	90-03-079	132S-01-030	NEW-P	90-03-082	173-19-1104	AMD	90-02-105
132H-108-180	REP-P	90-03-077	132S-01-040	NEW-P	90-03-082	173-19-220	AMD-P	90-03-112
132H-108-180	REP-E	90-03-079	132S-01-050	NEW-P	90-03-082	173-19-2512	AMD	90-02-106
132H-108-190	REP-P	90-03-077	132S-01-060	NEW-P	90-03-082	173-19-2519	AMD	90-02-101
132H-108-190	REP-E	90-03-079	132S-01-070	NEW-P	90-03-082	173-19-3514	AMD-P	90-03-110
132H-108-200	REP-P	90-03-077	132S-01-080	NEW-P	90-03-082	173-19-360	AMD-P	90-03-111
132H-108-200	REP-E	90-03-079	132S-01-090	NEW-P	90-03-082	173-166	AMD-P	90-02-096
132H-108-210	REP-P	90-03-077	132S-05-010	NEW-P	90-03-082	173-166-010	AMD-P	90-02-096
132H-108-210	REP-E	90-03-079	132S-05-015	NEW-P	90-03-082	173-166-020	AMD-P	90-02-096
132H-108-220	REP-P	90-03-077	132S-05-020	NEW-P	90-03-082	173-166-030	AMD-P	90-02-096
132H-108-220	REP-E	90-03-079	132S-30-037	NEW-P	90-03-082	173-166-040	AMD-P	90-02-096
132H-108-230	REP-P	90-03-077	132S-40-130	NEW-P	90-03-082	173-166-050	AMD-P	90-02-096
132H-108-230	REP-E	90-03-079	132S-40-135	NEW-P	90-03-082	173-166-060	AMD-P	90-02-096
132H-108-240	REP-P	90-03-077	132S-40-140	NEW-P	90-03-082	173-166-070	AMD-P	90-02-096
132H-108-240	REP-E	90-03-079	132S-40-145	NEW-P	90-03-082	173-166-080	NEW-P	90-02-096
132H-108-250	REP-P	90-03-077	132S-40-150	NEW-P	90-03-082	173-166-090	NEW-P	90-02-096
132H-108-250	REP-E	90-03-079	132S-40-155	NEW-P	90-03-082	173-166-100	NEW-P	90-02-096
132H-108-260	REP-P	90-03-077	132T-104-010	REP	90-03-065	173-166-110	NEW-P	90-02-096
132H-108-260	REP-E	90-03-079	132T-104-020	REP	90-03-065	173-166-120	NEW-P	90-02-096
132H-108-270	REP-P	90-03-077	132T-104-030	REP	90-03-065	173-166-130	NEW-P	90-02-096
132H-108-270	REP-E	90-03-079	132T-104-040	REP	90-03-065	173-306-010	NEW-P	90-02-088
132H-108-280	REP-P	90-03-077	132T-104-060	REP	90-03-065	173-306-050	NEW-P	90-02-088
132H-108-280	REP-E	90-03-079	132T-104-070	REP	90-03-065	173-306-100	NEW-P	90-02-088
132H-108-290	REP-P	90-03-077	132T-104-080	REP	90-03-065	173-306-150	NEW-P	90-02-088
132H-108-290	REP-E	90-03-079	132T-104-090	REP	90-03-065	173-306-200	NEW-P	90-02-088
132H-108-300	REP-P	90-03-077	132T-104-100	REP	90-03-065	173-306-300	NEW-P	90-02-088
132H-108-300	REP-E	90-03-079	132T-104-110	REP	90-03-065	173-306-310	NEW-P	90-02-088
132H-108-310	REP-P	90-03-077	132T-104-120	REP	90-03-065	173-306-320	NEW-P	90-02-088
132H-108-310	REP-E	90-03-079	132T-104-121	REP	90-03-065	173-306-330	NEW-P	90-02-088
132H-108-320	REP-P	90-03-077	132T-104-130	REP	90-03-065	173-306-340	NEW-P	90-02-088
132H-108-320	REP-E	90-03-079	132T-104-200	REP	90-03-065	173-306-345	NEW-P	90-02-088
132H-108-330	REP-P	90-03-077	132T-104-210	REP	90-03-065	173-306-350	NEW-P	90-02-088
132H-108-330	REP-E	90-03-079	132T-104-240	REP	90-03-065	173-306-400	NEW-P	90-02-088
132H-108-410	NEW-P	90-03-077	132T-104-250	REP	90-03-065	173-306-405	NEW-P	90-02-088
132H-108-410	NEW-E	90-03-079	132T-104-260	REP	90-03-065	173-306-410	NEW-P	90-02-088
132H-108-420	NEW-P	90-03-077	132T-104-265	REP	90-03-065	173-306-440	NEW-P	90-02-088
132H-108-420	NEW-E	90-03-079	132T-104-270	REP	90-03-065	173-306-450	NEW-P	90-02-088
132H-108-430	NEW-P	90-03-077	132T-104-280	REP	90-03-065	173-306-470	NEW-P	90-02-088
132H-108-430	NEW-E	90-03-079	132V-400-010	NEW-P	90-03-094	173-306-480	NEW-P	90-02-088
132H-108-440	NEW-P	90-03-077	132V-400-020	NEW-P	90-03-094	173-306-490	NEW-P	90-02-088
132H-108-440	NEW-E	90-03-079	132V-400-030	NEW-P	90-03-094	173-306-495	NEW-P	90-02-088
132H-108-450	NEW-P	90-03-077	132V-400-040	NEW-P	90-03-094	173-306-500	NEW-P	90-02-088
132H-108-450	NEW-E	90-03-079	132Y-108-010	NEW-P	90-02-062	173-306-900	NEW-P	90-02-088
132H-108-460	NEW-P	90-03-077	132Y-108-020	NEW-P	90-02-062	173-306-9901	NEW-P	90-02-088
132H-108-460	NEW-E	90-03-079	132Y-108-030	NEW-P	90-02-062	173-336-010	REP-W	90-02-097
132H-108-470	NEW-P	90-03-077	132Y-108-040	NEW-P	90-02-062	173-336-010	REP-P	90-02-098
132H-108-470	NEW-E	90-03-079	132Y-108-050	NEW-P	90-02-062	173-336-020	REP-W	90-02-097
132H-108-480	NEW-P	90-03-077	132Y-108-060	NEW-P	90-02-062	173-336-020	REP-P	90-02-098
132H-108-480	NEW-E	90-03-079	132Y-108-070	NEW-P	90-02-062	173-336-030	REP-W	90-02-097
132H-200-040	NEW-P	90-03-076	132Y-108-080	NEW-P	90-02-062	173-336-030	REP-P	90-02-098
132H-200-040	NEW-E	90-03-080	132Y-133-020	NEW-P	90-02-063	173-338-010	REP-W	90-02-097
132H-400-005	NEW-P	90-03-078	139-05-925	NEW-P	90-03-085	173-338-010	REP-P	90-02-098
132H-400-005	NEW-E	90-03-081	154-04-035	REP-P	90-02-086	173-338-020	REP-W	90-02-097
132H-400-010	NEW-P	90-03-078	154-04-041	NEW-P	90-02-086	173-338-020	REP-P	90-02-098
132H-400-010	NEW-E	90-03-081	154-04-110	REP-P	90-02-086	173-338-030	REP-W	90-02-097
132H-400-020	NEW-P	90-03-078	154-08-050	AMD-P	90-02-086	173-338-030	REP-P	90-02-098
132H-400-020	NEW-E	90-03-081	154-12-010	AMD-P	90-02-086	173-338-040	REP-W	90-02-097
132H-400-030	NEW-P	90-03-078	154-12-015	AMD-P	90-02-086	173-338-040	REP-P	90-02-098
132H-400-030	NEW-E	90-03-081	154-12-030	AMD-P	90-02-086	173-338-050	REP-W	90-02-097
132H-400-040	NEW-P	90-03-078	154-12-050	AMD-P	90-02-086	173-338-050	REP-P	90-02-098
132H-400-040	NEW-E	90-03-081	154-12-070	AMD-P	90-02-086	173-340	AMD-W	90-02-097
132L-108-010	NEW-E	90-03-074	154-12-080	AMD-P	90-02-086	173-340	AMD-P	90-02-098
132L-108-020	NEW-E	90-03-074	154-12-085	AMD-P	90-02-086	173-340-010	REP-W	90-02-097
132L-108-030	NEW-E	90-03-074	154-12-086	AMD-P	90-02-086	173-340-010	REP-P	90-02-098
132L-108-040	NEW-E	90-03-074	154-12-087	AMD-P	90-02-086	173-340-020	REP-W	90-02-097
132L-108-050	NEW-E	90-03-074	154-12-090	AMD-P	90-02-086	173-340-020	REP-P	90-02-098

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-340-030	REP-W	90-02-097	173-340-870	NEW-P	90-02-098	174-136-017	REP	90-04-011
173-340-030	REP-P	90-02-098	173-340-880	NEW-W	90-02-097	174-136-018	REP	90-04-011
173-340-040	REP-W	90-02-097	173-340-880	NEW-P	90-02-098	174-136-019	REP	90-04-011
173-340-040	REP-P	90-02-098	173-340-890	NEW-W	90-02-097	174-136-02001	REP	90-04-011
173-340-050	REP-W	90-02-097	173-340-890	NEW-P	90-02-098	174-136-021	REP	90-04-011
173-340-050	REP-P	90-02-098	173-342-010	NEW	90-03-020	174-136-022	REP	90-04-011
173-340-100	NEW-W	90-02-097	173-342-020	NEW	90-03-020	174-136-060	REP	90-04-011
173-340-100	NEW-P	90-02-098	173-342-030	NEW	90-03-020	174-136-080	REP	90-04-011
173-340-110	NEW-W	90-02-097	173-342-040	NEW	90-03-020	174-136-090	REP	90-04-011
173-340-110	NEW-P	90-02-098	173-342-050	NEW	90-03-020	174-136-100	REP	90-04-011
173-340-120	NEW-W	90-02-097	174-108	AMD	90-04-011	174-136-110	REP	90-04-011
173-340-120	NEW-P	90-02-098	174-108-170	REP	90-04-011	174-136-120	REP	90-04-011
173-340-130	NEW-W	90-02-097	174-108-180	REP	90-04-011	174-136-130	REP	90-04-011
173-340-130	NEW-P	90-02-098	174-108-190	REP	90-04-011	174-136-140	REP	90-04-011
173-340-140	NEW-W	90-02-097	174-108-200	REP	90-04-011	174-136-160	REP	90-04-011
173-340-140	NEW-P	90-02-098	174-108-210	REP	90-04-011	174-136-170	REP	90-04-011
173-340-200	NEW-W	90-02-097	174-108-220	REP	90-04-011	174-136-210	REP	90-04-011
173-340-200	NEW-P	90-02-098	174-108-230	REP	90-04-011	174-136-220	REP	90-04-011
173-340-210	NEW-W	90-02-097	174-108-240	REP	90-04-011	174-136-230	REP	90-04-011
173-340-210	NEW-P	90-02-098	174-108-250	REP	90-04-011	174-136-240	REP	90-04-011
173-340-300	NEW-W	90-02-097	174-108-260	REP	90-04-011	174-136-250	REP	90-04-011
173-340-300	NEW-P	90-02-098	174-108-900	REP	90-04-011	174-136-300	REP	90-04-011
173-340-310	NEW-W	90-02-097	174-108-90001	REP	90-04-011	174-136-310	REP	90-04-011
173-340-310	NEW-P	90-02-098	174-108-90002	REP	90-04-011	174-136-320	REP	90-04-011
173-340-320	NEW-W	90-02-097	174-108-910	NEW	90-04-011	174-136-330	REP	90-04-011
173-340-320	NEW-P	90-02-098	174-112-130	REP	90-04-011	174-157-600	REP	90-04-011
173-340-330	NEW-W	90-02-097	174-112-140	REP	90-04-011	174-157-610	REP	90-04-011
173-340-330	NEW-P	90-02-098	174-112-150	REP	90-04-011	174-157-620	REP	90-04-011
173-340-340	NEW-W	90-02-097	174-122-010	NEW	90-04-011	174-157-990	REP	90-04-011
173-340-340	NEW-P	90-02-098	174-122-020	NEW	90-04-011	174-160-010	REP	90-04-011
173-340-350	NEW-W	90-02-097	174-122-030	NEW	90-04-011	174-160-020	REP	90-04-011
173-340-350	NEW-P	90-02-098	174-122-040	NEW	90-04-011	174-160-030	REP	90-04-011
173-340-360	NEW-W	90-02-097	174-126-010	REP	90-04-011	174-160-040	REP	90-04-011
173-340-360	NEW-P	90-02-098	174-126-020	REP	90-04-011	174-162-010	REP	90-04-011
173-340-400	NEW-W	90-02-097	174-126-030	REP	90-04-011	174-162-015	REP	90-04-011
173-340-400	NEW-P	90-02-098	174-128-010	REP	90-04-011	174-162-020	REP	90-04-011
173-340-410	NEW-W	90-02-097	174-128-020	REP	90-04-011	174-162-025	REP	90-04-011
173-340-410	NEW-P	90-02-098	174-128-030	REP	90-04-011	174-162-030	REP	90-04-011
173-340-420	NEW-W	90-02-097	174-128-040	REP	90-04-011	174-162-035	REP	90-04-011
173-340-420	NEW-P	90-02-098	174-128-042	REP	90-04-011	174-162-040	REP	90-04-011
173-340-430	NEW-W	90-02-097	174-128-044	REP	90-04-011	174-162-045	REP	90-04-011
173-340-430	NEW-P	90-02-098	174-128-046	REP	90-04-011	174-168-010	NEW-W	90-03-037
173-340-500	NEW-W	90-02-097	174-128-050	REP	90-04-011	174-168-010	NEW-P	90-04-028
173-340-500	NEW-P	90-02-098	174-128-060	REP	90-04-011	174-168-020	NEW-W	90-03-037
173-340-510	NEW-W	90-02-097	174-128-062	REP	90-04-011	174-168-020	NEW-P	90-04-028
173-340-510	NEW-P	90-02-098	174-128-064	REP	90-04-011	174-168-030	NEW-P	90-04-028
173-340-520	NEW-W	90-02-097	174-128-066	REP	90-04-011	174-168-040	NEW-P	90-04-028
173-340-520	NEW-P	90-02-098	174-128-070	REP	90-04-011	174-168-050	NEW-P	90-04-028
173-340-530	NEW-W	90-02-097	174-128-080	REP	90-04-011	174-168-060	NEW-P	90-04-028
173-340-530	NEW-P	90-02-098	174-128-090	REP	90-04-011	174-168-070	NEW-P	90-04-028
173-340-540	NEW-W	90-02-097	174-128-990	REP	90-04-011	174-168-080	NEW-P	90-04-028
173-340-540	NEW-P	90-02-098	174-130-010	NEW	90-04-011	174-276-010	NEW	90-04-011
173-340-550	NEW-W	90-02-097	174-130-020	NEW	90-04-011	174-276-020	NEW	90-04-011
173-340-550	NEW-P	90-02-098	174-131-010	NEW	90-04-011	174-276-030	NEW	90-04-011
173-340-560	NEW-W	90-02-097	174-132	AMD	90-04-011	174-276-040	NEW	90-04-011
173-340-560	NEW-P	90-02-098	174-132-010	AMD	90-04-011	174-276-050	NEW	90-04-011
173-340-600	NEW-W	90-02-097	174-132-020	REP	90-04-011	174-276-060	NEW	90-04-011
173-340-600	NEW-P	90-02-098	174-132-030	REP	90-04-011	174-276-070	NEW	90-04-011
173-340-610	NEW-W	90-02-097	174-132-040	REP	90-04-011	174-276-080	NEW	90-04-011
173-340-610	NEW-P	90-02-098	174-132-050	REP	90-04-011	174-276-090	NEW	90-04-011
173-340-700	NEW-W	90-02-097	174-132-060	REP	90-04-011	174-276-100	NEW	90-04-011
173-340-700	NEW-P	90-02-098	174-132-070	REP	90-04-011	174-276-110	NEW	90-04-011
173-340-800	NEW-W	90-02-097	174-132-080	REP	90-04-011	174-276-120	NEW	90-04-011
173-340-800	NEW-P	90-02-098	174-132-090	REP	90-04-011	174-280-010	NEW	90-04-011
173-340-810	NEW-W	90-02-097	174-132-100	REP	90-04-011	174-280-015	NEW	90-04-011
173-340-810	NEW-P	90-02-098	174-132-110	REP	90-04-011	174-280-020	NEW	90-04-011
173-340-820	NEW-W	90-02-097	174-132-120	REP	90-04-011	174-280-025	NEW	90-04-011
173-340-820	NEW-P	90-02-098	174-133-010	NEW	90-04-011	174-280-030	NEW	90-04-011
173-340-830	NEW-W	90-02-097	174-133-020	NEW	90-04-011	174-280-035	NEW	90-04-011
173-340-830	NEW-P	90-02-098	174-135-010	NEW	90-04-011	174-280-040	NEW	90-04-011
173-340-840	NEW-W	90-02-097	174-136-010	REP	90-04-011	174-280-045	NEW	90-04-011
173-340-840	NEW-P	90-02-098	174-136-011	REP	90-04-011	180-25-025	AMD	90-04-031
173-340-850	NEW-W	90-02-097	174-136-012	REP	90-04-011	180-25-300	REP	90-04-032
173-340-850	NEW-P	90-02-098	174-136-013	REP	90-04-011	180-27-050	AMD	90-04-031
173-340-860	NEW-W	90-02-097	174-136-014	REP	90-04-011	180-27-058	AMD	90-04-031
173-340-860	NEW-P	90-02-098	174-136-015	REP	90-04-011	180-27-425	NEW	90-04-031
173-340-870	NEW-W	90-02-097	174-136-016	REP	90-04-011	180-29-300	REP	90-04-032

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
180-75-005	AMD	90-02-073	180-87-005	NEW	90-02-075	220-56-38000H	NEW-E	90-04-041
180-75-018	REP	90-02-073	180-87-010	NEW	90-02-075	220-56-400	AMD-P	90-02-112
180-75-019	REP	90-02-073	180-87-015	NEW	90-02-075	220-57-140	AMD-P	90-02-112
180-75-020	REP	90-02-073	180-87-020	NEW	90-02-075	220-57-160	AMD-P	90-02-112
180-75-025	REP	90-02-073	180-87-025	NEW	90-02-075	220-57-220	AMD-P	90-02-112
180-75-026	REP	90-02-073	180-87-030	NEW	90-02-075	220-57-242	NEW-P	90-02-112
180-75-027	REP	90-02-073	180-87-035	NEW	90-02-075	220-57-260	AMD-P	90-02-112
180-75-030	REP	90-02-073	180-87-040	NEW	90-02-075	220-57-270	AMD-P	90-02-112
180-75-033	REP	90-02-073	180-87-045	NEW	90-02-075	220-57-290	AMD-P	90-02-112
180-75-034	REP	90-02-073	180-87-050	NEW	90-02-075	220-57-315	AMD-P	90-02-112
180-75-035	REP	90-02-073	180-87-055	NEW	90-02-075	220-57-328	NEW-P	90-02-112
180-75-037	REP	90-02-073	180-87-060	NEW	90-02-075	220-57-465	AMD-P	90-02-112
180-75-038	REP	90-02-073	180-87-065	NEW	90-02-075	220-57-497	NEW-P	90-02-112
180-75-039	REP	90-02-073	180-87-070	NEW	90-02-075	220-57-505	AMD-P	90-02-112
180-75-040	REP	90-02-073	180-87-080	NEW	90-02-075	220-57-515	AMD-P	90-02-112
180-75-042	REP	90-02-073	180-87-085	NEW	90-02-075	220-57-530	NEW-P	90-02-112
180-75-043	REP	90-02-073	180-87-090	NEW	90-02-075	220-57A-080	AMD-P	90-02-112
180-75-044	REP	90-02-073	180-87-095	NEW	90-02-075	220-57A-180	AMD-P	90-02-112
180-75-045	AMD	90-02-073	182-12-115	AMD-P	90-04-087	220-69-220	AMD	90-03-068
180-75-081	AMD	90-02-073	196-26-020	AMD	90-03-028	220-69-237	AMD	90-03-068
180-75-084	REP	90-02-073	196-26-020	AMD-E	90-04-010	220-69-238	AMD	90-03-068
180-75-086	REP	90-02-073	204-36-030	AMD-P	90-04-023	220-69-260	AMD	90-03-068
180-75-199	REP	90-02-073	204-36-040	AMD-P	90-04-023	220-69-264	AMD	90-03-068
180-78-191	AMD	90-02-074	204-36-050	AMD-P	90-04-023	220-140-001	NEW	90-04-026
180-78-191	AMD	90-02-104	204-36-060	AMD-P	90-04-023	220-140-010	NEW	90-04-026
180-78-192	REP	90-02-074	212-17-300	AMD-P	90-04-097	220-140-020	NEW	90-04-026
180-78-192	REP	90-02-104	212-17-305	AMD-P	90-04-097	220-140-030	NEW	90-04-026
180-78-193	REP	90-02-074	212-17-310	AMD-P	90-04-097	224-12-090	AMD-P	90-03-091
180-78-193	REP	90-02-104	212-17-315	AMD-P	90-04-097	230-02-010	AMD	90-03-064
180-78-194	REP	90-02-074	212-17-317	NEW-P	90-04-097	230-04-020	AMD	90-03-064
180-78-194	REP	90-02-104	212-17-325	AMD-P	90-04-097	230-04-190	AMD	90-03-064
180-78-195	REP	90-02-074	212-17-330	AMD-P	90-04-097	230-04-270	AMD	90-03-064
180-78-195	REP	90-02-104	212-17-335	AMD-P	90-04-097	230-50-012	AMD-P	90-03-060
180-78-197	REP	90-02-074	220-16-410	AMD	90-03-068	230-50-012	AMD-E	90-03-061
180-78-197	REP	90-02-104	220-16-420	NEW	90-03-068	230-60-010	AMD	90-03-064
180-78-198	REP	90-02-074	220-16-440	NEW-P	90-02-112	230-60-020	REP	90-03-064
180-78-198	REP	90-02-104	220-16-450	NEW-P	90-02-112	230-60-025	AMD	90-03-064
180-78-199	REP	90-02-074	220-20-020	AMD-P	90-02-111	232-12-011	AMD-P	90-04-098
180-78-199	REP	90-02-104	220-20-025	AMD-P	90-02-111	232-12-054	AMD	90-03-092
180-86-003	NEW	90-02-076	220-22-020	AMD	90-03-068	232-12-297	NEW-P	90-04-099
180-86-005	NEW	90-02-076	220-28-41303	NEW-E	90-02-065	232-28-022	NEW-P	90-04-100
180-86-010	NEW	90-02-076	220-32-05100X	REP-E	90-04-046	232-28-218	REP-P	90-04-100
180-86-012	NEW	90-02-076	220-32-05100Y	NEW-E	90-04-046	232-28-61728	NEW	90-02-070
180-86-015	NEW	90-02-076	220-32-05700E	NEW-E	90-03-006	232-28-61729	NEW	90-02-071
180-86-020	NEW	90-02-076	220-44-05000B	REP-E	90-04-047	232-28-61730	NEW-E	90-03-072
180-86-030	NEW	90-02-076	220-44-05000C	NEW-E	90-04-047	232-28-61802	NEW-E	90-02-067
180-86-035	NEW	90-02-076	220-52-07300H	NEW-E	90-03-067	232-28-61802	NEW-P	90-04-101
180-86-040	NEW	90-02-076	220-55-086	AMD	90-03-068	232-28-61803	NEW-E	90-02-068
180-86-050	NEW	90-02-076	220-55-150	NEW	90-03-068	232-28-61803	NEW-P	90-04-102
180-86-055	NEW	90-02-076	220-56-105	AMD-P	90-02-112	232-28-61804	NEW-E	90-02-069
180-86-065	NEW	90-02-076	220-56-115	AMD-P	90-02-112	232-28-61804	NEW-P	90-04-103
180-86-070	NEW	90-02-076	220-56-125	AMD-P	90-02-112	232-28-61805	NEW-E	90-02-066
180-86-075	NEW	90-02-076	220-56-126	AMD-P	90-02-112	232-28-61805	NEW-P	90-04-104
180-86-085	NEW	90-02-076	220-56-127	NEW-P	90-02-112	232-28-712	REP	90-03-083
180-86-090	NEW	90-02-076	220-56-128	AMD-P	90-02-112	232-28-713	NEW	90-03-083
180-86-095	NEW	90-02-076	220-56-160	AMD-P	90-02-112	232-28-811	REP-P	90-04-105
180-86-097	NEW	90-02-076	220-56-165	AMD-P	90-02-112	232-28-812	NEW-P	90-04-105
180-86-100	NEW	90-02-076	220-56-175	AMD-P	90-02-112	246-09-060	NEW-P	90-04-030
180-86-105	NEW	90-02-076	220-56-180	AMD-P	90-02-112	248-14-070	AMD-C	90-04-015
180-86-110	NEW	90-02-076	220-56-190	AMD-P	90-02-112	248-14-070	AMD	90-04-071
180-86-115	NEW	90-02-076	220-56-195	AMD-P	90-02-112	248-19-220	AMD	90-02-093
180-86-120	NEW	90-02-076	220-56-197	AMD-P	90-02-112	248-98-001	AMD-P	90-02-072
180-86-130	NEW	90-02-076	220-56-205	AMD-P	90-02-112	248-98-003	NEW-P	90-02-072
180-86-135	NEW	90-02-076	220-56-230	NEW-P	90-02-112	248-98-005	NEW-P	90-02-072
180-86-140	NEW	90-02-076	220-56-235	AMD-P	90-02-112	248-98-010	AMD-P	90-02-072
180-86-145	NEW	90-02-076	220-56-240	AMD-P	90-02-112	248-98-015	NEW-P	90-02-072
180-86-150	NEW	90-02-076	220-56-282	AMD-P	90-02-112	248-98-020	AMD-P	90-02-072
180-86-155	NEW	90-02-076	220-56-307	NEW-P	90-02-112	248-98-025	NEW-P	90-02-072
180-86-160	NEW	90-02-076	220-56-310	AMD-P	90-02-112	248-98-030	AMD-P	90-02-072
180-86-165	NEW	90-02-076	220-56-320	AMD-P	90-02-112	248-98-035	NEW-P	90-02-072
180-86-170	NEW	90-02-076	220-56-330	AMD-P	90-02-112	248-98-040	AMD-P	90-02-072
180-86-175	NEW	90-02-076	220-56-350	AMD-P	90-02-112	248-98-045	NEW-P	90-02-072
180-86-180	NEW	90-02-076	220-56-380	AMD-P	90-02-112	248-98-050	AMD-P	90-02-072
180-86-185	NEW	90-02-076	220-56-38000F	NEW-E	90-03-007	248-98-060	AMD-P	90-02-072
180-86-200	NEW	90-02-076	220-56-38000G	REP-E	90-03-027	248-98-080	AMD-P	90-02-072
180-87-001	NEW	90-02-075	220-56-38000G	NEW-E	90-03-027	248-98-085	NEW-P	90-02-072
180-87-003	NEW	90-02-075	220-56-38000G	REP-E	90-04-041	248-98-090	AMD-P	90-02-072

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
248-98-095	NEW-P	90-02-072	275-56-070	AMD	90-03-113	275-56-430	REP	90-03-113
248-98-098	NEW-P	90-02-072	275-56-075	AMD	90-03-113	275-56-435	REP	90-03-113
248-98-100	AMD-P	90-02-072	275-56-080	AMD	90-03-113	275-56-440	REP	90-03-113
248-98-102	NEW-P	90-02-072	275-56-085	AMD	90-03-113	275-56-445	AMD	90-03-113
248-98-104	NEW-P	90-02-072	275-56-087	NEW	90-03-113	275-56-450	REP	90-03-113
248-98-110	AMD-P	90-02-072	275-56-088	NEW	90-03-113	275-56-465	NEW	90-03-113
248-98-120	AMD-P	90-02-072	275-56-089	NEW	90-03-113	275-56-475	NEW	90-03-113
248-98-130	AMD-P	90-02-072	275-56-090	AMD	90-03-113	275-56-485	NEW	90-03-113
248-98-135	NEW-P	90-02-072	275-56-095	AMD	90-03-113	275-56-495	NEW	90-03-113
248-98-998	NEW-P	90-02-072	275-56-095	AMD-C	90-04-019	275-56-505	NEW	90-03-113
248-98-999	REP-P	90-02-072	275-56-095	AMD-W	90-04-069	275-56-515	NEW	90-03-113
248-100-016	AMD-P	90-02-095	275-56-100	AMD	90-03-113	284-12-010	REP	90-04-060
248-106-001	NEW	90-02-094	275-56-105	AMD	90-03-113	284-12-030	REP	90-04-060
248-106-010	NEW	90-02-094	275-56-110	AMD	90-03-113	284-12-040	REP	90-04-060
248-106-020	NEW	90-02-094	275-56-115	AMD	90-03-113	284-12-080	AMD	90-04-042
248-170-001	NEW	90-04-082	275-56-120	REP	90-03-113	284-17-121	NEW	90-04-060
248-170-020	NEW	90-04-082	275-56-125	REP	90-03-113	284-17-122	NEW	90-04-060
248-170-100	NEW	90-04-082	275-56-130	REP	90-03-113	284-17-123	NEW	90-04-060
248-170-130	NEW	90-04-082	275-56-135	AMD	90-03-113	284-55-010	REP-P	90-04-089
248-170-160	NEW	90-04-082	275-56-140	REP	90-03-113	284-55-020	REP-P	90-04-089
248-170-200	NEW	90-04-082	275-56-145	REP	90-03-113	284-55-030	REP-P	90-04-089
248-170-300	NEW	90-04-082	275-56-150	AMD	90-03-113	284-55-035	REP-P	90-04-089
248-170-320	NEW	90-04-082	275-56-155	REP	90-03-113	284-55-040	REP-P	90-04-089
248-180-010	NEW	90-03-052	275-56-160	REP	90-03-113	284-55-045	REP-P	90-04-089
248-180-020	NEW	90-03-052	275-56-165	REP	90-03-113	284-55-050	REP-P	90-04-089
248-554-030	AMD-C	90-04-016	275-56-170	AMD	90-03-113	284-55-060	REP-P	90-04-089
248-554-030	AMD	90-04-072	275-56-175	AMD	90-03-113	284-55-065	REP-P	90-04-089
250-20-001	AMD	90-04-067	275-56-180	AMD	90-03-113	284-55-067	REP-P	90-04-089
250-20-011	AMD	90-04-067	275-56-185	AMD	90-03-113	284-55-070	REP-P	90-04-089
250-20-015	AMD	90-04-067	275-56-190	REP	90-03-113	284-55-080	REP-P	90-04-089
250-20-021	AMD	90-04-067	275-56-195	AMD	90-03-113	284-55-090	REP-P	90-04-089
250-20-031	AMD	90-04-067	275-56-200	AMD	90-03-113	284-55-095	REP-P	90-04-089
250-20-037	NEW	90-04-067	275-56-205	AMD	90-03-113	284-55-115	REP-P	90-04-089
250-20-041	AMD	90-04-067	275-56-210	AMD	90-03-113	284-55-120	REP-P	90-04-089
250-20-051	AMD	90-04-067	275-56-215	AMD	90-03-113	284-55-125	REP-P	90-04-089
250-20-071	AMD	90-04-067	275-56-220	AMD	90-03-113	284-55-150	REP-P	90-04-089
250-69-010	NEW-P	90-04-068	275-56-225	AMD	90-03-113	284-55-155	REP-P	90-04-089
250-69-020	NEW-P	90-04-068	275-56-230	AMD	90-03-113	284-55-160	REP-P	90-04-089
250-69-030	NEW-P	90-04-068	275-56-235	AMD	90-03-113	284-55-165	REP-P	90-04-089
250-69-040	NEW-P	90-04-068	275-56-240	AMD	90-03-113	284-55-172	REP-P	90-04-089
250-69-050	NEW-P	90-04-068	275-56-245	AMD	90-03-113	284-55-177	REP-P	90-04-089
250-69-060	NEW-P	90-04-068	275-56-250	REP	90-03-113	284-55-180	REP-P	90-04-089
250-69-070	NEW-P	90-04-068	275-56-255	REP	90-03-113	284-55-185	REP-P	90-04-089
250-69-080	NEW-P	90-04-068	275-56-260	AMD	90-03-113	284-55-190	REP-P	90-04-089
250-69-090	NEW-P	90-04-068	275-56-265	REP	90-03-113	284-55-205	REP-P	90-04-089
250-69-100	NEW-P	90-04-068	275-56-270	REP	90-03-113	284-55-210	REP-P	90-04-089
250-69-110	NEW-P	90-04-068	275-56-275	AMD	90-03-113	284-66-010	NEW-P	90-04-089
275-16-055	AMD-C	90-04-019	275-56-280	REP	90-03-113	284-66-020	NEW-P	90-04-089
275-19-050	AMD-C	90-04-017	275-56-285	AMD	90-03-113	284-66-030	NEW-P	90-04-089
275-19-050	AMD	90-04-073	275-56-290	AMD	90-03-113	284-66-040	NEW-P	90-04-089
275-20-080	AMD-C	90-04-018	275-56-295	AMD	90-03-113	284-66-050	NEW-P	90-04-089
275-20-080	AMD	90-04-074	275-56-300	AMD	90-03-113	284-66-060	NEW-P	90-04-089
275-26-022	AMD-C	90-04-018	275-56-305	AMD	90-03-113	284-66-070	NEW-P	90-04-089
275-26-022	AMD	90-04-074	275-56-310	REP	90-03-113	284-66-080	NEW-P	90-04-089
275-27-500	AMD-C	90-04-018	275-56-315	REP	90-03-113	284-66-090	NEW-P	90-04-089
275-27-500	AMD	90-04-074	275-56-320	REP	90-03-113	284-66-100	NEW-P	90-04-089
275-36-310	AMD-C	90-04-018	275-56-325	REP	90-03-113	284-66-110	NEW-P	90-04-089
275-36-310	AMD	90-04-074	275-56-330	REP	90-03-113	284-66-120	NEW-P	90-04-089
275-38-960	AMD-C	90-04-018	275-56-335	AMD	90-03-113	284-66-130	NEW-P	90-04-089
275-38-960	AMD	90-04-074	275-56-340	AMD	90-03-113	284-66-140	NEW-P	90-04-089
275-56-005	AMD	90-03-113	275-56-345	REP	90-03-113	284-66-150	NEW-P	90-04-089
275-56-010	AMD	90-03-113	275-56-350	REP	90-03-113	284-66-160	NEW-P	90-04-089
275-56-015	AMD	90-03-113	275-56-355	AMD	90-03-113	284-66-170	NEW-P	90-04-089
275-56-016	NEW	90-03-113	275-56-360	REP	90-03-113	284-66-180	NEW-P	90-04-089
275-56-017	NEW	90-03-113	275-56-365	AMD	90-03-113	284-66-190	NEW-P	90-04-089
275-56-020	AMD	90-03-113	275-56-370	REP	90-03-113	284-66-200	NEW-P	90-04-089
275-56-025	AMD	90-03-113	275-56-375	REP	90-03-113	284-66-210	NEW-P	90-04-089
275-56-030	REP	90-03-113	275-56-380	REP	90-03-113	284-66-220	NEW-P	90-04-089
275-56-035	AMD	90-03-113	275-56-385	AMD	90-03-113	284-66-230	NEW-P	90-04-089
275-56-040	AMD	90-03-113	275-56-390	REP	90-03-113	284-66-240	NEW-P	90-04-089
275-56-042	NEW	90-03-113	275-56-395	REP	90-03-113	284-66-250	NEW-P	90-04-089
275-56-043	NEW	90-03-113	275-56-400	AMD	90-03-113	284-66-260	NEW-P	90-04-089
275-56-050	AMD	90-03-113	275-56-405	REP	90-03-113	284-66-270	NEW-P	90-04-089
275-56-055	AMD	90-03-113	275-56-410	REP	90-03-113	284-66-300	NEW-P	90-04-089
275-56-060	AMD	90-03-113	275-56-415	REP	90-03-113	284-66-310	NEW-P	90-04-089
275-56-065	AMD	90-03-113	275-56-420	REP	90-03-113	284-66-320	NEW-P	90-04-089
			275-56-425	AMD	90-03-113	284-66-330	NEW-P	90-04-089

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284-66-340	NEW-P	90-04-089	296-24-87007	REP-P	90-03-093	308-42-060	AMD-P	90-04-095
284-66-350	NEW-P	90-04-089	296-24-87009	AMD-P	90-03-093	308-42-145	AMD-P	90-04-095
284-66-400	NEW-P	90-04-089	296-24-87011	NEW-P	90-03-093	308-48-800	AMD-P	90-04-110
292-08-010	NEW-P	90-03-095	296-24-87013	NEW-P	90-03-093	308-50-295	AMD-W	90-03-069
292-08-020	NEW-P	90-03-095	296-24-87015	NEW-P	90-03-093	308-50-310	AMD-W	90-03-069
292-08-030	NEW-P	90-03-095	296-24-87017	NEW-P	90-03-093	308-50-440	AMD	90-04-094
292-08-040	NEW-P	90-03-095	296-24-87019	NEW-P	90-03-093	308-52-590	AMD-E	90-04-093
292-08-050	NEW-P	90-03-095	296-24-87031	NEW-P	90-03-093	308-54-315	AMD	90-04-094
292-12-010	NEW-P	90-03-095	296-24-87033	NEW-P	90-03-093	308-66-150	AMD-P	90-04-048
292-12-020	NEW-P	90-03-095	296-24-87035	NEW-P	90-03-093	308-66-152	NEW-P	90-04-048
292-12-030	NEW-P	90-03-095	296-24-87037	NEW-P	90-03-093	308-67-010	NEW	90-03-022
292-12-040	NEW-P	90-03-095	296-52-417	AMD	90-03-029	308-115-405	AMD	90-04-094
292-12-050	NEW-P	90-03-095	296-52-419	AMD	90-03-029	308-117-500	AMD	90-04-094
292-12-060	NEW-P	90-03-095	296-52-461	AMD	90-03-029	308-120-165	AMD	90-04-059
292-12-070	NEW-P	90-03-095	296-52-473	REP	90-03-029	308-120-275	AMD	90-04-094
292-12-080	NEW-P	90-03-095	296-52-477	AMD	90-03-029	308-120-620	NEW	90-04-059
292-12-090	NEW-P	90-03-095	296-52-481	AMD	90-03-029	308-122-275	AMD	90-04-094
292-12-110	NEW-P	90-03-095	296-52-509	AMD	90-03-029	308-124E-014	AMD-P	90-02-103
292-12-120	NEW-P	90-03-095	296-52-510	NEW	90-03-029	308-124H	AMD-P	90-02-102
292-12-130	NEW-P	90-03-095	296-54-569	AMD-P	90-03-093	308-124H-011	NEW-P	90-02-102
292-12-140	NEW-P	90-03-095	296-62-07007	REP-P	90-03-093	308-124H-020	REP-P	90-02-102
292-12-150	NEW-P	90-03-095	296-62-07107	AMD-P	90-03-093	308-124H-021	NEW-P	90-02-102
292-12-160	NEW-P	90-03-095	296-62-07314	AMD	90-03-029	308-124H-025	NEW-P	90-02-102
292-12-170	NEW-P	90-03-095	296-62-07507	AMD	90-03-029	308-124H-030	REP-P	90-02-102
292-12-180	NEW-P	90-03-095	296-62-07515	AMD	90-03-029	308-124H-033	REP-P	90-02-102
296-06-010	AMD-P	90-02-089	296-62-07517	AMD-P	90-03-093	308-124H-035	AMD-P	90-02-102
296-06-020	AMD-P	90-02-089	296-62-07521	AMD	90-03-029	308-124H-036	AMD-P	90-02-102
296-06-030	AMD-P	90-02-089	296-62-07531	AMD-P	90-03-093	308-124H-037	AMD-P	90-02-102
296-06-040	AMD-P	90-02-089	296-62-07540	AMD	90-03-029	308-124H-038	REP-P	90-02-102
296-06-080	AMD-P	90-02-089	296-62-07544	AMD	90-03-029	308-124H-040	REP-P	90-02-102
296-06-090	AMD-P	90-02-089	296-62-3110	AMD-P	90-03-093	308-124H-041	NEW-P	90-02-102
296-06-100	AMD-P	90-02-089	296-99-015	AMD	90-03-029	308-124H-043	REP-P	90-02-102
296-06-110	AMD-P	90-02-089	296-99-050	AMD	90-03-029	308-124H-045	REP-P	90-02-102
296-06-120	AMD-P	90-02-089	296-104-015	AMD-P	90-04-065	308-124H-050	REP-P	90-02-102
296-06-130	AMD-P	90-02-089	296-104-195	NEW	90-04-009	308-124H-051	NEW-P	90-02-102
296-06-140	AMD-P	90-02-089	296-104-200	AMD	90-04-009	308-124H-055	REP-P	90-02-102
296-06-150	AMD-P	90-02-089	296-116-185	AMD-P	90-03-096	308-124H-060	REP-P	90-02-102
296-06-170	AMD-P	90-02-089	296-116-300	AMD-P	90-03-097	308-124H-061	NEW-P	90-02-102
296-06-990	REP-P	90-02-089	296-155-225	AMD-P	90-03-093	308-124H-062	NEW-P	90-02-102
296-06-99001	REP-P	90-02-089	296-155-227	NEW-P	90-03-093	308-124H-065	REP-P	90-02-102
296-14-400	AMD	90-04-007	296-155-480	AMD-P	90-03-093	308-124H-070	REP-P	90-02-102
296-20-010	AMD	90-04-057	296-155-485	AMD	90-03-029	308-124I-010	NEW-P	90-02-102
296-20-01002	AMD	90-04-057	296-155-48533	AMD	90-03-029	308-124I-020	NEW-P	90-02-102
296-20-015	AMD	90-04-057	296-155-505	AMD	90-03-029	308-124I-030	NEW-P	90-02-102
296-20-02001	AMD	90-04-057	296-155-675	AMD	90-03-029	308-124I-040	NEW-P	90-02-102
296-20-02010	AMD	90-04-057	296-155-680	AMD	90-03-029	308-124I-050	NEW-P	90-02-102
296-20-022	AMD	90-04-057	296-155-690	AMD	90-03-029	308-124I-060	NEW-P	90-02-102
296-20-024	AMD	90-04-057	296-155-692	REP	90-03-029	308-124I-070	NEW-P	90-02-102
296-20-03001	AMD	90-04-057	296-155-694	AMD	90-03-029	308-124I-080	NEW-P	90-02-102
296-20-045	AMD	90-04-057	296-155-697	AMD	90-03-029	308-124I-090	NEW-P	90-02-102
296-20-075	AMD	90-04-057	296-155-725	AMD	90-03-029	308-124I-100	NEW-P	90-02-102
296-20-124	AMD	90-04-007	296-155-730	AMD	90-03-029	308-124I-110	NEW-P	90-02-102
296-20-680	AMD	90-04-007	296-350-030	AMD-P	90-03-093	308-124I-120	NEW-P	90-02-102
296-23A-150	AMD	90-04-057	308-11-030	AMD-P	90-03-107	308-124I-130	NEW-P	90-02-102
296-23A-170	AMD	90-04-057	308-12-326	AMD	90-03-032	308-124I-140	NEW-P	90-02-102
296-24-020	AMD	90-03-029	308-13-150	AMD	90-03-011	308-124J-010	NEW-P	90-02-102
296-24-102	NEW	90-03-029	308-20-107	AMD-P	90-03-018	308-124J-020	NEW-P	90-02-102
296-24-10203	NEW	90-03-029	308-20-140	AMD-P	90-03-018	308-124J-030	NEW-P	90-02-102
296-24-12009	AMD	90-03-029	308-20-155	AMD-P	90-03-018	308-124J-040	NEW-P	90-02-102
296-24-15001	AMD	90-03-029	308-20-210	AMD-P	90-03-018	308-124J-050	NEW-P	90-02-102
296-24-16507	AMD	90-03-029	308-25-065	AMD	90-04-094	308-124J-060	NEW-P	90-02-102
296-24-16515	AMD	90-03-029	308-29-045	AMD-P	90-03-107	308-124J-070	NEW-P	90-02-102
296-24-16517	AMD	90-03-029	308-30-030	AMD-P	90-03-107	308-124J-080	NEW-P	90-02-102
296-24-20503	AMD	90-03-029	308-30-040	AMD-P	90-03-107	308-127-010	REP-P	90-04-088
296-24-20700	AMD-P	90-03-093	308-30-050	AMD-P	90-03-107	308-127-020	REP-P	90-04-088
296-24-550	AMD	90-03-029	308-30-060	AMD-P	90-03-107	308-127-030	REP-P	90-04-088
296-24-58513	AMD	90-03-029	308-30-070	AMD-P	90-03-107	308-127-035	NEW-P	90-04-088
296-24-75009	AMD	90-03-029	308-30-080	AMD-P	90-03-107	308-127-040	AMD-P	90-04-088
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296-24-78007	AMD	90-03-029	308-30-100	AMD-P	90-03-107	308-127-105	NEW-P	90-04-088
296-24-81003	AMD	90-03-029	308-32-090	AMD-P	90-03-107	308-127-110	AMD-P	90-04-088
296-24-81005	AMD	90-03-029	308-33-105	AMD-P	90-03-107	308-127-120	AMD-P	90-04-088
296-24-82503	AMD	90-03-029	308-34-170	AMD	90-04-094	308-127-130	AMD-P	90-04-088
296-24-870	AMD-P	90-03-093	308-40-102	NEW-P	90-04-085	308-127-140	AMD-P	90-04-088
296-24-87001	AMD-P	90-03-093	308-40-125	AMD-E	90-04-083	308-127-155	REP-P	90-04-088
296-24-87003	REP-P	90-03-093	308-40-125	AMD	90-04-094	308-127-160	NEW-P	90-04-088
296-24-87005	REP-P	90-03-093	308-42-045	AMD-P	90-04-095	308-127-200	AMD-P	90-04-088

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308-127-300	AMD-P	90-04-088	316-55-710	NEW-P	90-03-039
308-128B-060	REP	90-03-098	316-55-730	NEW-P	90-03-039
308-128B-080	AMD	90-03-099	316-85-001	NEW-P	90-03-040
308-138-080	AMD	90-04-094	316-85-010	NEW-P	90-03-040
308-152-030	AMD	90-04-094	316-85-020	NEW-P	90-03-040
308-171-001	AMD-P	90-04-096	316-85-030	NEW-P	90-03-040
308-171-010	AMD-P	90-04-096	316-85-040	NEW-P	90-03-040
308-171-020	AMD-P	90-04-096	316-85-050	NEW-P	90-03-040
308-171-041	NEW-P	90-04-096	316-85-060	NEW-P	90-03-040
308-173-130	AMD	90-04-094	316-85-070	NEW-P	90-03-040
308-175-140	AMD	90-04-094	316-85-080	NEW-P	90-03-040
308-177-110	AMD	90-04-094	316-85-090	NEW-P	90-03-040
308-180-260	AMD	90-04-094	316-85-100	NEW-P	90-03-040
308-190-010	AMD	90-04-094	332-30-166	AMD	90-02-085
308-310-010	AMD	90-04-094	332-130-030	AMD-P	90-03-066
308-320-010	NEW	90-02-060	332-130-070	AMD-P	90-03-066
308-320-010	NEW-E	90-02-061	332-130-080	AMD-P	90-03-066
308-320-020	NEW	90-02-060	332-130-090	AMD-P	90-03-066
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308-320-040	NEW-E	90-02-061	352-32-010	AMD-P	90-04-108
308-320-050	NEW	90-02-060	352-32-045	AMD-P	90-04-108
308-320-050	NEW-E	90-02-061	352-32-050	AMD-P	90-04-108
308-320-060	NEW	90-02-060	352-32-235	AMD	90-04-025
308-320-060	NEW-E	90-02-061	352-32-250	AMD-P	90-04-108
308-320-070	NEW	90-02-060	352-32-25001	AMD-P	90-04-108
308-320-070	NEW-E	90-02-061	352-32-251	AMD	90-04-024
308-320-080	NEW	90-02-060	352-32-252	AMD-P	90-04-108
308-320-080	NEW-E	90-02-061	352-37-010	NEW-P	90-04-106
308-320-090	NEW	90-02-060	352-37-020	NEW-P	90-04-106
308-320-090	NEW-E	90-02-061	352-37-030	NEW-P	90-04-106
308-400-042	AMD	90-04-051	352-37-040	NEW-P	90-04-106
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315-11-541	NEW-P	90-03-109	352-37-160	NEW-P	90-04-106
315-11-542	NEW-P	90-03-109	352-37-170	NEW-P	90-04-106
315-33-010	NEW-P	90-03-109	352-37-180	NEW-P	90-04-106
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316-55-010	AMD-P	90-03-039	352-64-070	AMD	90-04-064
316-55-020	AMD-P	90-03-039	352-64-080	AMD	90-04-064
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316-55-050	AMD-P	90-03-039	352-66-020	NEW-P	90-04-107
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316-55-110	AMD-P	90-03-039	352-66-050	NEW-P	90-04-107
316-55-120	NEW-P	90-03-039	352-66-060	NEW-P	90-04-107
316-55-130	RE-AD-P	90-03-039	352-66-070	NEW-P	90-04-107
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316-55-160	AMD-P	90-03-039	352-66-090	NEW-P	90-04-107
316-55-170	RE-AD-P	90-03-039	352-66-100	NEW-P	90-04-107
316-55-500	AMD-P	90-03-039	352-66-110	NEW-P	90-04-107
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356-15-125	AMD-P	90-03-102	356-22-010	AMD-C	90-03-047
356-22-010	AMD-C	90-03-047	356-22-11001	REP-C	90-03-047
356-22-111	NEW-C	90-03-047	356-22-120	AMD-C	90-03-047
356-22-120	AMD-C	90-03-047	356-30-145	AMD-C	90-03-045
356-30-145	AMD-C	90-03-045	356-30-180	AMD-C	90-03-045
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356-30-280	AMD-C	90-03-045	356-30-280	AMD-C	90-03-045
356-30-320	AMD-C	90-03-045	356-34-110	REP-P	90-03-101
356-34-110	REP-P	90-03-101	356-34-113	REP-P	90-03-101
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388-08-00201	REP-C	90-04-020	388-08-00201	REP	90-04-076
388-08-00201	REP	90-04-076	388-08-00401	REP-C	90-04-020
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388-08-00601	REP	90-04-076	388-08-010	REP-C	90-04-020
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388-08-406	REP	90-04-076	388-13-080	REP-C	90-04-021	388-76-420	AMD	90-03-051
388-08-409	REP-C	90-04-020	388-13-080	REP	90-04-077	388-76-430	AMD	90-03-051
388-08-409	REP	90-04-076	388-13-110	AMD-C	90-04-021	388-76-435	NEW	90-03-051
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