

MARCH 21, 1990

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of March 1990 pursuant to RCW 19.52.020 is twelve point one five percent (12.15%).

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 fourteen point zero percent (14.0%) for the second 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 (14.00%) 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.

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.05 RCW) may be distinguished by the size and style of type in which they appear.

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

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

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

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

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

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one-hundred-twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1989 – 1990

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing on or after
89-14	Jun 7	Jun 21	Jul 5	Jul 19	Aug 8
89-15	Jun 21	Jul 5	Jul 19	Aug 2	Aug 22
89-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
89-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
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89-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
89-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
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89-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
89-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
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90-01	Nov 22	Dec 6	Dec 20, 1989	Jan 3, 1990	Jan 23
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90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
90-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 2, 1991

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

²A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

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

WSR 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, Tukwila, 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

NEW SECTION

**WAC 232-28-022 GAME MANAGEMENT UNITS (GMUS)
 - SPECIAL GAME AREAS - BOUNDARY DESCRIPTIONS**

REGION ONE

GMU 100-Curlew (Ferry and Okanogan counties): Beginning at Republic; then south along Highway 21 to the northern boundary of the Colville Indian Reservation; then east along the Reservation boundary to the Stall Creek Road, USFS #310; then north on #310 to USFS Road #250; then north to the Kettle Crest Trail #13; then north on Trail #13 to the Deer Creek-Boulder Creek Road; then west on the Deer Creek-Boulder Creek Road to the Kettle River at Curlew; then north along the Kettle River to the Canadian Border near Danville; then west along the border to the Kettle river near the Ferry Customs Office; then south along the Kettle River to the mouth of Toroda Creek and the Toroda Creek Road; then southwest along the Toroda Creek Road to Wauconda and Highway 20; then southeast on Highway 20 to Republic to the point of beginning. (See Colville National Forest map)

GMU 103-Boulder (Ferry County): Beginning at Lake Roosevelt at the mouth of the Kettle River; then south along Lake Roosevelt to the north boundary of the Colville Indian Reservation; then west along the

Reservation boundary to the Stall Creek Road, USFS Road #310; then north on #310 to USFS Road #250; then north on #250 to the Kettle Crest Trail #13; then north on Trail #13 to the Deer Creek Boulder Creek Road; then west on the Deer Creek-Boulder Creek Road to the Kettle River at Curlew; then north along the Kettle River to the Canadian Border near Danville; then east along the border to the Kettle River near Laurier then south along the Kettle River to its mouth to the point of beginning. (See Colville National Forest map)

GMU 105-Kelly Hill (Stevens County): Beginning at the Kettle River on the Canadian border near Laurier; then south along the Kettle River to its mouth at Lake Roosevelt; then northeast along Lake Roosevelt to the Canadian border; then west along the border to the Kettle River near Laurier to the point of beginning. (See Colville National Forest map)

GMU 108-Douglas (Stevens County): Beginning at the bridge over Lake Roosevelt near Northport; then southwest along Lake Roosevelt to the bridge over Lake Roosevelt near Kettle Falls (Highway 395); then south east on Highway 395 into Colville and Highway 20; then east on Highway 20 the edge of town and the Colville-Aladdin-Northport Road; then north and west on the Colville-Aladdin-Northport Road to the town of Northport and Highway 25; then through town to the Lake Roosevelt bridge to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 111-Aladdin (Stevens and Pend Oreille counties): Beginning at Lake Roosevelt at the Canadian Border; then south along Lake Roosevelt to the bridge over the lake near Northport (Highway 25); then into Northport on Highway 25 to the Colville-Aladdin-Northport Road; then east and south along the Colville-Aladdin-Northport Road to Highway 20 near Colville; then east on Highway 20 to the Pend Oreille River near Tiger; then north along the Pend Oreille river to the Canadian border; then west along the border to Lake Roosevelt to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 113-Selkirk (Pend Oreille County): Beginning on the Pend Oreille River at the Canadian border; then south along the Pend Oreille River to the Idaho border near Newport; then north along the Idaho-Washington border to the Canadian border; then west along the Canadian border to the Pend Oreille River to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map)

GMU 118-Chewelah (Stevens and Pend Oreille counties): Beginning at Colville; then east on Highway 20 to the Pend Oreille River near Tiger; then south along the Pend Oreille River to the bridge over the river at Usk; then west on the McKenzie Road to the West Side Calispell Road and the Flowery Trail Road; then west on the Flowery Trail Road to Chewelah and Highway 395; then north on Highway 395 to Colville to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 119-Boyer (Stevens and Pend Oreille counties): Beginning on the Pend Oreille River at the bridge near Usk; then west on the McKenzie Road to the Westside Calispell Road and the Flowery Trail Road; then west on the Flowery Trail Road to Chewelah and Highway 395; then south on Highway 395 to Highway 231; then south on Highway 231 to Springdale; then east on Highway 292 to Highway 395 at Loon Lake; then south on Highway 395 to Deer Park; then east on the Deer Park-Milan Road to Highway 2, then northeast on Highway 2 to the Idaho border at Newport; then north along the Idaho border to the Pend Oreille River; then north along the Pend Oreille River to the bridge at Usk and point of beginning. (See Washington Atlas & Gazetteer)

GMU 121-Huckleberry (Stevens County): Beginning at the bridge over Lake Roosevelt near Kettle Falls; then south on Highway 395 to Highway 231; then south on Highway 231 to the northeast corner of the Spokane Indian Reservation; then west along the north boundary of the Reservation to Lake Roosevelt; then north along Lake Roosevelt to the Highway 395 bridge near Kettle Falls to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 124-Mount Spokane (Spokane, Stevens and Pend Oreille counties): Beginning at the Idaho-Washington border at Newport; then south on Highway 2 to the Deer Park-Milan Road; then west on the Deer Park-Milan Road to Deer Park and Highway 395; then north on Highway 395 to Highway 292 at Loon Lake; then west on Highway 292 to Springdale and Highway 231; then south on Highway 231 to the northeast boundary of the Spokane Indian Reservation; then south along the east boundary of the Indian Reservation (Chamokane Creek)

to the Spokane River; then east along the Spokane River to the Washington-Idaho border; then north along the border to Newport and point of beginning. (See Washington Atlas & Gazetteer)

GMU 127-Mica Peak (Spokane County): Beginning at Spokane; then south along State Highway 195 to the Spokane-Whitman County line; then east along Spokane-Whitman County line to the Washington-Idaho line; then north along the Washington-Idaho line to the Spokane River; then west along the Spokane River to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 130-Cheney (Spokane and Lincoln counties): Beginning at Spokane; then south along State Highway 195 to the Spokane-Whitman County line; then west along the north boundary of Whitman and Adams counties to U.S. Highway No. 395; then north-east along U.S. Highway 395 to Sprague; then north along State Highway No. 231 to its junction with U.S. Highway No. 2; then east along U.S. Highway No. 2 to Reardan; then north along state Highway No. 231 to the Spokane River; then up the Spokane River to Spokane to the point of beginning. (See Washington Atlas & Gazetteer)

GMU 133-Roosevelt (Lincoln County): Beginning at Reardan; then north along State Highway 231 to the Spokane River; then west along the Spokane River to Lake Roosevelt; then west along Lake Roosevelt to Coulee Dam; then southeast on State Highway 174 to Wilbur and U.S. Highway 2; then east along Highway 2 to Reardan and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 136-Harrington (Lincoln County): Beginning at the town of Grand Coulee; then southeast along State Highway No. 174 to its junction with U.S. Highway No. 2 at Wilbur; then east along U.S. Highway No. 2 to its junction with U.S. Highway No. 231 three miles west of Reardan; then south along Highway No. 231 to its junction with U.S. Highway No. 395; then southwest along U.S. Highway No. 395 to the Adams County line at Sprague Lake; then west along the Adams-Lincoln County line to the Grant County line; then north along the Grant-Lincoln County line to Grand Coulee and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 139-Steptoe (Whitman County): Beginning at Colfax; then west along State Highway 127 to Dusty and continuing west along State Highway No. 26 through LaCrosse to the west Whitman County line (Palouse River); then north along the west Whitman County line, east along the north Whitman County line and south along the east Whitman County line to the Moscow-Pullman Highway; then west along the Moscow-Pullman-Colfax Highway to Colfax and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 142-Almota (Whitman County): Beginning at Clarkston; then down the Snake River to the mouth of the Palouse River; then up the Palouse River to the Washtucna-LaCrosse Highway (State Highway No. 26); then east along the highway through LaCrosse to State Highway 127 to Dusty; then continuing east along State Highway 127 to Colfax; then southeast along the Colfax-Pullman-Moscow Highway to the Washington-Idaho line; then south along the state line to Clarkston and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 145-Mayview (Garfield and Asotin counties): Beginning at the mouth of Alpowa Creek and its junction with U.S. Highway No. 12; then west along U.S. Highway No. 12 to its junction with State Highway 127 (Central Ferry Highway); then north along the Highway to the Snake River; then east up the Snake River to the mouth of Alpowa Creek and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 148-Starbuck (Walla Walla, Columbia, and Garfield counties): Beginning at Central Ferry; then south along State Highway No. 127 to Dodge Junction; then southwest along U.S. Highway No. 12 to the town of Waitsburg and the Touchet River; then west along the river to its junction with the Ayer Road at Harsha; then north along the Ayer Road to the Snake River at Ayer; then east along the Snake River to Central Ferry and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 151-Eureka (Walla Walla County): Beginning at the Washington-Oregon State line on the Columbia River (near Wallula Junction); then north up the Columbia River to the Snake River; then northeast up the Snake River to Ayer; then south along the Ayer Road to State Highway No. 124 and the Touchet River at Harsha; then east

up the river to Waitsburg and U.S. Highway 12; then southwest along Highway 12 to Walla Walla and State Highway No. 125; then south along State Highway No. 125 to the Washington-Oregon State line; then west along the state line to the Columbia River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 154-Blue Creek (Walla Walla and Columbia counties): Beginning at the Washington-Oregon State line on State Highway No. 125 (south of Walla Walla); then north along State Highway No. 125 to U.S. Highway No. 12; then northeast along Highway 12 to the Payne Hollow Road at Long Station; then south along the Payne Hollow-Jasper Mountain-Mt. Pleasant Road to the Lewis Peak Road; then south along the Lewis Peak Road to its termination at the Mill Creek Watershed Intake Trail; then southwest along the trail to the Washington-Oregon State line; then west along the state line to State Highway No. 125 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 157-Watershed, Mill Creek Watershed area (Walla Walla, Columbia counties): Starting at the Mill Creek Watershed Intake Trail (No. 3211) on the Washington-Oregon State line; then northeast along the Intake Trail to the Skyline Drive Road (No. 64); then south along the road to the Washington-Oregon State line; then due west to the point of beginning. (See Umatilla Forest map)

GMU 160-Touchet (Walla Walla, and Columbia counties): Beginning at Dayton; then south along the North Touchet River Road to its junction with the Skyline Drive Road at Manila Springs; then southwest along the Skyline Road to its junction with the Mill Creek Watershed Intake Trail (No. 3211); then west along the Intake Trail to the Lewis Peak Trail; then north along the Lewis Peak-Mt. Pleasant-Jasper Mountain-Payne Hollow Road to U.S. Highway 12 at Long Station; then north along said highway to Dayton and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 161-Eckler (Columbia County): Beginning at Dayton; then east along the Patit Creek Road to its junction with the Hartsock-Maloney Mountain Road; then south and west along the Maloney Mountain Road (No. 4625) to the Skyline Drive Road (No. 46); then south along the Skyline Drive Road to its junction with the North Touchet River Road at Manila Springs; then north along the North Touchet River Road to Dayton and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 163-Marengo (Columbia, and Garfield counties): Beginning at Dayton; then east along the Main Patit Road to its junction with the Hartsock-Maloney Mountain Road; then north down the Hartsock Grade Road to the Tucannon Road; then south along the Tucannon Road to the Blind Grade Road; then east up the Blind Grade Road to the Linville Gulch Road; then north down the Linville Gulch Road to U.S. Highway No. 12; then west and south along Highway 12 to Dayton and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 166-Tucannon (Columbia, and Garfield counties): Beginning on the Tucannon River Road at its junction with the Hartsock Grade Road; then south up the Hartsock Grade Road to its junction with the Maloney Mountain Road; then southwest along the Maloney Mountain Road (No. 4625) to the Skyline Drive Road (No. 46); then south along the Skyline Drive Road to its junction with the Teepee Road (No. 4608); then east along the Teepee Road to Teepee Camp; then east along the Teepee Oregon Butte-Bullfrog Springs Diamond Peak Trail to Diamond Peak; then east along the Diamond Peak Road (No. 4030) to the Mountain Road (No. 40); then north along the Mountain Road to its junction with the elk drift fence at the Forest Boundary; then north and west along the fence to the Tucannon Road; then north along the Tucannon Road to the Hartsock Grade Road and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 169-Wenaha (Columbia, Garfield and Asotin counties): Beginning on the Skyline Drive Road at the Washington-Oregon State line; then north along the road to Godman Springs and the Teepee Road (No. 4608); then east along the Teepee Road to Teepee Camp; then east along the Teepee Oregon Butte-Bullfrog Springs Diamond Peak Trail to Diamond Peak; then east on the Diamond Peak Road (No. 4030) to the Mountain Road (No. 40); then south along the Mountain Road to the South Boundary Road (No. 4039); then west along the road to the Three Forks Trail (No. 3133); then west down said trail to Crooked Creek; then south on Crooked Creek to the Washington-

Oregon State line; then due west along the line to Skyline Road and the point of beginning. (See Umatilla National Forest map)

GMU 172—Mountview (Garfield and Asotin counties): Beginning at the junction of State Highway 129 and Mill Road at Anatone; then southwest on the Mill Road & Bennett Ridge Road—West Mountain Road (No. 1290) to the Big Butte—Mt. Misery Road (No. 4304); then west along the road to the Mountain Road (No. 40); then south on the road to the South Boundary Road (No. 4039); west along the South Boundary Road to the Three Forks Trail (No. 3133); then down said trail to Crooked Creek; then down the creek to the Washington—Oregon State line; then east along the line to State Highway No. 129; then north on Highway 129 to Anatone and the point of beginning. (See Washington Atlas & Gazetteer and Umatilla National Forest map)

GMU 175—Lick Creek (Garfield and Asotin counties): Beginning at the junction of the Mountain Road (No. 40) and National Forest Boundary (south of Pomeroy); then south along the Mountain Road to its junction with the Wenatchee Guard Station—Anatone Road; then east along the road to the National Forest Boundary at Big Butte; then northwest along the boundary fence to the Cloverland—Wenatchee Guard Station Road; then northeast along the Cloverland Road to the Campbell Grade Road; then down the Campbell Grade Road to the South Fork Asotin Creek Road; then down South Fork Asotin Creek Road to Asotin Creek; then down Asotin Creek to Charley Creek; then up Charley Creek to the elk drift fence; then west along the elk fence to its junction with the Mountain Road (No. 40) and the point of beginning. (See Umatilla National Forest map)

GMU 178—Peola (Garfield and Asotin counties): Beginning on the Snake River at the mouth of Asotin Creek; then up Asotin Creek to Charley Creek; then up Charley Creek to the elk drift fence; then northwest along the fence to the Tucannon Road; then down the Tucannon Road to the Blind Grade Road; then up Blind Grade to the Linville Gulch Road; then down the Linville Gulch Road to U.S. Highway No. 12; then east along Highway 12 to the mouth of Alpowa Creek on the Snake River; then up the Snake River to the mouth of Asotin Creek and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 181—Couse (Asotin County): Beginning at the mouth of Asotin Creek on the Snake River; then south along the Snake River to the Grande Ronde River; then west up the Grande Ronde River to State Highway No. 129; then northeast along Highway 129 to Anatone; then west and south along the Mill Road—Bennett Ridge Road—West Mountain Road to the National Forest Boundary at Big Butte (Road No. 4304); then northwest along the Forest Boundary fence to the Cloverland Road; then northeast on that road to the Campbell Grade Road; then down that road to the South Fork Asotin Creek Road; then down that road to Asotin Creek; then down Asotin Creek to the Snake River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 184—Joseph (Asotin County): Beginning at the mouth of the Grande Ronde River; then west along the river to the mouth of Joseph Creek; then south up Joseph Creek to the first Joseph Creek bridge and the Joseph Creek Road; then south up said road to the Washington—Oregon State line; then east along the line to the Snake River; then north down the Snake River to the Grande Ronde River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 185—Black Butte (Asotin County): Beginning at State Highway No. 129 on the Washington—Oregon State line; then north along Highway 129 to the Grande Ronde River; then east down the river to the mouth of Joseph Creek; then south up Joseph Creek to the first Joseph Creek bridge and the Joseph Creek Road; then south up said road to the Washington—Oregon State line; then west along the line to State Highway No. 129 and the point of beginning. (See Washington Atlas & Gazetteer)

REGION TWO

GMU 200—Tunk (Okanogan and Ferry counties): Beginning at Tonasket, then south along the Okanogan River to the north boundary of the Colville Indian Reservation, then east along the Reservation boundary to State Route 21 south of Republic, then north along State Route 21 to Republic and State Route 20, then west along State Route 20 to Tonasket to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 203—Pasayten (Okanogan and Whatcom counties): Beginning at the eastern boundary of the Pasayten Wilderness and its junction with the Canadian border, then south along the wilderness boundary to Trail #341, then west along Trail #341 to the Iron Gate Road and Trail #343, then west along Trail #343 to its junction with the Pasayten Wilderness boundary, then west along the wilderness boundary to the Hidden Lakes Trail (#477) then west along Hidden Lakes Trail to Drake Creek, then southwest down Drake Creek and the Lost River to the Pasayten Wilderness boundary and the Robinson Creek Trail #478, then north up the Robinson Creek Trail to the junction of the Ferguson Lake Trail, then west to Silver Lake, then west to the West Fork Trail crossing of the West Fork of the Pasayten River, then west to Oregon Basin and the Pasayten Wilderness boundary, then west and north along the boundary to the Canadian border, then east along the border to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 206—Bonaparte (Okanogan and Ferry counties): Beginning at the town of Tonasket, then north along the Okanogan River and the east shore of Osoyoos Lake to the Canadian border, then east along the Canadian border to the Kettle River near the Ferry Customs office, then south along the Kettle River to the mouth of Toroda Creek, then southwest along Toroda Creek to Toroda Creek Road (#502 and #9495), then southwest along Toroda Creek Road to its junction with State Route 20 at Wauconda, then west along State Route 20 to Tonasket and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 209—Wannacut (Okanogan County): Beginning at the Canadian border on Lake Osoyoos, then south along the west shore of Lake Osoyoos and the Okanogan River to the bridge at Tonasket, then south on County Road #7 (#9437) to the North Pine Creek—Aeneas Lake Road (#9400) junction, then southwest on that road to the Horse Springs Coulee Road (#4371) junction, then northwest on that road to the Loomis—Nighthawk Highway (#9425) junction near Spectacle Lake, then west on Loomis—Nighthawk Highway to Loomis, then north on the Loomis—Nighthawk Highway (#9425) past Palmer Lake to the Canadian border station near Nighthawk, then east on the U.S.—Canada boundary to Lake Osoyoos and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 215—Sinlahekin (Okanogan County): Beginning at the Canadian border station near Nighthawk, then south through Nighthawk and past Palmer Lake on the Nighthawk—Loomis Highway (#9425) to Loomis, then east on the Loomis—Tonasket Highway (#9425) to the Horse Springs Coulee Road (#4371) junction near Spectacle Lake, then south on that road to the North Pine Creek—Aeneas Lake Road (#9400), then east on that road to the Okanogan River, then south along the Okanogan River to the town of Riverside, then north on U.S. Highway 97 to its junction with the South Pine Creek Road (#9410), then west on South Pine Creek Road to its junction with the Conconully—Loomis Road (#4015), then south on Road #4015 to Conconully, then north on the North Fork Salmon Creek Road (#2361, Road 38 and 2820) over Lone Frank Pass to the junction with Road #39, then north on Road #39 to Long Swamp, then east along the Middle Fork Toats Coulee Road (#39) to the junction with the Iron Gate Road (#500), then northwest along the Iron Gate Road to its end, then north and east along trails #533 and #341 to the Pasayten Wilderness boundary, then north along that boundary to the Canadian border, then east along the border to the Nighthawk border station and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 218—Chewuch (Okanogan County): Beginning at the junction of the Iron Gate Road (#500) and the Pasayten Wilderness boundary, then southeast on the Iron Gate Road to the Middle Fork Toats Coulee Creek Road (#39), then west and south on the Middle Fork Toats Coulee Creek Road past Long Swamp to the Boulder Creek Road (#37), then southwest down Boulder Creek Road to the East Chewuch River Road (#9137) then south to Winthrop and State Route 20, then northwest on State Route 20 to the Okanogan County line, then northwest along the Okanogan County line through Harts Pass to Oregon Basin, then east to Silver Lake, then due east to the intersection of Ferguson Lake Trail and Middle Fork Trail #478, then south on Trail #478 to the Pasayten Wilderness boundary, then northeast along that boundary to Lost River, then northeast up Lost River and Drake Creek to Hidden Lake Trail #477, then east along Trail #477 to the Pasayten Wilderness boundary at Eight—Mile Pass, then east along the wilderness boundary to its junction with Trail #342 near Hicky Hump, then north along Trail #342 to its junction with Trail

#343 at Two Bear camp, then east along Trail #343 to the Iron Gate Road to the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 224-Pearrygin (Okanogan County): Beginning at the town of Conconully, then north along County Road 2361, and the N. Fork Salmon Creek Road (#38) to its junction with Road 39, SW along Road 39 to the Boulder Creek Road (#37), then southwest along the Boulder Creek Road to the East Chewuch River Road (#9137), then south down the East Chewuch River Road to Winthrop, then south and east along State Route 20 to the Loup Loup summit, then north along the North Summit Road (#42) and County Road 2017 to Conconully and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 231-Gardner (Okanogan County): Beginning at the town of Twisp, then northwest along State Route 20 to the Okanogan County line, then south along the county line to Copper Pass and the North Fork Twisp River Trail #426, then southeast along Trail #426 to the Twisp River Road, then southeast along the Twisp River Road to the town of Twisp and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 233-Pogue (Okanogan County): Beginning at the town of Riverside, then north along U.S. Highway 97 to the South Pine Creek Road (#9410), then west on South Pine Creek Road to the Conconully-Loomis Road (#4015), then south along Road #4015 to Conconully, then south along County Road 2017 and the North Summit Road (#42) to State Route 20 near Loup Loup summit, then east on State Route 20 to the town of Okanogan and the Okanogan River, then north up the Okanogan River to Riverside and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 239-Chiliwist (Okanogan County): Beginning at the town of Okanogan, then west on State Route 20 to State Route 153, then south along State Route 153 to Pateros and the Columbia River, then north up the Columbia and Okanogan rivers to Okanogan and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 242-Alta (Okanogan County): Beginning at Pateros, then northwest on State Route 153 to Twisp, then west on the Twisp River Road (County Road 9114 and Forest Road #4440) to Roads End Campground, then northwest on the North Fork Twisp River Trail #426 to Copper Pass and the Okanogan County line, then southeast along the county line to the junction of South Fork Gold Creek Road (#4330) and the South Navarre Road (#8200), then southeast along Road (#8020) to the Antoine Creek Road (#8140), then southeast along Road (#8140) to U.S. Highway 97, then north on U.S. Highway 97 to Wells Dam, then upriver to Pateros and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 248-Big Bend (Douglas and Grant counties): Beginning at Mansfield; then west along State Route 172 to Road B N.E.; then north on B N.E. and the West Foster Creek Road to State Route 17; then east along State Route 17 to the Chalk Hills Road (Road K N.W.); then north along the Chalk Hills Road (K & L N.E.) to Road 28 N.E.; then north along Road L N.E. for 4 miles to the east boundary of Range 26 E; then north to the Columbia River; then up the Columbia River to Grand Coulee Dam; then south along the Feeder Canal and the west side of Banks Lake to a point due east from Road 9 N.E.; then west from that point and along Road 9 N.E. through Mold to State Route 17; then north along State Route 17 to Sim's Corner (Jct. State Routes 17 & 172); then west on State Route 172 to Mansfield and the point of beginning. (See official road map of Douglas County)

GMU 254-Saint Andrews (Douglas and Grant counties): Beginning at Sim's Corner (Jct. of State Routes 17 and 172); then south on State Route 17 to Road 9 N.E.; then east on Road 9 N.E. (through Mold) to a point due east on the west shore of Banks Lake; then south along the west shore of Banks Lake to State Route 2; then west along State Route 2 to State Route 172; then north and east along State Route 172 through Mansfield to Sim's Corner and the point of beginning. (See official road map of Douglas County)

GMU 260-Foster Creek (Douglas County): Beginning at Bridgeport; then down the Columbia River to Bonita Flat; then east along the Bonita Flat Road to the town site of Dyer; then south along the Dyer Hill Road and the N. Division Road to Road 20 N.E.; then east along Road 20 N.E. (Dyer Hill Rd.) to the W. Foster Creek Rd.; then north along the West Foster Creek Road to State Route 17; then east along

State Route 17 to the Chalk Hills Road (K N.E.); then north along the Chalk Hills Road (K & L N.E.) to Road 28 N.E.; then north along Road L N.E. for 4 miles to the east boundary of Range 26 E.; then north to the Columbia River; then down the Columbia River to Bridgeport and the point of beginning. (See official road map of Douglas County)

GMU 262-Withrow (Douglas County): Beginning at Orondo; then up the Columbia River to the Bonita Flat Road; then east along the Bonita Flat Road to the town site of Dyer; then south along the Dyer Hill Road and the N. Division Road to Road 20 N.E. (Dyer Hill Rd.); then east along Road 20 N.E. to Road B N.E. (W. Foster Ck. Rd.); then south on Road B N.E. to State Route 172; then west and south on State Route 172 to State Route 2; then west along State Route 2 to Orondo and the point of beginning. (See official road map of Douglas County)

GMU 266-Badger (Douglas County): Beginning at Orondo; then down the Columbia River to the Rock Island Grade Road (includes Turtle Rock Island); then north along the Rock Island Grade Road to the Titchenal Canyon Road; then northeast along the Titchenal Canyon Road to the Alstown Road; then east to Alstown; then north and east along the Alstown Road to Road K S.W.; then north along Road K to State Route 2; then west along State Route 2 to Orondo and the point of beginning. (See official road map of Douglas County)

GMU 269-Moses Coulee (Douglas and Grant counties): Beginning near Rock Island Dam at the junction of State Route 28 and the Rock Island Grade Road; then north along the Rock Island Grade Road to the Titchenal Canyon Road; then northeast along the Titchenal Canyon Road to the Alstown Road; then east to Alstown; then north and east along the Alstown Road to Road K S.W.; then north along Road K to State Route 2; then east along State Route 2 to the Moses Coulee Road; then south along the Moses Coulee Road to the Grant & Douglas County line; then south along the Sagebrush Flat Road to Road J N.W.; then south along Road J N.W. to the Overen Road (Road 20 N.W.); then west along the Overen Road to the Baird Springs Road; then southwest along the Baird Springs Road across State Route 28 to the Crescent Bar Road; then south along the Crescent Bar Road to the Columbia River; then up the Columbia River to the Rock Island Grade Road and the point of beginning. (See official road maps of Douglas and Grant counties)

GMU 272-Beezley (Grant and Douglas counties): Beginning at the town of Grand Coulee, then southwest along the west shore of Banks Lake to State Route 2, then west along State Route 2 to Moses Coulee Road, then south along Moses Coulee Road to the Grant-Douglas County line; then south along the Sagebrush Flats Road to Road J N.W.; then south along Road J N.W. to the Overen Road, (Road 20 N.W.); then west along the Overen Road to the Baird Springs Road, then southwest along Baird Springs Road across State Route 28 to the Crescent Bar Road, then southwest along Crescent Bar Road to the Columbia River, then down the Columbia River to Interstate 90, then northeast along Interstate 90 to the Beverly Burke Road (Road R S.W.), then south along Beverly Burke Road to Frenchman Hills Road, then east along Frenchman Hills Road to O'Sullivan Dam Road, then east along O'Sullivan Dam Road to State Route 17, then south along State Route 17 to the Grant-Adams County line (Road 12 S.E.), then east and north along the Grant County line to the town of Grand Coulee and the point of beginning. (See official road maps of Grant and Douglas counties)

GMU 278-Wahluk (Grant and Adams counties): Beginning at the Columbia River at Interstate 90, then northeast along Interstate 90 to the Beverly Burke Road (Road R S.W.); then south along Beverly Burke Road to Frenchman Hills Road; then east along Frenchman Hills Road to O'Sullivan Dam Road; then east along O'Sullivan Dam Road to State Route 17, then south along State Route 17 to State Route 26; then east along State Route 26 to State Route 24 at Othello; then south and west along State Route 24 to the Columbia River at Vernita Bridge; then up the Columbia River to Interstate 90 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 281-Ringold (Franklin, Adams, and Grant counties): Beginning at the Columbia River and U.S. Highway 395 at Pasco, then up the Columbia River (including all islands) to State Route 24 at Vernita Bridge; then east and north along State Route 24 to State Route 26 at Othello; then east along State Route 26 to State Route 17; then south along State Route 17 to U.S. Highway 395; then south along U.S.

Highway 395 to the Columbia River at Pasco and the point of beginning. The Hanford Nuclear Site and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry. (See Washington Atlas & Gazetteer)

GMU 284-Kahlotus (Adams and Franklin counties): Beginning at the Columbia River and U.S. Highway 395 at Pasco; then north along U.S. Highway 395 to State Route 17; then north along State Route 17 to the Grant & Adams County line (Road 12 S.E.); then east and north along the Grant & Adams County line to the Lincoln County line; then east along the Adams-Lincoln County line to the Whitman County line; then south along the Adams-Whitman County line to the Palouse River; then down the Palouse River to the Snake River; then down the Snake River to the Columbia River; then up the Columbia River to U.S. Highway 395 and the point of beginning. (See Washington Atlas & Gazetteer)

REGION THREE

GMU 300-Manson (Chelan County): Beginning at the town of Chelan; then down the Chelan River Gorge to the Columbia River; then north along the Columbia River to Wells Dam; then southwest along Highway 97 to the Antoine Creek Road (USFS #8140); then west along Antoine Creek Road to Forest Road #8020 near Cooper Mountain; then northwest along Road #8020 to junction of Road #4330 near Fox Peak; then northwest along the ridge separating the Chelan and Methow-Twisp drainages (Sawtooth Ridge) to McAlester Mountain; then southeast along the ridge between Rainbow Creek and Boulder Creek to the Stehekin River; then south along Lake Chelan shore to the town of Chelan to the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 301-Clark (Chelan County): That portion of Chelan County that lies within the Glacier Peak Wilderness Area and that portion of the Lake Chelan National Recreation Area west of McAlester Mountain and running southwest along the ridge between Rainbow Creek and Boulder Creek to the Stehekin River; then continuing south along Lake Chelan to the south boundary of the National Recreation Area. (See Wenatchee National Forest Recreation map)

GMU 302-Alpine (Kittitas and Chelan counties): Those lands within Kittitas and Chelan counties east of the Pacific Crest Trail that lie within the Alpine Lakes Wilderness Area. (See Wenatchee National Forest Recreation map)

GMU 304-Chiwawa (Chelan County): Beginning at Coles Corner on Highway 2; then north along Highway 207 to Highway 209 near Lake Wenatchee; then south on Highway 209 to the Eagle Creek Road #7520; then northeast on Road #7520 to French Corral and Forest Road #5800; then east along Roads #5800 and #5700 to the Entiat River near Ardenvoir; then north along the Entiat River to the Glacier Peak Wilderness Boundary; then south and west along the Glacier Peak Wilderness Boundary to the Pacific Crest Trail; then south to Highway 2 at Stevens Pass; then east on Highway 2 to Coles Corner. (See Wenatchee National Forest Recreation map)

GMU 306-Slide Ridge (Chelan County): Beginning on the Entiat River at the Glacier Peak Wilderness Boundary (near the mouth of Larch Lakes Creek); then south along the Entiat River to the mouth of Fox Creek; then east on Fox Creek to Fourmile Ridge Trail #1445; then east on Trails #1445 and #1448 to the Slide Ridge Road #8410 at Stormy Mountain; then north on Road #8410 to Twenty-five Mile Creek; then north on Twenty-five Mile Creek to Lake Chelan; then north and west along the south shore of Lake Chelan to the Lake Chelan National Recreation Area Boundary near Riddle Creek; then south and west along the Recreation Area and Glacier Peak Wilderness Boundaries to the Entiat River. (See Wenatchee National Forest Recreation map)

GMU 308-Entiat (Chelan County): Beginning at the mouth of the Entiat River near the town of Entiat; then northwest along the Entiat River to the mouth of Fox Creek; then east along Fox Creek to the Fourmile Ridge Trail #1445 then east along Trail #1445 and #1448 to the Slide Ridge Road #8410 at Stormy Mountain; then north along Road #8410 to Twenty-five Mile Creek; then north along Twenty-five Mile Creek to Lake Chelan; then southeast along Lake Chelan and the Chelan River Gorge to the Columbia River; then southwest along the Columbia River to the mouth of the Entiat River. (See Wenatchee National Forest Recreation map)

GMU 314-Mission (Kittitas and Chelan counties): Beginning at the mouth of the Colockum Creek on the Columbia River; then west along Colockum Creek and the Colockum Pass Road (#10) to the Naneum Ridge Road (#9); then northwest along Naneum Ridge Road and Mission Ridge to the Liberty-Beehive Road #9712; then northwest along Road #9712 to Road #9716; then north along Road #9716 to Highway 97 at Swauk Pass; then northwest along the Kittitas-Chelan County line and Trail #1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak, then north along the Alpine Lakes Wilderness Boundary to Icicle Creek near Black Pine Horse Camp; then east along Icicle Creek to the Wenatchee River; then south and east along the Wenatchee and Columbia Rivers to the mouth of Colockum Creek. (See Wenatchee National Forest Recreation map)

GMU 316-Swakane (Chelan County): Beginning at the mouth of the Wenatchee River; then north along the Columbia River to the Entiat River; then north along the Entiat River to Road #5700 near Ardenvoir; then west along Roads #5700 and #5800 to French Corral; then west along the Eagle Creek Road #7520 to Highway 209; then north along Highway 209 to Highway 207 near Lake Wenatchee; then south along Highway 209 to Highway 2 at Coles Corner; then west along Highway 2 to Stevens Pass; then south along the Chelan-King County Line to the Alpine Lakes Wilderness Boundary; then east and south along the Alpine Lakes Wilderness Boundary to Icicle Creek; then east along Icicle Creek to the Wenatchee River; then east along the Wenatchee River to its mouth on the Columbia River. (See Wenatchee National Forest Recreation map)

GMU 328-Naneum (Kittitas and Chelan counties): Beginning at the intersection of Highway 97 and Lower Green Canyon Road; then north along Lower Green Canyon Road to the East Highline Canal (T19N, R18E, S28); then east along the canal to the Colockum Pass Road #10; then northeast along the Colockum Pass Road to the Naneum Ridge Road #9; then northwest along the Naneum Ridge Road and Mission Ridge to the Liberty Beehive Road #9712; then northwest along Road #9712 to Road #9716; then north along Road #9716 to Highway 97 at Swauk Pass; then south along Highway 97 to the Lower Green Canyon Road. (See Wenatchee National Forest Recreation map & Department of Wildlife map)

GMU 329-Quilomene (Kittitas and Chelan counties): Beginning on Interstate 90 at the Columbia River near Vantage; then north along the Columbia River to the mouth of Tekieson Creek; then up Tekieson Creek to Road #14; then north along Roads 14, 14.17 and 14.14 to the top of Cape Horn cliffs; then north along the cliff top to the northern point of Cape Horn; then southwest along the stock fence to Road #14.14; then west and north along Road #14.14 and Road #14 to Davies Canyon; then northeast along Davies Canyon to the Columbia River; then north along the Columbia River to mouth of Colockum Creek; then southwest along Colockum Creek and Colockum Road (Road #10) to the East Highline Canal (T18N, R20E, S17); then east along the canal and Interstate 90 to the Columbia River at Vantage. (See Department of Wildlife map)

GMU 330-West Bar (Kittitas County): Beginning at the mouth of Tekieson Creek on the Columbia River; then up Tekieson Creek to Road #14; then north on Road 14, 14.14 and 14.17 to the top of the Cape Horn Cliffs; then north along the cliff top to the north end of Cape Horn; then southwest along the stock fence to Road 14.14; then west and north along Roads #14.14 and #14 to Davies Canyon; then east along Davies Canyon to the Columbia River; then south along the Columbia River to the mouth of Tekieson Creek. (See Department of Wildlife map)

GMU 334-Ellensburg (Kittitas County): Beginning at the intersection of Highway 97 and Lower Green Canyon Road; then north along the Lower Green Canyon Road to the East Highline Canal (Sec. 29, Twp. 19N., R. 18E); then east and south along the canal past Interstate 90 to the pump station; then south and west along the upper most branch of the canal to Highway 821 and the Yakima River (a point about one mile south of Thrall); then north along the Yakima River to Damon Road; then south on Damon Road and Shushuskin Canyon to the South Branch Extension Canal; then west along the canal to where it crosses Manastash Road; then north along the South Branch Canal to Taneum Creek; then east along Taneum Creek to the Yakima River; then northeast along the river to Thorp Highway; then east along the Thorp Highway and Highway 10 to Highway 97; then north along Highway 97 to Lower Green Canyon Road. (See Wenatchee National Forest Recreation map & Department of Wildlife map) (This is a

Kittitas County Closure area for high power rifle hunting of both deer and elk. Contact Kittitas County for more details)

GMU 335-Teanaway (Kittitas County): Beginning at Swauk Pass on Highway 97; then northwest along the Kittitas-Chelan County line and Trail #1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; then west along the Alpine Lakes Wilderness Boundary to the King-Kittitas County line at Kendal Peak; then south along the King-Kittitas County line to Interstate 90; then east along Interstate 90 to Cle Elum; then east along Highway 10 to Highway 97; then northeast on Highway 97 to Swauk Pass. (See Wenatchee National Forest Recreation map)

GMU 336-Taneum (Kittitas County): Beginning at Cle Elum; then west along Interstate Highway 90 to the Pacific Crest Trail at Snoqualmie Pass; then southeast along the Pacific Crest Trail to Blow-out Mountain; then southeast along the divide between the Naches and Yakima River drainages and Trail #1388 to Peaches Ridge and Trail #1363; then north along Trail #1363 to South Fork Taneum Creek; then east along Taneum Creek to the Yakima River; then north (downstream) on the Yakima River to the Thorp Highway Bridge; then northwest along the Thorp Highway, State Highway 10 and State Highway 903 to Cle Elum. (See Wenatchee National Forest Recreation map)

GMU 340-Manastash (Kittitas County): Beginning at the junction of Taneum Creek and the South Branch Highline Canal; then west up Taneum Creek and South Fork Taneum Creek to USFS Trail #1363 (Peaches Ridge Trail); then west on Trail #1363 to the Naches-Yakima River Divide; then southeast along Trail #1388 and the ridge top dividing the Manastash and Wenas-Umpthanum drainages to the junction of the Observatory Road, (Twp. 17 N., R. 17 E.W.M., Section 20) then south on the Observatory Road to the Wenas & Ellensburg Road; then east on the Wenas-Ellensburg Road to Umpthanum Creek; then down Umpthanum Creek to the Yakima River; then up the Yakima River to the Damon Road; then south to the Wenas-Ellensburg Road; then south on the Wenas-Ellensburg Road to the South Branch Highline Canal; then along the canal to Taneum Creek and the beginning. (See Wenatchee National Forest Recreation map)

GMU 342-Umpthanum (Kittitas and Yakima counties): Beginning at Yakima then north along the Yakima River to Umpthanum Creek; then up Umpthanum Creek to the Wenas-Ellensburg Road; then west along the Wenas-Ellensburg Road to the Observatory Road; then north along the Observatory Road to the Road junction at the top of the ridge (Section 20, T17N, R.17 E.W.M.); then west and north along the top of the ridge dividing Manastash and Umpthanum-Wenas drainages to USFS Trail #1388 and Forest Road 1701; then along Road 1701 to Highway 410 to the junction of I-82 and the Yakima River. (See Wenatchee National Forest map and Washington Atlas & Gazetteer)

GMU 346-Little Naches (Yakima & Kittita counties): Beginning at the Junction of Highway 410 and Forest Road 1701; then north on Road 1701 to Trail #1388; then northwest along Trail #1388 to the Pacific Crest Trail at Blowout Mountain; then south along the Pacific Crest Trail to State Highway 410 at Chinook Pass; then east along State Highway 410 to point of beginning. (See Wenatchee National Forest Recreation map)

GMU 352-Nile (Yakima County): Beginning at Highway 410 at its junction with Forest Road 1500 (Eagle Rock); then west along the 1500 Road to the McDaniel Lake Road (USFS Road #1502); then west along the McDaniel Lake Road to the junction of the North Fork and the South Fork of Rattlesnake Creek; then up the North Fork of Rattlesnake Creek to Richmond Mine Trail #973; then north along Richmond Mine Trail to the Bumping Lake Road; then north along Bumping Lake Road to Highway 410; then east along Highway 410 to Eagle Rock and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 356-Bumping (Yakima County): Beginning at the intersection of Highway 12 and USFS Road #1500; then north along Road #1500 to McDaniel Lake Road (USFS Road #1502); then west on McDaniel Lake Road to the junction of North Fork and South Fork of Rattlesnake Creek; then up the North Fork of Rattlesnake Creek to Richmond Mine Trail #973; then north along Richmond Mine Trail to the Bumping Lake Road; then north along the Bumping Lake Road to Highway 410; then west along Highway 410 to the Pacific Crest Trail

at Chinook Pass; then south along the Pacific Crest Trail to Highway 12 at White Pass; then east along Highway 12 to the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting). (See Wenatchee National Forest Recreation map)

GMU 360-Bethel (Yakima County): Beginning at the junction of Highway 410 and Highway #12; then west along Highway 12 to the junction with USFS Road #1500; then north and east along Road #1500 to its junction with Highway 410 at Eagle Rock; then southeast along Highway 410 to its junction with Highway 12 and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 364-Rimrock (Yakima County): Beginning at the junction of Highway 12 and Jump-off Road (USFS Road #1302); then southwest along Jump-off Road to Divide Ridge Trail #1127 at Jump-off Lookout; then southeast along Divide Ridge Trail #1127 to Strobach Springs; then west to Blue Slide Lookout; then south on jeep trail to Blue Lake; then south along jeep trail to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then west along the reservation boundary to the Pacific Crest Trail; then north along the Pacific Crest Trail to Highway 12 at White Pass; then east along Highway 12 to the junction with Jump-off Road and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 366-Rimrock-Cowiche (Yakima County): GMUs 364 (Rimrock) and 368 (Cowiche) (See Wenatchee National Forest Recreation map)

GMU 368-Cowiche (Yakima County): Beginning at the junction of Highway 12 and Jump-off Road (USFS Road #1302); then southwest along Jump-Off Road to Divide Ridge Trail #1127 at Jump-off Lookout; then southeast along Divide Ridge Trail #1127 to Strobach Springs; then west to Blue Slide Lookout; then south on jeep trail to Blue Lake; then south along jeep trail to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then east along the reservation boundary to the Yakima River and Highway 12; then north and west along Highway 12 to the point of beginning. (See Wenatchee National Forest Recreation map & Washington Atlas & Gazetteer)

GMU 370-Priest Rapids (Kittitas, Yakima and Benton counties): Beginning at the Interstate 90 bridge at Vantage; then west along Interstate 90 to the East Highline Canal (which is approximately 1/4 mile west of Boylston Road); then southwest along the canal to Highway 821 and the Yakima River, at a point about one mile south of Thrall; then southeast along the Yakima River to the Mabton-Sunnyside Road; then south along the Mabton-Sunnyside Road; then south along the Yakima Indian Reservation Boundary to the Yakima-Klickitat county line; then east along the county line to the Alderdale Road; then south along the Alderdale Road to Highway 14 and the Columbia River; then upstream along the Columbia River to the point of beginning at Vantage. (See Washington Atlas & Gazetteer)

REGION FOUR

GMU 405-Chuckanut (Whatcom and Skagit counties): Beginning at the Canadian border and the Silver Lake Road; then south along the Silver Lake Road to the Mount Baker Highway; then southwest along the Mount Baker Highway to the Mosquito Lake Road; then south along the Mosquito Lake Road to the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west down Skookum Creek to its mouth; then northwest down the South Fork Nooksack River to Saxon Bridge; then west on the Saxon Bridge Road to Highway 9; then south along Highway 9 through Sedro Woolley to the town of Arlington and the Stillaguamish River; then down the Stillaguamish River through Stanwood and West Pass to Skagit Bay; then west and north through Skagit Bay, Deception Pass, Rosario Strait and Bellingham Channel to Samish Bay and Edison; then north along the shoreline to the Whatcom County line; then west and north along the Whatcom County line to the Canadian border; then east along the Canadian border to the point of beginning. (See Washington Atlas & Gazetteer; this description is not easily found on base maps. Contact the Region 4 office for more information.)

GMU 410-Islands (San Juan, Island counties): All islands in San Juan County as well as Whidbey and Camano islands and Cypress and Sinclair islands in Skagit County. (See Washington Atlas & Gazetteer)

GMU 418–Nooksack (Whatcom and Skagit counties): Beginning at the point where Jackman Creek meets State Highway 20 (east of Concrete); then northeast up Jackman Creek to the range line between Range 9 and 10E; then north along this range line to the boundary of the North Cascades National Park; then north along the North Cascades Park boundary to the Canadian border; then west along the Canadian border to the Silver Lake Road; then south along the Silver Lake Road to the Mount Baker Highway; then southwest along the Mount Baker Highway to the Mosquito Lake Road; then south along the Mosquito Lake Road to the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west down Skookum Creek to its confluence with the South Fork Nooksack River; then west down the South Fork Nooksack River to the Saxon Bridge; then west on the Saxon Bridge Road to Highway 9; then south along Highway 9 to its intersection with State Highway 20 (east of Sedro Woolley); then east along Highway 20 to Jackman Creek (east of Concrete) and the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 426–Diablo (Skagit and Whatcom counties): The Ross Lake National Recreation Area and the adjoining corridor between the Pasayten Wilderness Area and the northeast boundary of the south segment of North Cascades National Park. (See Washington Atlas & Gazetteer)

GMU 433–Cavanaugh (Skagit and Snohomish counties): Beginning at the intersection of State Highway 20 and State Highway 9 at Sedro Woolley; then south along State Highway 9 to Arlington; then east along the Arlington–Darrington Highway 530 to Darrington; then north along the Sauk Valley Road to Rockport; then west along the State Highway 20 to Sedro Woolley and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 440–Suiattle (Skagit and Snohomish counties): Beginning at the intersection of State Highway 20 and the Sauk Valley Road at Rockport; then south along the Sauk Valley Road to Darrington and the Sauk River to the Suiattle River; then along that river to the Glacier Peak Wilderness Area boundary; then north and east along that boundary to the line between Ranges 12 and 13 E.; then north on that range line to the North Cascades National Park boundary; then west and north along the North Cascades Park boundary and the Ross Lake National Recreation Area boundary to the range line between range 9 and 10 E.; then south along this range line to the Jackman Creek drainage; then southwest down the Jackman Creek drainage to State Highway 20; then east along State Highway 20 to Rockport and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 442–Tulalip (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River; then up the Stillaguamish River to Arlington; then northeast along the Arlington–Darrington Highway to the Trafton School at Trafton; then southeast along the Jim Creek–Trafton Road (242nd St. N.E.) to the City of Seattle power transmission line; then southwest along the transmission line to the point where it crosses the Jordan Road in Sec. 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls; then south along the Menzel Lake–Lake Roesiger Roads to the Woods Creek Road; then south on Woods Creek Road to Monroe; then south on Highway 203 to the Snoqualmie River at Duvall; then north down the Snoqualmie River to the Snohomish River and down the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River and the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 448–Stillaguamish (Snohomish and Skagit counties): Beginning at Sultan; then east along U.S. Highway 2 to Stevens Pass; then north along the Cascade Crest Trail to the headwaters of the Rapid River originating in Sec. 34, T27N, R13E; then north and west down said river to its junction with Meadow Creek in Sec. 14, T27N, R12E; then north up that creek to its junction with the headwaters of Cady Creek in Sec. 36, T28N, R12E; then north and west down Cady Creek to its junction with an unnamed creek in Sec. 21, T28N, R12E; then north up that unnamed creek to its headwaters at Excelsior Mountain and the Quartz Creek Trail (#1050); then north up the Quartz Creek Trail to Curry Gap; then east along USFS Trail #650 along the crest between Sloan Creek and the North Fork Skykomish River drainages to June Mountain and the Glacier Peak Wilderness Area boundary; then north along that boundary to the Suiattle River; then along the river to the Sauk River; then south up the Sauk River to Darrington; then west along the Darrington–Arlington Highway to the Trafton School at

Trafton; then southeast along the Jim Creek–Trafton Road (242nd St. N.E.) to the City of Seattle power transmission lines; then southwest along the transmission line to the point where it crosses the Jordan Road in Sec. 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls; then south along the Menzel Lake–Lake Roesiger Roads to the Woods Creek Road; then south on Woods Creek Road to Highway 2 (Skykomish–Monroe Highway); then east along Highway 2 to Sultan to the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 450–Cascade (Skagit and Snohomish counties): That part of Skagit County east of the range line between Ranges 12 and 13 E. that is south and west of the North Cascades National Park; and, in addition, those lands west of the range line between Ranges 12 and 13 E. that lie within the Glacier Peak Wilderness Area. That part of Snohomish County commencing at the Skagit County line and the Glacier Peak Wilderness Area boundary; then south along said boundary to June Mountain; then west along the 650 trail along the crest between Sloan Creek and the North Fork of the Skykomish River drainages past Long John and Bald Eagle Mountains to Curry Gap; then south along the Quartz Creek Trail (No. 1050) and across the North Fork of the Skykomish River to Excelsior Mountain Trail (No. 1054); then south and east to the headwaters of an unnamed creek in Sec. 16, T28N R12E; then south along said creek through Sections 16 and 21 to West Cady Creek; then up (easterly) said creek to its junction with the headwaters of Meadow Creek in Sec. 36 T28N R12E; then south down Meadow Creek to its junction with the Rapid River in Sec. 14 T27N R12E; then east up the Rapid River to the headwaters of its south and east branch in Sec. 34 T27N R13E near the Cascade Crest and the Chelan County line. (See Washington Atlas & Gazetteer and Mt. Baker/Snoqualmie National Forest map)

GMU 454–Issaquah (King and Snohomish counties): Beginning at the mouth of the Snohomish River near Everett; then southeast up the Snohomish River to Duvall; then south along State Highway 203 to Fall City; then southwest along the Fall City–Preston Road to Interstate 90; then east on Interstate 90 to State Highway 18; then southwest along State Highway 18 to its intersection with the Raging River; then south up that river to its junction with the posted boundary of the City of Seattle Cedar River Watershed; then along that posted boundary to its junction with the boundary of the City of Tacoma Green River Watershed (CTGRW); then south along the CTGRW posted boundary to Weyerhaeuser Road 5200 near Lynn Lake; then down the 5200 Road for approximately 7.6 miles to its junction with U.S. Highway 410; then west along U.S. Highway 410 and State Highway Nos. 164 and 18 through Auburn to U.S. Highway 99; then north along Highway 99 to the Redondo Beach junction; then due west to Puget Sound; then north along Puget Sound to the mouth of the Snohomish River and the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 460–Snoqualmie (King and Snohomish Counties): Beginning at the intersection of State Highway 203 and U.S. Highway 2; then east along U.S. Highway 2 to Stevens Pass and the Pacific Crest Trail; then south along the Pacific Crest Trail to its junction with the City of Seattle Cedar River Watershed posted boundary; then west along the posted boundary to its intersection with the headwaters of the Raging River; then down the Raging River to its intersection with State Highway 18; then along State Highway 18 to its junction with Interstate Highway 90 (I-90); then west along I-90 to its junction with the Preston–Fall City Road; then north along the Preston–Fall City Road to State Highway 203; then north on State Highway 203 to the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 466–Stampede (King County): Beginning at intersection of the Pacific Crest Trail (USFS Trail 2000) and the posted boundary for the City of Seattle Cedar River Watershed; then south along the Pacific Crest Trail to its junction with the Naches Pass Trail at Pyramid Peak; then west on the Naches Pass Trail to Twin Camps and USFS Road 7035; then along USFS Road 7035 to USFS Trail 1172 and its intersection with USFS Road 7012 (Champion Creek Rd.); then down Road 7012 to the posted boundary of the City of Tacoma Green River Watershed; then east and north along that boundary and the City of Seattle Cedar River Watershed posted boundary to the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 472–White River (King and Pierce counties): Beginning at the junction of State Highway 410 and the north boundary of Mount

Rainier National Park; then west along the north park boundary to the Carbon River; then down the Carbon River to its intersection with the Bonneville Power Transmission line; then up the powerline to South Prairie Creek; then up South Prairie Creek to New Pond Creek; then up New Pond Creek to its intersection with Champion 923 Road.; then north on Champion 923 Road to Champion 92 Road; then east on Champion 92 Road to Champion 93 Road; then northwest on Champion 93 Road to Champion 931 Road; then east on Champion 931 Road to Champion 9 Road; then northeast on Champion 9 Road to Champion 96 Road; then east on Champion 96 Road to Champion 9601 Road; then east on Champion 9601 Road to Old Pond Creek to the White River; then down White River to the second set of Bonneville Power Transmission lines; then up the powerline to where it intersects State Highway 410; then east along State Highway 410 to Weyerhaeuser Road 5200; then up that road for approximately 7.6 miles to its junction with the City of Tacoma Green River Watershed posted boundary; then east along that posted boundary and USFS Trail 1172 to USFS Road 7035; then east along that road to its intersection with the Naches Pass Trail at Twin Camps; then east along the Naches Pass Trail to the Pacific Crest Trail (USFS Trail 2000) near Pyramid Peak; then south along the Pacific Crest Trail to the Mount Rainier National Park boundary near Sourdough Gap; then north and west along the park boundary to the point of beginning. (See Washington Atlas & Gazetteer and Mt. Baker/Snoqualmie National Forest map)

GMU 478-Mashel (Pierce County): Beginning where State Highway 162 crosses the Carbon River (near Crocker); then southeast up the Carbon River to the west boundary of Mt. Rainier National Park; then south along the park boundary to the Nisqually River; then west down the Nisqually River to Alder Lake; then continuing west down Alder Lake and the Nisqually River to the Weyerhaeuser 1000 (Main) Line (Vail-Eatonville Truck Trail) Bridge; then east on the 1000 line to its junctions with Highway 7 (Mountain Highway) and Highway 161 (Eatonville-LaGrande Road); then east and north along Highway 161 through Eatonville to its junction with Orville Road E. (Kapowsin-Eatonville Road); then north along that road through Kapowsin to its junction with Highway 162 just east of Orting at Crocker; then east along that highway to the Carbon River to the point of beginning. (See Mt. Baker/Snoqualmie National Forest map or Washington Atlas & Gazetteer)

GMU 480-South Islands (Pierce County): Anderson and Ketron Islands. Note special firearm restrictions in effect for these islands. Hunting is closed on McNeil Island. (See Washington Atlas & Gazetteer)

GMU 484-Puyallup (Pierce and King counties): Beginning at the mouth of the Nisqually River; then up the Nisqually River to its junction with the Weyerhaeuser 1000 line, then east along the Weyerhaeuser 1000 line to its intersection with State Highways 7 and 161; then north along State Highway 161 to its intersection with the Orville Road; then north along the Orville Road through the town of Kapowsin to the intersection of State Route 162; then northeast along State Route 162 to its intersection with the Carbon River; then east along the Carbon River to where it intersects the Bonneville Power Transmission line; then up the powerline to South Prairie Creek; then up South Prairie Creek to New Pond Creek; then up New Pond Creek to its intersection with Champion 923 Road; then north on Champion 923 Road to Champion 92 Road; then east on Champion 92 Road to Champion 93 Road; then northwest on Champion 93 Road to Champion 931 Road; then east on Champion 931 Road to Champion 9 Road; then northeast on Champion 9 Road to Champion 96 Road; then east on Champion 96 Road to Champion 9601 Road; then east on Champion 9601 Road to Old Pond Creek; then down Old Pond Creek to the White River; then down White River to the second set of Bonneville Power Transmission lines; then up the powerline to where it intersects State Highway 410; then east along State Highway 410 to where it intersects State Highway 164; then west along State Highway 164 through Auburn to Old Highway 99; then north along Old Highway 99 to Redondo Junction; then due west to Puget Sound; then south along the shoreline of Puget Sound to the mouth of the Nisqually River and the point of beginning. (See Washington Atlas & Gazetteer or Mt. Baker/Snoqualmie National Forest map)

GMU 485-Green River (King County): Beginning at the junction of the Green River and the west boundary of the Tacoma Watershed; then south and east along the watershed boundary to the USFS 7012 Road (Champion Creek Road); then northwest along that road and

the posted GMU 485 boundary to where it meets USFS Road 5063; then east, then north along that road to its junction with the USFS 5060 Road near the headwaters of Friday Creek; then north along that road to the Tacoma Watershed boundary; then west along the Tacoma Watershed boundary to the Green River and the point of beginning. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

GMU 490-Cedar River (King County): Beginning at the junction of the Cedar River and the western posted boundary of the City of Seattle Cedar River Watershed; then north and east along said posted boundary to Yakima Pass; then continue south and west along that posted boundary and to the point of beginning. Note that the City of Seattle enforces trespass on lands owned or controlled by the city. (See Mt. Baker/Snoqualmie National Forest map and Washington Atlas & Gazetteer)

REGION FIVE

GMU 501-Lincoln (Lewis, Thurston, Pacific and Grays Harbor counties): Beginning at the intersection of Interstate 5 and State Highway 6, then west on State Highway 6 to the Stevens Road, then northwest on Stevens Road to Elk Creek Road (Doty), then west on Elk Creek Road to the 7000 Road, then west on the 7000 Rd. to the 7800 Rd., then west on the 7800 Rd. to the 720 Rd., then northeast on the 720 Rd. to Garrard Creek Road, then northeast on the Garrard Creek Road to Oakville and U.S. Highway 12, then east on U.S. 12 to Interstate 5, then south on Interstate 5 to State Highway 6 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 504-Stella (Cowlitz County): Beginning at the mouth of the Cowlitz River at the Columbia River, then west down the Columbia to the mouth of Germany Creek, then north up Germany Creek to State Highway 4, then east on Highway 4 to Germany Creek Road, then north on Germany Creek Road to IP 1000 Road, then north on IP 1000 to the IP 1050 Road, then east on IP 1050 Road to the 2200 Rd., then east and south to the 2000 Rd., then south on the 2000 Rd. to the Delameter Road (Woodside Road), then east on Delameter Road to State Highway 411, then north on Highway 411 to PH 10 Road (Four Corners), then east to Cowlitz River, then south down the Cowlitz River to the Columbia River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 505-Mossyrock (Lewis County): Beginning on Interstate 5 and the Cowlitz River, then northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge, then east on Highway 12 to Winston Creek Road, then south and east to Longbell Road and Perkins Road, then northeast on Perkins Road to Swofford Road, then north on Swofford Road to Ajlune Road, then east on Ajlune Road to Riffe Lake, then east along the south shore to the Cowlitz River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge, then south and east to the Cline Road, then east to the Bennet Road, then east to U.S. Highway 12, then west on Highway 12 to State Highway 7 (Morton), then north on State Highway 7 to State Highway 508, then west on Highway 508 to Centralia/Alpha Road, then west and north on Centralia/Alpha Road to Salzer Valley Road, then west to Summa Street and Kresky Road, then north on Kresky Road to Tower Street, then on Tower Street to State Highway 507, then west on Highway 507 Cherry, Alder and Mellen streets to Interstate 5, then south on Interstate 5 to the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 506-Willapa Hills (Wahkiakum, Pacific, Lewis counties): Beginning in Cathlamet on the State Highway 407 bridge across the Cathlamet Channel (Columbia River), then west down the Columbia River to the mouth of Deep River, then up Deep River to State Highway 4, then northwest to Salmon Creek Road, then northeast on Salmon Creek Road to the Bonneville Powerline Road, then north on the Bonneville Powerline Road to State Highway 6, then east on State Highway 6 to the town of PeEll and the Muller Road, then south on Muller Road to the 1000 Road, then south on the 1000 Road to the 1800 Road, then south on the 1800 Road to the 500 Road, then southeast on the 500 Road to State Highway 407, then south on State Highway 407 to Cathlamet and point of beginning. (See Washington Atlas & Gazetteer)

GMU 510-Stormking (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek Bridge; then north up Silver Creek to Silverbrook Road, then east to USFS 47 Rd., then north on USFS 47 to USFS 85, then west on USFS 85 to Silver Creek, then southwest on Silver Creek

to Lynx Creek, then north on Lynx Creek and its northern most tributary to USFS 85 Rd., then northwest on the USFS 85 Rd. to Catt Creek, then north on Catt Creek to the Nisqually River, then west down the Nisqually River to State Highway 7, then south on Highway 7 to U.S. Highway 12 (Morton), then east on Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map)

GMU 512-Sawtooth (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek bridge, then north up Silver Creek to Silverbrook Road, then east to USFS 47 Rd., then north on USFS 47 Rd. to USFS 85 Rd., then west on USFS 85 to Silver Creek, then southwest on Silver Creek to Lynx Creek, then north on Lynx Creek and its northern most tributary to USFS 85 Rd., then north on 85 Rd. to Catt Creek, then northwest down Catt Creek to the Nisqually River, then east up the Nisqually River to Horse Creek, then east up Horse Creek to USFS 52 Rd. (Skate Creek Road), then southeast on USFS 52 to the Cowlitz River, then southwest down the Cowlitz River to Smith Creek, then up Smith Creek to U.S. Highway 12, then west on U.S. Highway 12 to Silver Creek and point of beginning. (See Gifford Pinchot National Forest map and/or Washington Atlas & Gazetteer)

GMU 514-Tatoosh (Lewis County): Beginning at USFS 52 Rd. (Skate Creek) and the Cowlitz River (at Packwood), then northwest on USFS 52 Rd. to Horse Creek, then down Horse Creek to the Nisqually River and the southern boundary of Mt. Rainier National Park, then north and east along the Nisqually River and south park boundary to the Cascade Crest Trail, then south along the Cascade Crest Trail to U.S. Highway 12, then northwest and southwest on Highway 12 to USFS 1270 Rd., then north on USFS 1270 to the Cowlitz River, then southwest down the Cowlitz River to the USFS 52 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 516-Packwood (Lewis and Skamania counties): Beginning at the mouth of Cispus River, then east up the Cispus River to the USFS 56 Rd. (Midway G.S. Road), then east on the USFS 56 Rd. to the USFS 5603 Rd., then east on the USFS 5603 to the Yakima Indian Reservation boundary and the Cascade Crest; then north along the Reservation boundary to Cispus Pass and the Cascade Crest Trail, then north along the Cascade Crest Trail to the U.S. Highway 12 (White Pass), then northwest and southwest on Highway 12 to USFS 1270 Rd. (Sec. 31, T14N, R10E), then north on USFS 1270 to the Cowlitz River, then southwest down the Cowlitz River to the mouth of Smith Creek, then south up Smith Creek to U.S. Highway 12, then southwest down Highway 12 to Bennet Road, then west on the Bennet Road to the Cline Road, then west to the USFS 23 Rd. (Cispus Road), then west and north to the Cowlitz River, then west down the Cowlitz River to the mouth of the Cispus River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 520-Winston (Cowlitz, Lewis and Skamania counties): Beginning at the intersection of Interstate 5 and the Cowlitz River, then south down the Cowlitz River to the Toutle River, then east up the Toutle River to the North Fork Toutle River, then up the North Fork Toutle River to the Green River, then east up the Green River to USFS 2612 Rd., then east on 2612 to USFS 26 Rd. (Ryan Lake Road), then north on USFS 26 Rd. to the Cispus River, then west down the Cispus to the Cowlitz River, then west down the Cowlitz River to Riffe Lake, then west along the south shore to Ajlune Road, then west to Swofford Road, then south on Swofford Road to Perkins Road, then southwest and northwest on Perkins Road and Longbell Road to Winston Creek Road, then northwest on Winston Creek Road to State Highway 12, then west on State Highway 12 to the Mayfield Lake bridge, then southwest down Mayfield Lake and the Cowlitz River to Interstate 5 and point of beginning. (See Washington Atlas & Gazetteer)

GMU 522-Loo-wit (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek, then southeast up the North Fork Toutle River to the Weyerhaeuser 3001 Rd., then southeast along the 3001, 3000, and 3090 roads to the headwaters of the South Fork Castle Creek, then due south to the South Fork Toutle River, then east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; then east along the crater edge to the headwaters of Ape Canyon, then down Ape Canyon to Smith Creek, then north along Smith Creek and following the eastern main branch to its headwaters, then due west to the USFS 99 Rd., then north along USFS 99 to USFS 26, then north to Strawberry Lake Creek, then west down Strawberry Lake Creek to the Green River,

then across the Green River to Grizzly Creek, then up Grizzly Creek to Grizzly Lake, then west up the western inlet to its headwaters, then west to the headwaters of Coldwater Creek, then west down Coldwater Creek to Coldwater Lake, then southwest along the northwest shore to the old Weyerhaeuser 3500 Rd., then west along the 3500, 3530, 3540, 3130, 3120 roads to the intersection with Hoffstadt Creek, then down Hoffstadt Creek to the North Fork Toutle River and point of beginning. (See Gifford Pinchot National Forest map)

GMU 524-Margaret (Cowlitz, Skamania and Lewis counties): Beginning on the North Fork Toutle River at the mouth of the Green River, then southeast up the North Fork Toutle River to the mouth of Hoffstadt Creek, then up Hoffstadt Creek to the 3120 Rd., then east along the 3120, 3130, 3540, 3530 and 3500 roads to Coldwater Lake, then northeast along the northwest shoreline to Coldwater Creek, then up Coldwater Creek to its headwaters and east to the headwaters of Grizzly Lake, then east down the west inlet creek to Grizzly Lake, then down Grizzly Creek to the Green River and the mouth of Strawberry Lake Creek, then up Strawberry Lake Creek to the USFS 26 Rd. (Ryan Lake Road), then north on the USFS 26 Rd. to the USFS 2612 Rd., then west on USFS 2612 Rd. to the Green River, then down the Green River to its mouth and point of beginning. (See Gifford Pinchot National Forest map)

GMU 530-Ryderwood (Cowlitz, Lewis, Wahkiakum counties): Beginning in the town of PeEll (intersection of State Highway 6 and Muller Road), then south on Muller Road to the 1000 Rd., then south on the 1000 Rd. to the 1800 Rd., then south on the 1800 Rd. to the 500 Rd., then southeast on the 500 Rd. to State Highway 407, then south on State Highway 407 to the Columbia River Bridge (Cathlamet Channel), then east up the Columbia River to the mouth of Germany Creek, then north up Germany Creek to State Highway 4, then east on Highway 4 to Germany Creek Road, then north on Germany Creek Road to IP 1000 Road, then north on IP 1000 to IP 1050 Road, then east on IP 1050 Road to the 2200 Road, then east and south on the 2200 Road to the 2000 Road, then south on the 2000 Road to Delameter Road (Woodside Drive), then east on Delameter Road to State Highway 411, then north on State Highway 411 to PH 10 Road (4 Corners), then east to the Cowlitz River, then north up the Cowlitz River to the Interstate 5 bridge, then north on Interstate 5 to State Highway 6, then west on State Highway 6 to PeEll and point of beginning. (See Washington Atlas & Gazetteer)

GMU 550-Coweeman (Cowlitz County): Beginning at the mouth of the Cowlitz River, then north to the Toutle River, then east along the Toutle River to the South Fork Toutle River, then up the South Fork Toutle to the 4950 Rd., then south and east on the 4950 Rd. to the 235 Rd., then south on the 235, 200, 245, 134, 133, 130 and 1680 roads to the 1600 Rd., then southeast along the 1600 and 1400 roads to the Kalama/Coweeman summit, then south along the 1420 Rd. to the 1425 Rd., then southwest along the 1425 Rd. to the 6400 Rd., then southwest down the 6400 Rd. to the 6000 Rd., then east to the 6450 Rd., then southeast approximately one mile on the 6450 Rd. to the Arnold Creek Road, then southeast on Arnold Creek Road to Dubois Road, then to State Highway 503, then west on State Highway 503 to Cape Horn Creek, then down Cape Horn Creek to Merwin Reservoir and the Lewis River, then down the Lewis River to the Columbia River, then down the Columbia River to the mouth of the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 554-Yale (Cowlitz County): Beginning on State Highway 503 at its crossing of Cape Horn Creek, then east on Highway 503 to 6690 Rd. (Rock Creek Road), then northeast on the 6690 and 6696 roads to West Fork Speelyai Creek, then down Speelyai Creek to State Highway 503, then northeast on Highway 503 to Dog Creek, then down Dog Creek to Yale Reservoir, then south and west down Yale Reservoir, Lewis River, and Merwin Reservoir to Cape Horn Creek, then up Cape Horn Creek to State Highway 503 and point of beginning.

GMU 556-Toutle (Cowlitz County): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Rd. (Merrill Lake Road) intersection, then north on USFS 81 Rd. to Weyerhaeuser 7200 Rd., then northeast on the 7200 Rd. to the 7400 Rd., then northwest on the 7400 Rd. to the 5500 Rd., then east and north on the 5500 and 5670 roads to the South Fork Toutle River, then east up the South Fork Toutle River to a point due south of the headwaters of the South Fork Castle Creek (Sec. 1, TWP 8N R4E), then north to the headwaters of South Fork Castle Creek, then down South Fork Castle Creek to Weyerhaeuser 3092 Rd., then west on the 3092 Rd. to 3090 Rd., then northwest on the 3090, 3000 and 3001 roads to the North Fork Toutle

River, then down the North Fork Toutle River to the South Fork Toutle River, then south-east up the South Fork Toutle River to the 4950 Rd., then south on the 4950, 235, 200, 245, 243A, 134, 133, 130, and 1680 roads to the 1600 road, then southeast on the 1600 and 1400 roads to the Kalama/Coweeman summit, then south on the 1420 Rd. to the 1425 Rd., then southwest along the 1425 Rd. to the 6400 Rd., then southwest on the 6400 Rd. to the 6000 Rd., then east up the 6000 Rd. to the 6450 Rd., then southwest on the 6450 Rd. approximately one mile to the Arnold Creek Road, then southeast on Arnold Creek and Dubois roads to State Highway 503, then east on State Highway 503 to the 6690 Rd. (Rock Creek Road); then northeast on the 6690 and 6696 roads to the West Fork Speelyai Creek, then down Speelyai Creek to State Highway 503, then northeast on State Highway 503 to USFS 81 Rd. and point of beginning. (See Washington Atlas & Gazetteer)

GMU 558-Marble (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Rd. intersection, then north on USFS 81 Rd. to Weyerhaeuser 7200 Rd., then northeast on the 7200 Rd. to the 7400 Rd., then northwest on the 7400 Rd. to the 5500 Rd., then east and north on the 5500 and 5670 roads to the South Fork Toutle River, then east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon, then east down Ape Canyon Creek to Smith Creek, then north up Smith Creek along the East Fork to its headwaters and USFS 99 Rd., then northeast on USFS 99 Rd. to USFS 25 Rd., then south on USFS 25 Rd. to the Muddy River, then south down the Muddy River to the North Fork Lewis River, then west down the North Fork Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek, then north up Dog Creek to State Highway 503, then southwest to USFS 81 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 560-Lewis River (Skamania, Klickitat, Yakima and Lewis counties): Beginning at Trout Lake, north to the USFS 80 Rd., then north to the USFS 82 Rd., then northeast on the USFS 82 Rd. to the Yakima Indian Reservation boundary, then north along boundary (Cascade Crest) to USFS 5603 Rd., then west to the USFS 56 Rd., then west to the Cispus River, then northwest down the Cispus River to the USFS 26 Rd. (Ryan Lake Road), then west and south on the USFS 26 Rd. to USFS 99 Rd., then northeast to the USFS 25 Rd., then south to Muddy River, then south down the Muddy River to the North Fork Lewis River, then west to the USFS 90 Rd. bridge (Eagle Cliff), then east on USFS 90 Rd. to USFS 51 Rd., then southeast to USFS 30 Rd., then northeast on the USFS 30 Rd. to USFS 24 Rd., then southeast to the State Highway 141, then northeast to Trout Lake and point of beginning. (See Gifford Pinchot National Forest map)

GMU 564-Battle Ground (Clark County): Beginning at Merwin Dam on the Lewis River, then on a southeast line to the power line, then southeast to County Rd. 20, then south to Pup Creek Road, then southeast to County Rd. 16, then southeast through Amboy and Yacolt to Moulton and County Rd. 12, then west to Hantwick Road, south to Basket Flat Road, west to 197th Ave., south to 279th Street, west to 182nd Ave., south to 249th Street, and east to Crawford Road, then southeast on Allworth to 229th Street, then southeast on 229th Street to Berry Road, then southeast on Berry Road to DNR 1410 Rd., then southeast on the 1410 Road to DNR 1400 Rd., then west on 1400 Rd. to Rawson and Powell roads to 212th Ave., then south to 83rd Street, east to 217th Ave., south to 68th Street, east to 232nd Ave., and south to State Highway 500; then south and east to Blair Road, then southeast to State Highway 140, then north and east to State Highway 14 and Cape Horn Road, then south on Cape Horn Road to the Columbia River, then down the Columbia River to the Lewis River and up the Lewis River to Merwin Dam and point of beginning. (See Washington Atlas & Gazetteer)

GMU 568-Washougal (Clark and Skamania counties): Beginning at Merwin Dam on the Lewis River, then on a southeast line to the powerline crossing on County Rd. 20, then south to Pup Creek Road, then east to County Rd. 16, then southeast through Amboy and Yacolt to Moulton and County Rd. 12, then west to Hantwick Road, south to Basket Flat Road, west to 197th Ave., south to 279th St., west to 182nd Ave., south to 249th St., and east to Crawford Road, then southeast on Allworth to 229th St., to Berry Road and the DNR 1410 Rd., to DNR 1400 Rd., then west to Rawson and Powell roads to 212th Ave., then south to 83rd St., east to 217th Ave., south to 68th St., east to 232nd Ave., and south to State Highway 500; then south

and east to Blair Road, then southeast to State Highway 140, then north and east to State Highway 14, and Cape Horn Road, then south on Cape Horn Road to the Columbia River, then east up the Columbia to the mouth of Rock Creek Stevenson), then northwest up Rock Creek to the south boundary of Gifford Pinchot National Forest, then due west approximately 0.5 miles to USFS Rd. 406; then northwest on USFS Rd. 406 to USFS 41, then west to Sunset Work Center and Forest Rd. 42 (Green Fork Road), then east to USFS 4205 Rd., then north and east to the USFS 53 Rd., then northwest to the USFS 37 Rd., and USFS 54 Rd., then northwest on USFS 54 Rd. (N.E. Healy Rd.) to International Paper Road; then north to Canyon Creek, down Canyon Creek to Merwin Reservoir and west to Merwin Dam and point of beginning. (See Washington Atlas & Gazetteer)

GMU 572-Siouxon (Skamania and Clark counties): Beginning at the intersection of the Wind River Road and USFS 65 Rd. (Panther Creek Road); then north on the USFS 65 Rd, USFS 60 Rd. (Carson-Guler Road); then northwest to Peterson Prairie and USFS 24 Road, then north to the USFS 30, then southwest to the USFS 90 Rd. (Lewis River Road), then west to the Eagle Cliff bridge on the North Fork Lewis River; then down the North Fork Lewis River through Swift and Yale reservoirs to Merwin Reservoir and the mouth of Canyon Creek; then south up Canyon Creek to International Paper Road, then south to USFS 54 Rd. (N.E. Healy Road); then southeast to the USFS 37 Rd. and the USFS 53 Rd., then east and south to the USFS 4205 Rd., then south and west to the USFS 42 Rd. (Green Fork Road); then west to the USFS 41 Rd. at Sunset Falls; then east on the USFS 41 Rd. (Sunset Hemlock Road) to the U.S. Forest Service District Headquarters and the Hemlock Road; then east on the Hemlock Road to the Wind River Road (Stabler); then south on the Wind River Road to USFS 65 Rd. and point of beginning. (See Gifford Pinchot National Forest map)

GMU 574-Wind River (Skamania County): Beginning at the mouth of Rock Creek (Stevenson), then northwest up Rock Creek to the south boundary of Gifford Pinchot National Forest, then due west approximately 1/2 mile to USFS 406 Rd., then northwest on USFS 406 Rd. to USFS 41 Rd., then east to U.S. Forest Service District Headquarters (Wind River) and Hemlock Road, then east to the Wind River Road (Stabler), then south to USFS 65 Rd. (Panther Creek Road), then north to USFS 60 Rd. (Carson-Guler Road), then northeast to USFS 24 Rd. and 141 Rd. to USFS 86 Rd., then south on USFS 86 Rd. to USFS 1840 Rd. to the USFS 18 Rd. (Oklahoma Road) to Willard and the Little White Salmon River, then down the Little White Salmon River to the Columbia River, then west down the Columbia River to the mouth of Rock Creek and point of beginning. (See Gifford Pinchot National Forest map)

GMU 576-White Salmon (Klickitat, Yakima, and Skamania counties): Beginning at the mouth of the Klickitat River (Lyle) to the Fisher Hill Bridge, then north along the Fisher Hill Road (P-2000) to the Gravel Pit Road, then west to the B-Z Corners-Glenwood Road, then southwest to Highway 141 (B-Z Corners), then north to Trout Lake, then west on Highway 141 to USFS 86 Rd., then south to the USFS 1840 Rd., then south on the USFS 1840 Rd. to the USFS 18 Rd. (Oklahoma Road), then south on the 18 Rd. to Willard and the Little White Salmon River, then south down the Little White Salmon River to the Columbia River, then east up the Columbia River to the Klickitat River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 580-Sixprong (Klickitat and Yakima counties): Beginning on State Highway 14 at Sundale, then east to the Goldendale-Goodnoe Hills Road; then northwest along Goldendale-Goodnoe Hills Road to Dot Road; then north along the Dot Road to Cleveland; then along the Goldendale-Bickleton Road to the Yakima County line; then east along the Yakima County line to Alderdale Road; then southeast along the Alderdale Road to State Highway 14 and Columbia River; then west along the state line to Sundale and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 584-Goodnoe (Klickitat County): Beginning at the U.S. Highway 97 bridge on the Columbia River (Maryhill), then north on Highway 97 to Satus Pass and the Yakima Indian Reservation, then east along south Reservation boundary to the Yakima County line, then east to Goldendale/Bickleton Road, then southwest to Cleveland and Dot Road, then south to Goldendale/Goodnoe Hills Road, then southeast to State Highway 14, then west to Sundale and mouth of Chapman Creek, then west down the Columbia River to U.S. Highway 97 bridge and point of beginning. (See Washington Atlas & Gazetteer)

GMU 586—Glenwood (Klickitat County): Beginning at B-Z Corners and State Highway 141, then north to Trout Lake and the USFS 80 Rd., then to the USFS 82 Rd., then north to the Yakima Indian Reservation boundary, then east along the south Reservation boundary to Summit Creek Primary Road, then south to the Klickitat River and the Truck Cut Road, then west to the Glenwood/Goldendale Road, then northwest to the Gravel Pit Road, then south to the B-Z Corners/Glenwood Road, then southwest to B-Z Corners and point of beginning. (See Washington Atlas & Gazetteer)

GMU 588—Grayback (Klickitat County): Beginning at Highway 97 bridge across Columbia River (Maryhill), then west down the Columbia River to Lyle and the mouth of the Klickitat River, then up the Klickitat River to the Fisher Hill Bridge, then north along the Fisher Hill Road (P-2000) to the Gravel Pit Road, then north to the Glenwood/Goldendale Road, then east to the Truck Cut Road, then north to the Summit Creek Primary Road, then to the Yakima Indian Reservation boundary, then east along the southern boundary of the Reservation to Highway 97 (Satus Pass Highway), then south on Highway 97 to Maryhill and point of beginning. (See Washington Atlas & Gazetteer)

REGION SIX

GMU 601—Hoko (Clallam County): Beginning at the mouth of the Hoko River, then up the river to State Highway 112; then southeast along State Highway 112 to its junction with the Hoko-Ozette Road; then southeast along the Hoko-Ozette Road to the Olympic National Park boundary; then north along the Olympic National Park boundary to the Makah Indian Reservation boundary; then east and north along the Makah Indian Reservation boundary to the Strait of Juan de Fuca; then southeast along the shore of the Strait of Juan de Fuca to the mouth of the Hoko River and the point of beginning. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 602—Dickey (Clallam County): Beginning at the mouth of the Clallam River, then up the river to State Highway 112; then south along State Highway 112 to its junction with the Burnt Mountain Road; then southwest along the Burnt Mountain Road to its junction with U.S. Highway 101; then southwest along U.S. Highway 101 to the junction with the LaPush Road; then southwest along La Push Road to the Olympic National Park boundary; then north along the Olympic National Park boundary to the Hoko-Ozette Road; then northeast along the Hoko-Ozette Road to its junction with State Highway 112; then northwest along State Highway 112 to the Hoko River; then down the Hoko River to its mouth and the Strait of Juan de Fuca; then east along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River and the point of beginning. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 603—Pysht (Clallam County): Beginning at the mouth of the Clallam River; then up the river to the State Highway 112; then south along State Highway 112 to its junction with the Burnt Mountain Road; then southwest along the Burnt Mountain Road to its junction with U.S. Highway 101; then east along U.S. Highway 101 to the point where the highway enters the Olympic National Park, about one mile west of Lake Crescent; then north and east along the Olympic National Park boundary to the Elwha River; then north down the Elwha River to its mouth and the Strait of Juan de Fuca; then west along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River and the point of beginning. EXCEPT that part of the Lower Elwha Indian Reservation within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 607—Soleduck (Clallam County): Beginning at Forks, then south along U.S. Highway 101 to the Bogachiel River; then east up the Bogachiel River to the Olympic National Park boundary; then north and east along the Olympic National Park boundary to its intersection with U.S. Highway 101; then west and south along U.S. Highway 101 to Forks to the point of beginning. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 612—Goodman (Jefferson and Clallam counties): Beginning at LaPush on the Pacific Ocean, then east along the LaPush Road to its junction with U.S. Highway 101 north of Forks; then south along U.S. Highway 101 to the Pacific Ocean below the mouth of the Hoh River;

then north along the Pacific Ocean to LaPush and the point of beginning; EXCEPT that part of the Hoh Indian Reservation and the Olympic National Park within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 615—Clearwater (Jefferson County): Beginning at the junction of Bogachiel River and U.S. Highway 101, then east up the Bogachiel River to the Olympic National Park boundary; then south, east and west along the Olympic National Park boundary to where it meets the boundary of the Quinault Indian Reservation; then west along the Quinault Indian Reservation boundary to U.S. Highway 101; then north and east along U.S. Highway 101 to the Bogachiel River and point of beginning; EXCEPT that part of the Olympic National Park within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 618—Matheny (Jefferson and Grays Harbor counties): Those lands between the Queets and Quinault Rivers that are outside the Olympic National Park and outside the Quinault Indian Reservation. (See Olympic National Forest map)

GMU 621—Olympic (Jefferson, Clallam and Mason counties): Beginning at the junction of U.S. Highway 101 and the Elwha River, then south up the Elwha River to the Olympic National Park boundary; then east and south along Olympic National Park boundary to the North Fork of the Skokomish River; then south down the North Fork of the Skokomish River to Lake Cushman; then southeast along the west shore of Lake Cushman to Cushman Upper Dam; then east along the Power Dam Road to its intersection with Lake Cushman-Hoodsport Road; then southeast on Lake Cushman-Hoodsport Road to U.S. Highway 101 and Hood Canal; then north along Hood Canal to Dabob Bay and Quilcene Bay to East Quilcene Road at the north end of Quilcene Bay; then west along East Quilcene Road to its junction with Chimacum Center Road; then south along Chimacum Center Road to Quilcene and U.S. Highway 101; then north and west along U.S. Highway 101 to the Elwha River and the point of beginning. EXCEPT that part of the Lower Elwha Indian Reservation within this boundary. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 624—Coyle (Clallam and Jefferson counties): Beginning at the mouth of the Elwha River, then south up the Elwha River to U.S. Highway 101; then east and south along U.S. Highway 101 to Quilcene; then north on the Chimacum Center Road to its junction with East Quilcene Road; then east on the East Quilcene Road to Quilcene Bay; then south along the east shore of Quilcene Bay to Dabob Bay and Hood Canal; then north along the shore of Hood Canal to Puget Sound; then north through Admiralty Inlet to Port Townsend and Juan de Fuca Straits; then west along the south shore line of Juan de Fuca Straits to the mouth of the Elwha River and the point of beginning; EXCEPT all of Indian Island in Jefferson County. (See updated Olympic National Forest and Olympic National Park map and Washington Atlas & Gazetteer)

GMU 625—Indian Island (Jefferson County): Indian Island in Jefferson County. (See Washington Atlas & Gazetteer)

GMU 627—Kitsap (Kitsap, Mason, Pierce and King counties): Beginning at the town of Allyn on State Highway 3; then north along Highway 3 to Belfair; then north up the "Old Belfair Highway" to its junction with the Bear Creek-Dewatto Road; then west on Bear Creek-Dewatto Road to the Mason-Kitsap County line; then west along the Mason-Kitsap county line to Hood Canal; then north along the shoreline of Hood Canal to Puget Sound at Hansville; then south through Puget Sound to Nisqually Reach and Case Inlet; then north up Case Inlet to the town of Allyn and the point of beginning; also Vashon Island. (See Washington Atlas & Gazetteer)

GMU 633—Mason (Mason County): Beginning at the Mason-Thurston County Line on U.S. Highway 101 at Oyster Bay; then north and east through Oyster Bay, Totten Inlet-Dana Passage and Case Inlet to the town of Allyn on State Highway 3; then north along Highway 3 to Belfair; then north up the "Old Belfair Highway" to its junction with the Bear Creek-Dewatto Road; then west on the Bear Creek-Dewatto Road to its junction with the Dewatto-Holly Road; then west along the Mason-Kitsap County Line to Hood Canal; then south through Hood Canal to Hoodsport and U.S. Highway 101; then south along Highway 101 to the Mason-Thurston County Line and the point of beginning. (See the Washington Atlas & Gazetteer)

GMU 636-Skokomish (Grays Harbor and Mason counties): Beginning at the junction of the Lake Cushman-Hoodsport Road and U.S. Highway 101 at Hoodsport; then south down U.S. Highway 101 to its junction with the Shelton Dayton-Matlock Road (County Road 9010); then west to the town of Matlock; then west on the Matlock-Deckerville Road and Middle Satsop Road to the Kelly Road (C-500 Line); then north on the Kelly Road to its junction with the L-600 Line (Canyon River Road, Road 2153); then west on the L-600 line to USFS Road 22 (Montesano-Gridale Road); then north on USFS Road 22 through Gridale; then west and south on USFS Road 22 to where it crosses the East Fork of the Humptulips River; then upstream on the East Fork Humptulips River to the most northern point crossed by the range line 7W.W.M. and 8W.W.M., then north on this range line to its junction with Road 2302 (USFS Road 2204-200); then east and north on Road 2302 to the Olympic National Park Boundary; then east along the Olympic Park boundary to the North Fork of the Skokomish River; then south down the North Fork of the Skokomish River to Lake Cushman; then southeast along the west shore of Lake Cushman to Cushman Upper Dam; then east along the Power Dam Road to its intersection with Lake Cushman-Hoodsport Road; then southeast on Lake Cushman-Hoodsport Road to U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 638-Quinault Ridge (Grays Harbor and Jefferson counties): Beginning at the Olympic National Park boundary at the northwest corner of Lake Quinault; then southwest along the south shore of Lake Quinault to the boundary of the Quinault Indian Reservation; then southwest along this boundary to U.S. Highway 101; then south along U.S. Highway 101 to Quinault Ridge Road (Forest Service Road #2258); then northeast along the Quinault Ridge Road to the Forest Service Road #2280; then east along Forest Service Road #2280 to the Forest Service Road #2220; then north and south along that road to the Forest Service Road #2204; then northeast along Forest Service Road #2204 to the 2204-200 Spur Road; then north along this spur road to the boundary of the Olympic National Park; then west along the Olympic National Park Boundary to Lake Quinault and the point of beginning. (See Olympic National Forest map)

GMU 639-Humtuplups (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Quinault Ridge Road (Forest Service Road #2258); then northeast along Quinault Ridge Road to the Forest Service Road #2280; then east along Forest Service Road #2280 to the Forest Service Road #2220; then north and south along Forest Service Road #2220 to the Forest Service Road #2204; then northeast along Forest Service Road #2204 and the 2204-200 Spur Road to a point crossed by the range line between range 7W.W.M. and 8W.W.M.; then south on this range line to the most northern point crossed by the East Fork of the Humptulips River; then downstream on the East Fork of the Humptulips to the USFS 22 Road; then west and south along USFS 22 Road to its junction with the Donkey Creek Road; then southwest along the Donkey Creek Road (Forest Service Road #22) to its junction with U.S. Highway 101; then north along U.S. Highway 101 to its junction with the Quinault Ridge Road (Forest Service Road #2258) and the point of beginning. (See Olympic National Forest map)

GMU 642-Copalis (Grays Harbor County): Beginning at the U.S. Highway 101 bridge crossing the Hoquiam River in the City of Hoquiam; then north along U.S. Highway 101 to the boundary of the Quinault Indian Reservation; then southwest along the Quinault Indian Reservation boundary to the Pacific Ocean; then south along the shore of the Pacific Ocean to Grays Harbor; then east along the north shore of Grays Harbor to the mouth of the Hoquiam River; then north along the Hoquiam River to U.S. Highway 101 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 648-Wynoochee (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Donkey Creek Road; then northeast along the Donkey Creek Road (Forest Service Road #22) to its junction with the Donkey Creek-Gridale Road; continuing east on this road (Forest Service Road #22) to Camp Gridale (south of Wynoochee Lake); then south along the Gridale-Montesano Road (Forest Service Road #22) to the junction with the L-600 line (Canyon River Road, Road 2153); then east along the L-600 line to the concrete bridge over the West Fork of the Satsop River in Sec. 15, T.21N., R.7W.W.M.; then south down the West Fork and the main stream of the Satsop River to U.S. Highway 12; then west along U.S. Highway 12 to its junction with U.S. Highway 101 in Aberdeen; then

west and north along U.S. Highway 101 to its junction with the Donkey Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 651-Satsop (Grays Harbor, Mason and Thurston counties): Beginning at the U.S. Highway 12 Bridge on the Satsop River, then upstream on the Satsop River to its junction with the West Fork of the Satsop River; then up the West Fork of the Satsop to the concrete bridge on the L-600 Road (Canyon River Road, Road 2153); then east on the L-600 Line to its junction with the Kelly Road; then south on the Kelly Road to the Middle Satsop Road; then east on the Middle Satsop and Matlock-Deckerville Roads to the town of Matlock; then east on the Shelton-Matlock Road (County Road 9010) to its junction with U.S. Highway 101; then south on U.S. Highway 101 to its junction with State Route # 8, then west on State Route 8 to its junction with U.S. Highway 12; then west along Highway 12 to the Satsop River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 658-North River (Grays Harbor and Pacific counties): Beginning at the U.S. Highway 101 bridge across the Chehalis River in Aberdeen; then west along the Chehalis River to the river mouth; then west along the southern shore of Grays Harbor to the Pacific Ocean; then south along the Pacific Ocean to Willapa Bay; then east in Willapa Bay to the mouth of the Willapa River; then east up the Willapa River to U.S. Highway 101 in the City of Raymond; then north along U.S. Highway 101 to the Chehalis River Bridge and the point of beginning; also Rennie Island. (See Washington Atlas & Gazetteer)

GMU 660-Minot Peak (Grays Harbor and Pacific counties): Beginning at the junction of U.S. Highway 101 and U.S. Highway 12 in Aberdeen; then south along U.S. Highway 101 to the Smith Creek Road; then east along the Smith Creek Road to its junction with the North River Road; then east along the North River Road through Brooklyn and continuing east along the Brooklyn-Oakville Road to the town of Oakville; then north along U.S. Highway 12 to Elma; then west along U.S. Highway 12 to U.S. Highway 101 and the point of beginning; also Rennie Island. (See Washington Atlas & Gazetteer)

GMU 663-Capitol Peak (Grays Harbor and Thurston counties): Beginning at Elma; then southeast along U.S. Highway 12 to its junction with the Moon Road; then north on the Moon Road to the Gate-Mima Road; then northeast on Gate-Mima Road to Waddell Creek Road; then northeast and then northwest on Waddell Creek Road to Delphi Road; then north on the Delphi Road to U.S. Highway 101; then west on Highway 101 to Highway 8; then west on Highway 8 to Elma and Highway 12 and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 666-Deschutes (Thurston County): Beginning at the mouth of the Nisqually River; then south on the Nisqually River to Pacific Highway; then southwest on Pacific Highway to Highway 510; then southeast on Highway 510 to Yelm Highway; then southwest and west on the Yelm Highway to Spurgeon Creek Road; then south on the Spurgeon Creek Road to Rainier Road; then northwest on Rainier Road to Stedman Road; then west and south on Stedman Road to Waldrick Road; then west on Waldrick Road to Pacific Highway; then north on Pacific Highway to McCorkle Road; then west on McCorkle Road to 113th Avenue; then west on 113th Avenue to Littlerock Road; then north on Littlerock Road to 110th Avenue (Bloom Road); then west on 110th Avenue to Delphi Road; then north on Delphi Road to U.S. Highway 101; then northwest on Highway 101 to the Mason-Thurston county Line at Oyster Bay; then northeast and southeast through Totten Inlet, Dana Passage and Nisqually Reach to the mouth of the Nisqually River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 667-Skookumchuck (Thurston and Lewis counties): Beginning at the Pacific Highway Bridge on the Nisqually River; then upstream on the Nisqually River to Alder Lake; then along the north shore of Alder Lake to the town of Elbe and Highway 7; then south on Highway 7 to Highway 508 at Morton; then west on Highway 508 to the Centalia-Alpha Road; then west on the Centalia-Alpha Road, Salzer and Suma Roads to Pearl Street; then north on Pearl Street to Highway 507; then northwest on Highway 507 to Interstate 5 then north on Interstate 5 to U.S. Highway 12; then west on Highway 12 to Moon Road; then north on Moon Road to the Gate-Mima Road; then northeast on the Gate-Mima Road to Waddell Creek Road; then northeast on the Waddell Creek Road to the Delphi Road; then south on the Delphi Road to 110th Avenue; then east on 110th Avenue to

Littlerock Road; then south on Littlerock Road to 113th Avenue; then east on 113th Avenue to McCorkle Road; then east on McCorkle Road to Pacific Highway; then south on Pacific Highway to Waldrick Road; then east on Waldrick Road to Stedman Road; then north and east on Stedman Road to Rainier Road; then southeast on Rainier Road to Spurgeon Creek Road; then north on Spurgeon Creek Road to the Yelm Highway; then east and northeast on Yelm Highway to Highway 510; then northwest on Highway 510 to Pacific Highway; then northeast on Pacific Highway to the Nisqually River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 669-Palix (Pacific County): Beginning at the U.S. Highway 101 Bridge across the Willapa River in Raymond; then west along the Willapa River to Willapa Bay; then south along the east shore of Willapa Bay to the mouth of the North Nemah River; then northeast up the North Nemah River and Williams Creek to the North Nemah Road Crossing (or North Nemah A Line); then east on the North Nemah A Line to the Williams Creek A Line; then northeast on the Williams Creek A Line to the C2000 Line to the Trap Creek A Line; then east on the Trap Creek A Line (on the north side of the Trap Creek Lookout) to the Bonneville Power Line Road; then north on the Bonneville Powerline Road to its junction with State Highway 6; then northwest along Highway 6 to its junction with U.S. Highway 101 in the City of Raymond; then north along U.S. Highway 101 to the bridge across the Willapa River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 672-Fall River (Pacific, Lewis and Grays Harbor counties): Beginning at the junction of U.S. Highway 101 and State Highway 6 in Raymond; then east along State Highway 6 to Doty Road (Stevens Road); then northwest on Stevens Road to the Elk Creek Road (in Doty); then west on the Elk Creek Road to the 7000 Road; then west on the 7000 Road to the 7800 Road; then west on the 7800 Road to the 720 Road; then northeast on the 720 Road to Garrard Creek Road; then north on the Garrard Creek Road to the Brooklyn-Oakville Road; then east along the Brooklyn-Oakville Road, North River Road, to the Smith Creek Road; then southwest along the Smith Creek Road to U.S. Highway 101; then south on U.S. Highway 101 to its junction with State Highway 6 and the point of the beginning. (See Washington Atlas & Gazetteer)

GMU 678-Nemah (Pacific and Wahkiakum counties): Beginning at the mouth of the North Nemah River on Willapa Bay; then northeast up the North Nemah River and Williams Creek to the North Nemah Road Crossing (or North Nemah A Line); then east on the North Nemah A Line to the Williams Creek A Line to the C2000 line to the Trap Creek A Line; then east along the Trap Creek A Line (north side of Trap Creek Lookout) to the Bonneville Powerline Road; then south along the Powerline Road to the Salmon Creek Road; then southwest along the Salmon Creek Road to State Highway 4; then west along State Highway 4 to its junction with U.S. Highway 101 at Johnson's Landing and continuing west along U.S. Highway 101 to the Naselle River bridge; then down the Naselle River to Willapa Bay; then north along the shore of Willapa Bay to the mouth of the North Nemah River and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 681-Bear River (Pacific and Wahkiakum counties): Beginning at the Deep River Bridge on State Highway 4; then down the Deep River to the Columbia River; then west along the Columbia River to the mouth of the Wallacut River; then up the Wallacut River to U.S. Highway 101; then northwest on U.S. Highway No. 101, north on Alternate U.S. Highway No. 101 and northeast on U.S. Highway 101 to the Bear River; then down the Bear River to Willapa Bay; then north along the shore of Willapa Bay to the mouth of the Naselle River and up the Naselle River to U.S. Highway 101; then east along U.S. Highway 101 to its junction with State Highway 4 at Johnson's Landing; then southeast along State Highway 4 to the Deep River Bridge and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 684-Long Beach (Pacific County): The Long Beach Peninsula and those lands west of the following line; beginning at the mouth of Bear River; then up the Bear river to U.S. Highway 101; then southwest along U.S. Highway 101 to Alternate U.S. Highway 101; then south along Alternate U.S. Highway 101 to U.S. Highway 101; then southeast along U.S. Highway 101 to the Wallacut River; then down the Wallacut River to the Columbia River. (See Washington Atlas & Gazetteer)

DEER AREA DESCRIPTIONS

Deer Area No. 001 Champion North (Pierce County): Beginning at the point where the Bonneville Power Transmission Line crosses the Carbon River (about 14 miles northwest of Carbonado); then south and west up the Carbon River to where it intersects State Highway No. 165; then south and east along State Highway No. 165 to where it intersects the Mt. Rainier National Park boundary; then south along said boundary to where it intersects the North Fork Puyallup River; then north and west down the North Fork Puyallup River and the Puyallup River to where it intersects the Bonneville Power Transmission Line (about three miles south of Orting); then north and east along said power transmission line to the point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 002 Champion South (Pierce County): Beginning at the point where Champion's 1 Road crosses the Puyallup River (approximately 1 1/2 miles NE of Kapowsin) then southeast up the Puyallup River to the confluence with Deer Creek; then south up Deer Creek to where it intersects the 243 Road; then northwest along the 243 Road to where it intersects the 24 Road; then southwest along the 24 Road to where it intersects the 3270 Road; then west along the 3270 Road to where it intersects the 327 Road; then southwest along the 327 Road to where it crosses Busy Wild Creek (near Lake Lorraine); then west down the Busy Wild Creek to its confluence with the North Fork Mashel River; then up the North Fork Mashel River (about 1 mile) to the point nearest the southernmost extension of the 311 Road (T16N, R6E, Sec. 19, SW 1/2 of SW 1/2); then in a line to the 311 Road; then along 311 Road to where it intersects the 3113 Road; then north along the 3113 Road to where it intersects the 843 Road; then along the 843 Road to where it intersects the 84 Road; then along the 84 Road to where it intersects the 8 Road; then north along the 8 Road to where it intersects the 82 Road; then along the 82 Road to where it intersects the township line between Townships 16 & 17 North, W.M.; then west on said line to where it intersects the range line between Ranges 4 & 5 East, W.M.; then north on said line to northwest corner of Sec. 31, T17N, R5E; then east on section line between sections 30 and 31, T17N, R5E to 1/4 corner (Champion ownership); then north from said corner along ownership line to the point closest to the southernmost extension of the 0-100 Road (approx. 3/4 mile); then in a northwest line to the 0-100 Road, then along the 0-100 Road to where it intersects with Ohop Creek; then northwest along Ohop Creek to where it empties into Lake Kapowsin; then northeast along the east shore of Lake Kapowsin to the point closest to the start of the 1 Road; then along the 1 Road to point of beginning. (See Washington Atlas & Gazetteer)

Deer Area No. 010 Pyramid (Chelan County): That part of GMUs 306 and 304 beginning at the Glacier Peaks Wilderness and Lake Chelan; then south along Lake Chelan to Corral Creek Campground; then west to the intersection of trail #1433 and Butte Trail #1440; then northwest along Butte Trail #1440 to South Pyramid Trail #1439; then southwest to intersection of trail #1437; then due west to Trail #1434; then northwest to Trail #1435; then south to Trail #1400; then southeast to Garland Creek; then west to Garland Peak; then north along trail #1408 to Trail #1515; then south to Trail #1530; then west to trail #1509; then south to Trail #1527; then north to Estes Butte and continuing along the Glacier Peaks Wilderness boundary to beginning. (See Wenatchee National Forest map)

Deer Area No. 040 Foss River (King County in the Alpine Lakes Wilderness Area): Beginning at the intersection of the Dingford Creek Trail (USFS Trail 1005) and the Alpine Lakes Wilderness Area boundary; then north along USFS Trail 1005 to Little Myrtle Lake; then in a northeast line approximately one-half mile to Marlene Lake; then down the tributary from Marlene Lake to its intersection with USFS Trail 1072 near Lake Dorothy; then north along USFS Trail 1072 to its intersection with the Alpine Lakes Wilderness Area boundary; then north and east along the wilderness boundary to the Pacific Crest Trail at Hope Lake; then south along the Pacific Crest Trail to the headwaters of Burntboot Creek about Iceberg Lake at Overcoat Peak; then down Burntboot Creek to the Alpine Lakes Wilderness Area boundary; then north and west along the wilderness area boundary to the point of beginning. (See Washington Atlas and Gazetteer)

Deer Area No. 060 Olympic Wilderness (Clallam, Jefferson, Grays Harbor and Mason counties): The Buckhorn, Colonel Bob, Mt. Skokomish, the Brothers and Wonder Mountain Wilderness areas of Olympic National Forest. (See Olympic National Forest map for these primitive roadless areas)

Deer Area No. 061 Marrowstone Island (Jefferson County): Marrowstone Island in Jefferson County. (See Washington Atlas and Gazetteer)

ELK AREA DESCRIPTIONS

Elk Area No. 001 Trinidad (Grant and Douglas counties): All of Douglas and Grant counties except closed in the corridor described as follows: Beginning at East Wenatchee and following a line parallel to and one-half mile north and east of Highway No. 28 from East Wenatchee to a point in Grant County one-half mile north of SR 28 on Road "U" N.W.; then south on Road "U" N.W. to Road "9" N.W.; then west on Road "9" N.W. To the Ancient Lake Road; then south on the Ancient Lake Road to the northwest corner of Sec. 8, T19N, R23E W.M. (yellow cattle guard); then west to midstream of the Columbia; then north up midstream of the Columbia River to East Wenatchee and the point of beginning. (See official road map of Douglas and Grant counties)

Elk Area No. 002 Caribou (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction at the USFS 3517 Road; then east and south along USFS 3517 Road and Lillard Hill Road to the Bonneville Powerlines; then east along the Bonneville Powerlines to the Colocum Pass-Brushy Road (cattle guard); then east along the Brushy Road to the Crossover Road; then south along the Crossover Road to the Perkins/Caribou junction; then east along the Perkins Road to the Beacon Ridge Road; then south along the Beacon Ridge Road to the Old Vantage Highway; then south along a county service road to Interstate #90; then west along Interstate #90 to the Highline Canal near the Stevens Road; then northwest along the Highline Canal to the point of beginning. (See Department of Wildlife map)

Elk Area No. 003 Kingsbury (Chelan, Kittitas counties): That portion of GMU 314 which lies east of the Stemilt Creek, Stemilt Creek Road, Stemilt Hill Road, Stemilt Loop Road and Jump Off Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 004 Wenatchee (Chelan, Kittitas and Okanogan Counties): GMUs 300, 304, 306, 308, 316, that portion of 302 which lies in Chelan County; and that portion of 314 which lies west of the following boundaries: Beginning at the mouth of the Stemilt Creek at the Columbia River, south up Stemilt Creek to the Stemilt Creek Road to the Stemilt Hill Road; then east and south along the Stemilt Hill Road to the Stemilt Loop Road; then east along the Jump Off Road to the Jump Off Ridge Road (Bonneville Powerlines); then south along the Jump Off Ridge Road to the Naneum Ridge Road. (See Washington Atlas & Gazetteer)

Elk Area No. 025 Backbone (Lewis County): Beginning at State Highway No. 12 at the Pacific Crest Trail; then northwest and south-west along State Highway No. 12 to Coal Creek in Sec. 1, Twp. 13N., R 9 E.W.M.; then north along the range line between Ranges 9 and 10 E.W.M., across the Cowlitz River to the Gifford Pinchot National Forest boundary in the NE corner of Sec. 1, Twp. 13N., R 9 E.W.M.; then southwest along the National Forest Boundary to the Skate Creek Road (first contact) in Sec. 9, Twp. 13N., R 9 E.W.M.; then northwest along the Skate Creek Road to the mouth of Horse Creek and the south boundary of Mt. Rainier National Park; then east along the south Park boundary to the Pacific Crest Trail; then south along the Pacific Crest Trail to State Highway No. 12 and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 029 Toledo (Lewis County): Beginning at the Cedar Creek Bridge along State Highway No. 505; then northeast up Cedar Creek approximately 4 miles to the Weyco 1970 line; then north and west along the Weyco 1970 line approximately 3.5 miles to the Weyco 1800 line; then north along the Weyco 1800 line approximately 1 mile to the Evans Road; then southwest along the Evans Road to the Layton Road; then south along the Layton Road to State Highway No. 505; then east and southeast along State Highway No. 505 to Cedar Creek Bridge and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 030 Reecer Creek (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction of the USFS 3517 Road; then east and south along the USFS 3517 Road and Lillard Hill Road to the Wilson Creek Road to the Highline Canal; then west along the Highline Canal to the point of beginning. (See Wenatchee National Forest map)

Elk Area No. 031 Shushuskin (Kittitas County): Beginning at Damon Road and the Yakima River; then west along Damon Road to Manastash Road; then west on Manastash Road to Cove Road; then south on Cove Road and Mellegaard Road to Umataneum Creek; then east (downstream) along Umataneum Creek to the Yakima River; then north along the Yakima River to the point of beginning. (See Washington Atlas and Gazetteer)

Elk Area No. 032 Malaga (Kittitas, Chelan Counties): Beginning at Powerlines on the Columbia River (approximately 3/4 mile downstream from Colocum Creek); then west and south along the Powerline Road #12 to Colocum Pass Road; then south along the Colocum Pass Road to the section line between Sections 8 and 9 (T20N, R21E); then west along the section line to the Mose Carr Road; then north and west on the Mose Carr Road to the Jump Off Road; then north and west on Jump Off Road to the Shaller Road and Upper Basin Loop Road; then north and east on the Upper Basin Loop Road and Wenatchee Heights Road; then northeast on the Wenatchee Heights Road and Squilchuck Road to the Columbia River; then down the west bank of the Columbia River to the point of beginning. (See Washington Atlas and Gazetteer)

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; then west on Crawford Street and Number Two Canyon Road to USFS #7101 Road (Peavine Canyon); then west on USFS #7101 to Mission Creek Road; then north on Mission Creek Road to USFS #7104 Road (Poison Canyon); then northwest on USFS #7104 Road and along the northeast edge of Camas Meadow; then west along this dirt road to the USFS #7200 Road to Highway #97; then north on Highway #97 to USFS #7300 Road (Mountain Home Road); then north on the USFS #7300 Road to the Wenatchee River at Leavenworth; then down the Wenatchee River and Columbia River to the point of beginning. (See Washington Atlas and Gazetteer)

Elk Area No. 039 Backbone (Lewis County): Legal description same as Elk Area No. 025 (Backbone) (See Gifford Pinchot National Forest Map)

Elk Area No. 051 Doty (Lewis and Pacific Counties): Beginning on State Highway 6 at the town of Adna, then west on Highway 6 to Stevens Road, then northwest on Stevens Road to Elk Creek Road (Doty), then west on Elk Creek Road to the 7000 Road, then west on the 7000 Road to the 7800 Road, then west on the 7800 Road to the 720 Road, then northeast on the 720 Road to Garrard Creek Road, east on Garrard Creek Road to Manners Road, then south on Manners Road to Lincoln Creek Road, then east along Lincoln Creek Road to Ingalls Road, then south and east on Ingalls and Bunker Creek roads to the town of Adna and point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 052 Mayfield (Lewis County): Beginning at the junction of Highway 12 and the Winston Creek Road; then southeast and north along the Winston Creek Road, Longbell, Perkins, Green Mountain roads to Riffe Lake; then west and northwest along the shoreline of Riffe Lake to the Cowlitz River; then west along the Cowlitz River to Highway 12; then west along Highway 12 to the Winston Creek Road and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 053 Randle (Lewis County): Beginning at State Highway 12 and the Cispus Road in the town of Randle; then east along Highway 12 to the Bennett Road approximately one (1) mile east of Cora Bridge; then west on Bennett and Cline roads to the Cispus Road; then north on said road to the town of Randle and the point of beginning. (See Gifford Pinchot National Forest map)

Elk Area No. 054 Boistfort (Lewis County): Beginning at the town of Vader; then west along State Highway 506 to the Wildwood Road; then north along the Wildwood Road to the Abernathy 500 line gate (Sec. 20, T11N, R3W, Willamette Meridian); then northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; then northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Sec. 15, T12N, R4W0); then west along the Pe Ell/McDonald Road to the Lost Valley Road; then northeast along the Lost Valley Road to the Boistfort Road; then north along the Boistfort Road to the King Road; then east along the King Road to the town of Winlock and State Highway 603; then south along Highway 603 to the Winlock/Vader Road; then south along said road to the town of Vader and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; then west on East Valley Road to the junction with Middle Valley Road (4.5 miles); then north along Middle Valley Road to the junction of Oat Field Road (2.5 miles). (See Washington Atlas & Gazetteer)

Elk Area No. 057 Carlton (Lewis County): That part of unit 514 (Tatoosh) lying east of Highway No. 123 and north of Highway No. 12. (See Gifford Pinchot National Forest map)

Elk Area No. 058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Cascade Crest Trail. (See Gifford Pinchot National Forest map)

Elk Area No. 059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness (See Gifford Pinchot National Forest map)

Elk Area No. 061 Mt. Tebo (Mason County): Beginning at the junction of the North Fork and South Fork of the Skokomish River; then northwest along the South Fork to the boundary of Olympic National Park; then east along the National Park boundary to the North Fork of the Skokomish River; then southeast down the North Fork of the Skokomish River through Lake Cushman; then south down the North Fork of the Skokomish River to the South Fork of the Skokomish River and the point of beginning. (See Olympic National Forest Map)

Elk Area No. 065 Willapa Valley (Pacific County): That part of Pacific County within two miles of State Highway 6 between Menlo and the eastern most junction of Elk Prairie Road and State Highway 6. (See Washington Atlas & Gazetteer)

Elk Area No. 066 Twin Valley (Grays Harbor County): Beginning in the City of Hoquiam at the junction of U.S. Highway No. 101 and the East Hoquiam Road; then north on the East Hoquiam Road to its junction with the East Hoquiam Cutoff Road in Sec. 21, T19N, R9W.W.M.; then east on the East Hoquiam Cutoff Road to its junction with the Wishkah Road; then south on the Wishkah Road to its junction with the Wishkah-Wynoochee Crossover Road in Sec. 35, T19N, R9 W.W.M.; then east on the Wishkah-Wynoochee Crossover Road to its junction with the Donovan Corkey A line; then north on the A line to its junction with the A 2200; then east on the A 2200 Road to its junction with the A 2210; then south on the A 2210 Road to a point crossed by the township line between Twp 20N and 19N; then east on the township line to its junction with the Wynoochee River Road; then south along the Wynoochee River Road to U.S. Highway No. 12; then west along U.S. Highway 12 to its junction with U.S. Highway No. 101 in the City of Aberdeen, then west on U.S. Highway 101 to the City of Hoquiam and junction with the East Hoquiam Road and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 067 South Willapa (Pacific County): Beginning in the City of South Bend at the junction of U.S. Highway 101 and the Skidmore Slough C-line; then south on the Skidmore Slough C-line to its junction with the B-line in Sec. 11, T13N, R9 W.W.M.; then southeast on the B-line to its junction with the A-line in Sec. 18, T13N, R8 W.W.M.; then east and north on the A-line to its junction with the South Fork Willapa Road; then east along the South Fork Willapa Road to State Highway No. 6, Sec. 10, Twp. 13 N., R. 8 W.W.M.; then northwest on State Highway No. 6 to its junction with U.S. Highway 101; then southwest on U.S. Highway 101 to its junction with the Skidmore Slough C-line and the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 069 Chinook (Pacific County): Beginning at the junction of U.S. Highway 101 and the Prest Road (approximately 4 miles west of the town of Chinook); then northwest on Prest Road to its junction with Chinook Valley Road; then west on Chinook Valley Road to its intersection with the east branch of the Wallicut River; then north along the Wallicut River to its intersection with Highway 101; then west on Highway 101 to the junction of Highway 101 alternate; then south on Highway 101 alternate to Highway 101; then east on Highway 101 to Prest Road and the point of beginning. (See Washington Atlas & Gazetteer)

BOW AND ARROW AREA DESCRIPTIONS

Bow Area No. 802 Long Island (Pacific County): Long Island in Pacific County. (See Washington Atlas & Gazetteer map)

Bow Area No. 806 Rattlesnake (Yakima County): Beginning at the point where USFS Road #1500 crosses Little Rattlesnake Creek, near Hanging Tree Campground; then southwest up Little Rattlesnake Creek to USFS Road #1500; then north along Road #1500 to USFS Trail #1101 (MJB Trail); then northwest along MJB Trail to USFS Trail #1114; then north along Trail #1114 to USFS Trail #981; then west along Trail #981 to USFS Trail #982; then northeast along Trail #982 to USFS Trail #973; then northwest along Trail #973 to the North Fork of Rattlesnake Creek; then down the North Fork to the junction with South Fork of Rattlesnake Creek; then up the South Fork to USFS Road #1502; then east on Road #1502 to USFS Road #1500; then east on Road #1500 to Little Rattlesnake Creek and the point of beginning. (See Wenatchee National Forest map)

Bow Area No. 807 Ahtanum (Yakima County): That part of GMU 368 which lies west of the following boundary; beginning at the junction of the North and South fork of Ahtanum Creek; then northwest up North Fork of Ahtanum Creek to Nasty Creek; then north up Nasty Creek to the Nasty Creek-Cowiche Road (DNR Road #C1050); then north on Road #C1050 to South Fork of Cowiche Creek; then east down South Fork Cowiche Creek to the power line which crosses near the mouth of Reynolds Creek; then northwest along the powerline to Jump-off (USFS Road #1302). Except closed east of a north south line drawn between the South Fork and North Fork of Ahtanum Creek two miles west of the Tampico Store. (See Wenatchee National Forest map)

Bow Area No. 808 Acme (Whatcom County): Beginning at the town of Acme; then north on Highway No. 9 to the junction of the Strand Road; then east on the Strand Road and over the Van Zandt Dike following the south boundaries of Sections 21, 22 and 23 of Twp. 38 N, R 5 E to the Mosquito Lake Road; then south along the Mosquito Lake Road to the Blue Mountain Road; then east to Peterson Creek and the Musto Marsh Road; then south to Skookum Creek; then west along Skookum Creek to the South Fork Nooksack River; then continue west along the South Fork Nooksack River to the mouth of Christy Creek; then south along Christy Creek to its source; then west to Ennis Creek; then west along Ennis Creek to the Ennis Creek Road; then west along Ennis Creek Road to the Wickersham Road; then west along the Wickersham Road to Highway No. 9; then north along Highway No. 9 to Acme and the point of beginning. (See Washington Atlas & Gazetteer)

Bow Area No. 820 Malott (Okanogan County): Beginning south of the town of Riverside, then south down the Okanogan River to Highway 97 bridge at mouth of river, then west on Highway 97 through the town of Brewster to the Indian Dan Canyon Road, then north to Paradise Hill Road; then east and south along the Paradise Hill Road to the Hanford Cutoff (approximately 1/2 mile south of Rat Lake Road), then west on Hanford Cutoff to the North Star Road, then north on North Star Road to junction with Chiliwist Road then east on Chiliwist Road to junction with Olema/Cook Mt. Road, then north on Olema/Cook Mt. Road to its junction with Highway 20, then east on Highway 20 to the junction with Buzzard Lake Road, then north on Buzzard Lake Road to the junction with Windy Hill Road, then east on Windy Hill Road to its junction with Spring Coulee/Salmon Creek Road, then north on Spring Coulee/Salmon Creek Road to the junction with Green Lake Road, then north on Green Lake Road to the Conconully Highway then northwest on the Conconully Highway to the junction with the Riverside Cutoff Road, then northeast of the Riverside Cutoff Road to the town of Riverside and the Okanogan River and the point of beginning. (See Washington Atlas & Gazetteer)

Bow Area No. 831 Hamilton (Skagit County): Beginning at the point where State Highway No. 20 crosses Child's Creek approximately one mile west of Lyman; then east along Highway No. 20 to the Burpee Hill Road at Concrete; then north along said road to the Baker Lake Highway; then west along said highway to the DNR Road N. 2400; then continue west along said line to the DNR 2000 line; then north along said line to the DNR 2800 line; then west along said line to the DNR 2900 line; then west along said line to the Scott Paper Mainline; then north along said line to the Scott Paper 110 line; then continue west along said line to where it crosses Child's Creek; then south down said creek to State Highway No. 20 and point of beginning. (See Washington Atlas & Gazetteer)

MUZZLELOADER AREA DESCRIPTIONS

Muzzleloader Area No. 908 Acme (Whatcom County): Same as Bow Area No. 808. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 910 Cle Elum (Kittitas County): Beginning at Easton; then southeast along the main BPA Powerlines to the Fowler Creek Road (4517); southeast on Spur Road 117 to Granite Creek Trail #1326; then south on Trail #1326 to the top of South Cle Elum Ridge; then east along the ridge on Trail #1326 to Spur Road 119; then north on Road 119 to the Peoh Point Road (3350); then south on Road 3350 to the junction with Road 3352; then east on the 3352 Road to the Cedar Creek Road; then north on the Microwave Road to Sky Meadows and Casassa Road to the BPA Powerlines; then east along the BPA Powerlines to Highway 10; then east along Highway 10 to the junction with Highway 97; then north on Highway 97 to the Lower Green Canyon Road; the north to Upper Green Canyon Road to the junction of the First Creek Road; then west on the First Creek Road to Highway 97; then north on Highway 97 to USFS 9738 (Blue Creek); then west on USFS 9738 to USFS 9702 (Dickey Creek); then west on USFS 9702 to the North Fork Teanaway Road; then south to the junction with West Fork Teanaway Road; then south on Middle Fork Road to Bible Camp; then south up #17 Canyon Road to Cle Elum Ridge Road; then west on Cle Elum Ridge Road to the bottom of #5 Canyon Road; then south to Highway 903 and Bullfrog Road; then south on Bullfrog Road to Interstate Highway 90; then west on Interstate Highway 90 to Easton and point of beginning. (See Wenatchee National Forest map)

Muzzleloader Area No. 925 Ritzville. (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the town of Ritzville, then south along S.R. 261 to Washtucna, then east on S.R. 26 to the Whitman County line, then north along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line, then north along the Adams, Lincoln County line to Interstate 90, then west along Interstate 90 to point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 944 Clemans (Yakima County): That portion of GMU 346 beginning at the junction of Highway #410 and USFS Road #1701 (Big Bald Mountain Road); then north to USFS Road #1712; then east on USFS Road #1712 (Clemens Ridge Road) to the east edge of Meyster Canyon; then along the east side of Meyster Canyon to the elk fence; then west along the elk fence to Waterworks Canyon and Highway #410 and to point of beginning. (See Wenatchee National Forest map)

Muzzleloader Area No. 950 Toutle Mountain (Cowlitz County): Beginning at the confluence of the South Fork Toutle River and the North Fork Toutle River; then up the S.F. Toutle River to Johnson Creek; then up Johnson Creek to the Weyerhaeuser Company 4400 Road; then northeast on the 440 Road to the 2421 Road; then north to the 2400 Road; then east on the 2400 Road to Alder Creek; then north down Alder Creek to the North Fork Toutle River; then west down the North Fork Toutle River to the confluence with the South Fork Toutle River and point of beginning. (See Washington Atlas & Gazetteer)

Muzzleloader Area No. 961 Hoko River (Clallam County): Within one mile of the Hoko County Road between Highway 112 and the Olympic National Park boundary near Lake Ozette. (See Olympic National Forest Map)

Muzzleloader Area No. 962 Elwha (Clallam County): Beginning at the U.S. Highway 101 Bridge on the Elwha River; then south on the Elwha River to the Olympic National Park boundary; then along Olympic National Park boundary to the section line between Sections 32 and 33 of T 30 N, R 7 W. W. M.; then north on the section lines to U.S. Highway 101; then east on U.S. Highway 101 to Ewha River and point of beginning. (See Washington Atlas and Gazetteer)

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 232-28-218 1989-90 GENERAL HUNTING SEASONS AND RULES

WSR 90-05-014
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 12, 1990, 4:30 p.m.]

Original Notice.

Title of Rule: Nursing home accounting and reimbursement system, amending chapter 388-96 WAC.

Purpose: WAC 388-96-010 Terms, the only substantive change is to subsection (45) and clarifies that a Medicaid contractor's "net invested funds," which is the starting point for calculating the contractor's financing allowance subcomponent of the contractor's return on investment (ROI) Medicaid reimbursement rate component, shall not include assets or asset values in excess of the various reimbursement lids and limits set forth in chapter 74.46 RCW. The department has never included such allowable assets in a contractor's net invested funds and the change is made for the purposes of clarity and consistency with other provisions of chapters 74.46 RCW and 388-96 WAC. The purpose of the numerous other proposed changes is to help conform the regulation to the department's drafting guidelines and they are not intended to be substantive; WAC 388-96-204 Field audits, the purpose is to clarify when audits of other years for the same nursing home Medicaid provider are required, when material discrepancies, undocumented costs, trust fund irregularities or other problems are surfaced by departmental audit; WAC 388-96-559 Depreciation base, the primary purpose is to amend and clarify retroactively that the cost basis of land as well as that of depreciable assets is subject to the Department of General Administration appraisal limitation and the Deficit Reduction Act of 1984 (DEFRA) restriction on increased reimbursement resulting solely from a change of ownership. Recent administrative decisions have held DEFRA does not apply to land; however, the department believes this would result in the loss of substantial federal matching funds in violation of state law. (RCW 74.09.500 and 74.46.840) Pursuant to RCW 34.05.350(1) the department finds that immediate retroactive amendment of this rule to provide that land is subject to DEFRA is necessary for the preservation of the general welfare. Observing requirements of public notice and opportunity to comment prior to adoption would be contrary to the public interest. The department estimates that matching federal Medicaid funds of \$2.3 million may be lost in the absence of immediate adoption. Therefore, the amendment to WAC 388-96-559 is sought on an emergency basis. Another purpose is to track the 1989 legislative amendment (SHB 1864, section 14, chapter 372, Laws of 1989) which conforms the statute to DEFRA and further specifies that absence of a legal description shall not render a contract to purchase a nursing home unenforceable. Another purpose is to clarify, retroactively to January 1, 1985, that land is

subject to appraisal and related party limitations. No change in policy or practice; WAC 388-96-561 Depreciation base—Donated or inherited assets, the purpose is to amend and clarify retroactively that donated or inherited land will, for reimbursement purposes, be subject to DEFRA and appraisal procedures and otherwise be given the same treatment as depreciable assets. No change in policy or practice; WAC 388-96-585 Unallowable costs, there are two amendatory purposes. One is to clarify that lids on costs of legal and accounting services will apply only if they are exceeded in all three preceding cost report years as well. The second purpose is to amend and clarify, retroactive for all periods beginning on or after July 18, 1984, (the enactment date of the Deficit Reduction Act of 1984—DEFRA), that costs of land and depreciable assets are unallowable to the extent they cannot be reimbursed under DEFRA. Pursuant to RCW 34.05.350(1) the department finds that immediate retroactive amendment of this rule to provide that land is subject to DEFRA is necessary for the preservation of the general welfare. Observing requirements of public notice and opportunity to comment prior to adoption would be contrary to the public interest. The department estimates that matching federal Medicaid funds of \$2.3 million may be lost in the absence of immediate adoption. Therefore, the amendment to WAC 388-96-585 is sought on an emergency basis; WAC 388-96-713 Rate determination, the purpose is to update an obsolete reference to return on equity (ROE) rates. They were replaced by return on investment (ROI) rates as of January 1, 1985; WAC 388-96-719 Method of rate determination, in subsection (3)(c) the purpose is to clarify that property, return on investment and enhancement cost center Medicaid rate components will not be increased by legislatively appropriated inflation adjustments. In subsection (4) the purpose is to clarify that computation of the return on investment rate component shall be subject to the eighty-five percent minimum bed occupancy requirement, in accordance with RCW 74.46.430(4). Neither change represents a substantive change in department practice or policy; WAC 388-96-745 Property cost area reimbursement rate, the change is proposed in subsection (5) to provide a uniform starting date for adjustment of per bed cost limits in limiting per bed construction costs to a reasonable level for Medicaid allowability and reimbursement purposes. Some subsections are renumbered for clarity; WAC 388-96-754 A contractor's return on investment, the purpose of the change in subsection (2) is to amend and clarify retroactively that land is subject to DEFRA for the purpose of calculating net invested funds. Recent administrative decisions have held DEFRA does not apply to land, however, the department believes this will result in loss of federal matching funds in violation of state law. (RCW 74.09.500 and 74.46.840) Pursuant to RCW 34.05.350(1) the department finds that immediate retroactive amendment of this rule to provide that land is subject to DEFRA is necessary for the preservation of the general welfare. Observing requirements of public notice and opportunity to comment prior to adoption would be contrary to the public interest. The department estimates that matching federal Medicaid funds of \$2.3

million may be lost in the absence of immediate adoption. Therefore, the amendment to WAC 388-96-754 is sought on an emergency basis. The purpose of the change in subsection (6) is to clarify that when net invested funds and resulting financing allowance are adjusted for a Medicaid contractor at settlement to reflect audit findings, if needed, such adjustments shall be based on a minimum occupancy level of eighty-five percent. This is consistent with other provisions regarding calculations of net invested funds. No change in policy or practice; WAC 388-96-763 Rates for recipients requiring exceptionally heavy care, the purpose is to establish specific procedures for obtaining, monitoring and calculating exceptional care patient rates; WAC 388-96-768 Minimum wage, this change is proposed at the request of the state of Washington Department of Labor and Industries. Its purpose is to allow employees of nursing homes receiving payments for temporary and total disability from labor and industries to return to work, if approved by a physician, in a reduced capacity while recovering from the disability. The rule change allows such employees to receive less than the minimum wage levels established by the legislature in the Biennial Appropriation Act. The minimum wage, as set forth in this section, or more, must be paid to the employee when he or she returns to usual work; WAC 388-96-771 Receivership, the purpose is to implement new legislative provisions designed to facilitate recovery of emergency or transitional funds granted to receivers of nursing homes facing possible closure. (SHB 1864, section 4, chapter 372, Laws of 1989); WAC 388-96-773 Adjustments to prospective rates, this section is being repealed because it is obsolete and confuses Medicaid contractors. By its terms it controls rate revisions only for periods prior to May 20, 1985, and no current rate revision requests relate to these early periods; and WAC 388-96-774 Prospective rate revisions, one change in subsection (7) requires a Medicaid contractor's total Medicaid reimbursement rate (all components) to be considered as a resource available to the contractor rather than just the nursing services component rate, in determining whether a prospective rate revision should be granted as authorized by subsection (3). Another change, also in subsection (7), allows the department to look at a nursing facility's staff pattern in evaluating requests for increased staff funding. These changes represent changes in department policy and practices but the impact is expected to be minimal.

Statutory Authority for Adoption: RCW 79.09.120 [74.09.120] and 74.46.800.

Statute Being Implemented: RCW 79.09.120 [74.09.120] and 74.46.800.

Summary: WAC 388-96-010, modifies definition of "net invested funds" to make it consistent with other provisions of chapter 388-96 WAC and emphasize that such funds will not include amounts in excess of limits set forth in the chapter. The change is proposed to enhance consistency and clarity. Other changes are purely formal and are intended to comply with department regulation drafting guidelines; WAC 388-96-204, clarifies audits of other years are authorized, but not required, when material discrepancies or trust fund mishandling

are uncovered by departmental audit; WAC 388-96-559, amends and clarifies regulation to bring land, retroactively for all periods after July 17, 1984, within the restriction on increased Medicaid reimbursement resulting from a change of ownership pursuant to the Deficit Reduction Act of 1984 (DEFRA). The amendment confirms the state reimbursement system to federal requirements thus avoiding the loss of federal Medicaid funding which would violate state law. (RCW 74.09.500 and 74.46.840) Pursuant to RCW 34.05.350(1) the department finds that immediate retroactive amendment of this rule to provide that land is subject to DEFRA is necessary for the preservation of the general welfare. Observing requirements of public notice and opportunity to comment prior to adoption would be contrary to the public interest. The department estimates that matching federal Medicaid funds of \$2.3 million may be lost in the absence of immediate adoption. Therefore, the amendment to WAC 388-96-559 is sought on an emergency basis. Implements legislative provision on enforceability of nursing home purchase agreements. Clarifies, retroactively, that land is subject to appraisal and related party transaction rules; WAC 388-96-561, amends and clarifies, retroactively for all periods after July 17, 1984, that donated or inherited land is subject to the Deficit Reduction Act of 1984 (DEFRA), as are depreciable nursing home assets, and clarifies that appraisal procedures apply to donated or inherited land as well; WAC 388-96-585 clarifies accounting and legal cost lid rule. Amends and clarifies retroactively for all periods after July 17, 1984, that costs which cannot be reimbursed under the Deficit Reduction Act of 1984 (DEFRA), for both land and depreciable assets, are unallowable. Pursuant to RCW 34.05.350(1) the department finds that immediate retroactive amendment of this rule to provide that land is subject to DEFRA is necessary for the preservation of the general welfare. Observing requirements of public notice and opportunity to comment prior to adoption would be contrary to the public interest. The department estimates that matching federal Medicaid funds of \$2.3 million may be lost in the absence of immediate adoption. Therefore, the amendment to WAC 388-96-585 is sought on an emergency basis; WAC 388-96-713, updates obsolete reference to return on equity rate to reflect the return on investment rate which replaced it in 1985. The change is made for clarification; WAC 388-96-719, clarifies that legislatively determined inflation increases contained in biennial budget acts will not be applied to increase property, return on investment or enhancement rates. Clarifies that a facility's return on investment rate shall be calculated per patient day assuming a minimum occupancy of eighty-five percent as provided in RCW 74.46.430(4); WAC 388-96-745, provides that new construction per bed cost limits set forth in this section are to be adjusted to the average date of construction from May 1987 utilizing Marshall and Swift Cost Indexes. The change is necessary to provide a starting date for adjustment of such cost limits; WAC 388-96-754, clarifies that adjustments to a contractor's financing allowance based upon audit findings shall reflect a minimum bed occupancy level of eighty-five percent. Clarifies and amends retroactively to bring

land within DEFRA in calculating net invested funds. Pursuant to RCW 34.05.350(1) the department finds that immediate retroactive amendment of this rule to provide that land is subject to DEFRA is necessary for the preservation of the general welfare. Observing requirements of public notice and opportunity to comment prior to adoption would be contrary to the public interest. The department estimates that matching federal Medicaid funds of \$2.3 million may be lost in the absence of immediate adoption. Therefore, the amendment to WAC 388-96-754 is sought on an emergency basis; WAC 388-96-763, establishes detailed procedures for obtaining and maintaining exceptional care rates for heavy-care Medicaid recipients and sets forth a formula for calculating such rates; WAC 388-96-768, exempts nursing home employees from minimum wage levels who are declared totally but temporarily disabled, until they return to usual work duties; WAC 388-96-771, in accordance with new state law, adds provisions which allow recovery of operational funds extended to receivers of troubled nursing homes, whether such homes participate in Title XIX Medicaid or not; WAC 388-96-773, section repealed as obsolete; and WAC 388-96-774, grants department specific authority to consider a Medicaid contractor's total reimbursement rate, as opposed to the nursing services rate component only, and to examine staff scheduling in evaluating requests for rate increases.

Reasons Supporting Proposal: This rule amendment is necessary to comply generally with various provisions in chapter 74.46 RCW, Nursing Home Auditing and Cost Reimbursement Act of 1980 and federal Medicaid requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Denise Gaither, Aging and Adult Services/Residential Rates, 753-5817.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Deficit Reduction Act of 1984 (DEFRA), Sec. 2314.

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on April 10, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by April 10, 1990.

Date of Intended Adoption: April 17, 1990.

February 12, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-010 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (a) Decision-making(-);
- (b) Planning(-);
- (c) Evaluating performance(-);
- (d) Controlling resources and operations(-); and
- (e) External financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.

(3) "Administration and management" means activities employed to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

(4) "Allowable costs" - See WAC 388-96-501.

(5) "Ancillary care" means services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

(6) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace.

(a) Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter.

(b) Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(7) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges that are not resources but are recognized and measured in accordance with generally accepted accounting principles.

(8) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(9) "Beds" means, unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "Beneficial owner" means any person who:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) ~~((Any person who))~~ In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement and shall not be deemed ~~((to be))~~ the beneficial owner of such pledged ownership interest until the pledgee ~~((has taken all))~~ takes:

(i) Formal steps necessary ~~((which are))~~ required to declare a default; and

(ii) Determines ~~((that))~~ the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised ~~((:))~~ provided ~~((That))~~ the pledge agreement:

~~((if))~~ (A) ~~((The pledge agreement))~~ Is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (10)(b) of this section; and

~~((if))~~ (B) ~~((The pledge agreement,))~~ Prior to default, does not grant ~~((to))~~ the pledgee the power to:

~~((A))~~ (1) ~~((The power to))~~ Vote or direct the vote of the pledged ownership interest; or

~~((B))~~ (1) ~~((The power to))~~ Dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(11) "Capitalization" means the recording of an expenditure as an asset.

(12) "Capitalized lease" means a lease ~~((which is))~~ required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

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

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

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

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

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

(iv) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation; or

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

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

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

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

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

(15) "Charity allowances" means reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

(16) "Contract" means a contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(17) "Contractor" means an entity which contracts with the department to deliver care services to medical care recipients in a facility ~~((and which))~~. The entity is responsible for operational decisions.

(18) "Courtesy allowances" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" means the local community services office of the department.

(20) "Department" means the department of social and health services (DSHS) and employees.

(21) "Depreciation" means the systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(22) "Donated asset" means an asset ~~((which))~~ the contractor acquired without making any payment for the asset in the form of cash, property, or services.

(a) An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset.

(b) An asset purchased using donated funds is not a donated asset.

(23) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(25) "Exceptional care recipient" means a medical care recipient determined by the department to require exceptionally heavy care.

(26) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(27) "Fair market value" means:

(a) Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell(;;); or

(b) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is ((being)) determined.

(28) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to(;;):

(a) Balance sheet(;;);

(b) Statement of operations(;;);

(c) Statement of changes in financial position(;;); and

(d) Related notes.

(29) "Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

(30) "Generally accepted accounting principles (GAAP)" means accounting principles approved by the Financial Accounting Standards Board (FASB).

(31) "Generally accepted auditing standards (GAAS)" means auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(32) "Goodwill" means the excess of the price paid for:

(a) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired (~~Also, the excess of the price paid for~~); and

(b) An asset over the fair market value of the asset.

(33) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(34) "ICF" means(~~when referring to a nursing home~~);

(a) An intermediate care facility(;) when referring to a nursing home;

(b) When referring to a level of care, intermediate care(;;); and

(c) When referring to a patient, a patient requiring intermediate care.

(35) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(36) "Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(37) "Intermediate care facility" means a licensed facility certified to deliver intermediate care services to medical care recipients.

(38) "Joint facility costs" means any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

(39) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

(40) "Levels of care" means the classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

(41) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(42) "Medical care recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(43) "Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and SNF and/or ICF, or a boarding home and SNF and/or ICF. A combined SNF/ICF or ICF/IMR is not considered a multiservice facility.

(44) "Net book value" means the historical cost of an asset less accumulated depreciation.

(45) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles and not in excess of any lids or reimbursement limits set forth in this chapter, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year. Assets associated with central or home offices or otherwise not on the nursing home premises are not included in net invested funds.

(46) "Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

(47) "Nonallowable costs" means same as "unallowable costs."

(48) "Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

(49) "Nursing home" means a home, place, or institution, licensed ((in accordance with)) under chapter 18.51 RCW, ((in which)) where skilled nursing and/or intermediate care services are delivered.

(50) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(51) "Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(52) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form ((which such)) the beneficial ownership takes.

(53) "Patient day" means a calendar day of patient care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when ((he or she)) the patient is assigned a bed and a patient medical record is opened.

(54) "Per diem (per patient day) costs" means total allowable costs for a fiscal period divided by total patient days for the same period.

(55) "Professionally designated real estate appraiser" means an individual:

(a) Regularly engaged in the business of providing real estate valuation services for a fee(~~and deemed~~);

(b) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the:

(i) Writing of real estate valuation reports ((as well as the));

(ii) Passing of written examination on valuation practice and theory(;;); and(~~by virtue of membership in such organization~~;~~required~~))

(iii) Requirement to subscribe and adhere to certain standards of professional practice as ((such)) the organization prescribes.

(56) "Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

(57) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or

one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

(f) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; or

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of ~~((such))~~ education or training, and meeting all requirements of state law.

(58) "Recipient" means a medical care recipient.

(59) "Records" means ~~((those))~~ data supporting all financial statements and cost reports including, but not limited to~~((:));~~

(a) All general and subsidiary ledgers~~((:));~~

(b) Books of original entry~~((:));~~

(c) Invoices~~((:));~~

(d) Schedules~~((:));~~

(e) Summaries~~((:));~~ and

(f) Transaction documentation, however ~~((such data are))~~ maintained.

(60) "Regression analysis" means a statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(61) "Related care" ~~((means))~~ includes:

(a) The director of nursing services~~((:));~~

(b) Activities and social services programs~~((:));~~

(c) Medical and medical records specialists~~((:));~~ and

(d) Consultation provided by:

(i) Medical directors~~((:));~~

(ii) Pharmacists~~((:));~~

(iii) Occupational~~((:))~~ therapists;

(iv) Physical~~((:))~~ therapists;

(v) Speech~~((:))~~ therapists; and

(vi) Other therapists~~((:));~~ and

(vii) Mental health professionals as defined in law and regulation.

(62) "Related organization" means an entity under common ownership and/or control ~~((with))~~, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

(63) "Relative" ~~((means))~~ includes:

(a) Spouse;

(b) Natural parent, child, or sibling;

(c) Adopted child or adoptive parent;

(d) Stepparent, stepchild, stepbrother, stepsister;

(e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(f) Grandparent or grandchild; and

(g) Uncle, aunt, nephew, niece, or cousin.

(64) "Restricted fund" means a fund for which the use of the principal and/or income is restricted by agreement with or direction ~~((by))~~ of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. ~~((These))~~ Restricted funds generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

(65) "Secretary" means the secretary of the department of social and health services (DSHS).

(66) "Skilled nursing facility" means a licensed facility certified to deliver skilled nursing care services to medical care recipients.

(67) "SNF" means:

(a) When referring to a facility, a skilled nursing facility~~((:));~~

(b) When referring to a level of care, skilled nursing care~~((:));~~ and

(c) When referring to a patient, a patient requiring skilled nursing care.

(68) "Start-up costs" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

(a) Administrative and nursing salaries~~((:));~~

(b) Utility costs~~((:));~~

(c) Taxes~~((:));~~

(d) Insurance~~((:));~~

(e) Repairs and maintenance~~((:));~~ and

(f) Training costs~~((,-etc)).~~

Start-up costs do not include expenditures for capital assets.

(69) "Title XIX" means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(70) "Unallowable costs" means costs which do not meet every test of an allowable cost.

(71) "Uniform chart of accounts" means a list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(72) "Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

(73) "Working capital" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

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 2573, filed 12/23/87)

WAC 388-96-204 FIELD AUDITS. (1) The department shall conduct a field audit of all cost reports for calendar year 1982.

(2) The department may have auditors employed by the department or under contract field audit cost reports for years subsequent to 1982.

(3) Beginning with field audits for calendar year 1983, the department shall audit up to one hundred percent of submitted contractor cost reports and patient care trust fund accounts.

(4) The department may audit any or all schedules of a facility's cost report. The department shall audit the cost report at least once every three years.

(5) Beginning with cost reports for calendar year 1983, facilities selected for audit shall be notified within one hundred twenty days after submission of a complete and correct cost report of the department's intent to audit. Such audits shall be completed within one year after notification of the department's intent to audit unless the contractor fails to allow access to records and documentation or otherwise prevents the audit from being completed in a timely manner.

(6) To assure the accuracy of cost reports, the department or an auditor under contract with the department may require a contractor to submit for departmental review any underlying financial statements or other records including income tax returns relating to the cost report directly or indirectly.

(7) The department shall audit all submitted contractor cost reports of such facilities as follows:

(a) The department shall audit facilities terminating their Medicaid service contracts with the department when the audits are conducted for the calendar year in which the contract is terminated. Schedule preference will be given to conduct closing audits as soon as possible;

(b) The department shall audit facilities contracting in any given calendar year for that partial or full year, and facilities contracting for the first time for the first full calendar year;

(c) The department shall audit facilities under investigation by the Internal Revenue Service, Securities Exchange Commission, Department of Health and Human Services, Medicaid fraud control unit, or any other federal, state, or municipal agency for alleged fiscal and/or patient account impropriety for:

(i) The year such investigation is commenced;

(ii) Each year the investigation is continued;

(iii) The year the investigation is concluded; and

(iv) Two full calendar years following the year the investigation is terminated.

(d) The department shall audit facilities that the manager, residential rate program, aging and adult services, requests be audited.

(8) If a facility has a home or central office and such central office or any associated facility meets any of the criteria set forth in subsection (7) of this section, the department shall audit such facility as provided in subsection (7) of this section.

~~(9) ((The department shall audit patient care trust fund accounts annually if:~~

~~(a) Two or more findings were reported in the previous trust fund audit of a facility; or~~

~~(b) In the opinion of the department, a single finding reported in the previous trust fund audit materially impacts the patient trust fund accounts maintained by the facility))~~ When an audit discloses material

discrepancies, undocumented costs, or mishandling of patient trust funds, the department auditors may re-open a maximum of two prior unaudited cost reporting or trust fund periods and/or select future periods for audit in order to discover similar problems, if any, and take appropriate action.

(10) The department may select for audit on a random or other basis reported costs and trust fund accounts of facilities.

AMENDATORY SECTION (Amending Order 2660, filed 8/2/88)

WAC 388-96-559 COST BASIS OF LAND AND DEPRECIATION BASE. (1) For all rates effective on or after January 1, 1985, the total depreciation base of depreciable assets and the cost basis of land shall be the lowest of:

(a) The contractor's appraisal, if any;
 (b) The department's appraisal obtained through the department of general administration of the state of Washington, if any; or
 (c) The historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation incurred during periods the assets have been used in or as a facility by any and all contractors. Such accumulated depreciation is to be measured in accordance with subsection (5) of this section and WAC 388-96-561, 388-96-565, and 388-96-567. Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) Unless otherwise provided or limited by this chapter or by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program; or
 (b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for Medicaid cost reimbursement purposes.

No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) The department may have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington if:

(a) The department challenges the historical cost of an asset; or
 (b) The contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source.

The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

If an appraisal is conducted, the depreciation base of the asset and cost basis of land will not exceed the fair market value of the asset. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

(4) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or
 (b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(5) For all rates effective on or after January 1, 1985, where depreciable assets or land are acquired from a related organization, the contractor's depreciation base and land cost basis shall not exceed the base and basis the related organization had or would have had under a contract with the department.

(6) If a contractor cannot or will not provide the lessor's purchase acquisition cost of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, by the department using the Marshall and Swift Valuation Guide to reflect the value at the lessor's acquisition date. If

an appraisal has been prepared for leased assets and the assets subsequently sell in the first arm's-length transaction since January 1, 1980, ((pursuant to)) under subsection (8) of this section, the Marshall and Swift Valuation Guide will be used to adjust, if necessary, the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the Marshall and Swift Valuation Guide publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the Western District Index calculated by Marshall and Swift shall be used.

(7) For all rates effective on or after January 1, 1985, if depreciable assets or land are acquired by purchase which were used in the medical care program on or after January 1, 1980, the depreciation base or cost basis of such assets shall not exceed the net book value existing at the time of such acquisition or which would have existed had the assets continued in use under the previous Medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not used in the medical care program or were not in use in or as a nursing care facility.

(8)(a) Subsection (7) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs ((at least)) ten years or more after the previous arm's-length transfer of ownership nor shall subsection (7) of this section apply to the first arm's-length purchase acquisition of assets occurring on or after January 1, 1980, for facilities participating in the Medicaid program ((prior to)) before January 1, 1980. The depreciation base or cost basis for such acquisitions shall not exceed the lesser of the fair market value as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious. Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and ((pursuant to)) under RCW 74.46.840 for all rates after July 17, 1984, this subsection is inoperative for any transfer of ownership of any asset, including land and all depreciable assets, occurring on or after July 18, 1984, leaving subsection (7) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (8)(b) and (9) of this section.

(b) For all rates after July 17, 1984, subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring ((prior to)) before January 1, 1985, if the costs of such assets have never been reimbursed under Medicaid cost reimbursement on an owner-operated basis or as a related party lease; or
 (ii) ((Pursuant to)) Under written and enforceable purchase and sale agreements dated ((prior to August 1)) before July 18, 1984, which are documented and submitted to the department ((prior to)) before January 1, 1988.

(c) For purposes of Medicaid cost reimbursement under this chapter, an otherwise enforceable agreement to purchase a nursing home dated before July 18, 1984, shall be considered enforceable even though the agreement contains:

(i) No legal description of the real property involved; or
 (ii) An inaccurate legal description, notwithstanding the statute of frauds or any other provision of law.

(9)(a) In the case of assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (8) of this section apply to the purchase; or
 (ii) Reimbursement for property and return on investment continue to be calculated ((pursuant to)) under the provisions contained in RCW 74.46.530 (1)(e) and (f) and WAC 388-96-754(5). Reimbursement shall be based upon provisions of the lease in existence on the date of the purchase.

(b) The lessee/contractor may select the option in subsection (9)(a)(ii) of this section only ((if)) when the purchase date meets one of the following criteria. The purchase date is:

(i) ((The purchase date is)) After the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) ~~((The purchase date is))~~ Within one year of the lease expiration or renewal date contained in the lease;

(iii) ~~((The purchase date is))~~ After a rate setting for the facility in which the reimbursement rate set, ~~((pursuant to))~~ under this chapter and ~~((pursuant to))~~ under chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) ~~((The purchase date is))~~ Within one year of any purchase option in existence on January 1, 1988.

(10) For purposes of establishing the property and return on investment component rates, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a data base. The estimated value may be adjusted using the Marshall and Swift Valuation Guide to reflect the value of the asset at the lessor's purchase acquisition date.

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 2172, filed 12/4/84)

WAC 388-96-561 COST BASIS OF LAND AND DEPRECIATION BASE—DONATED OR INHERITED ASSETS. (1) The cost basis or depreciation base of land or depreciable assets, either donated ~~((assets, as defined in WAC 388-96-010))~~ or ~~((of assets))~~ received through testate or intestate distribution, ~~((that))~~ will be the lesser of:

(a) Fair market value at the date of donation or death, less goodwill, provided ~~((that))~~ the estimated salvage value shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or

(b) The historical cost of the owner last contracting with the department, if any.

(2) ~~((If))~~ When the donation or distribution is between related organizations, the base shall be the lesser of:

(a) Fair market value, less goodwill and, where appropriate, salvage value; or

(b) The depreciation base or cost basis the related organization had or would have had for the asset under a contract with the department.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, for all rates after July 17, 1984, neither the depreciation base of depreciable assets nor the cost basis of land shall increase for reimbursement purposes if the asset is donated or acquired through testate or intestate distribution on or after July 18, 1984, the enactment date of the Deficit Reduction Act of 1984.

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 2847, filed 8/8/89, effective 9/8/89)

WAC 388-96-585 UNALLOWABLE COSTS. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution~~((:));~~

(b) Costs of services and items provided to SNF or ICF recipients covered by the department's medical care program but not included in SNF or ICF services respectively. Items and services covered by the medical care program are listed in chapters 388-86 and 388-88 WAC~~((:));~~

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations~~((:));~~

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained~~((:));~~

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space)~~((:));~~

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care~~((:));~~

(g) Costs in excess of limits or violating principles set forth in this chapter~~((:));~~

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system~~((:));~~

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere~~((:));~~

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(k) Charity and courtesy allowances~~((:));~~

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable~~((:));~~

(m) Vending machine expenses~~((:));~~

(n) Expenses for barber or beautician services not included in routine care~~((:));~~

(o) Funeral and burial expenses~~((:));~~

(p) Costs of gift shop operations and inventory~~((:));~~

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care~~((:));~~

(r) Fund-raising expenses, except expenses directly related to the patient activity program~~((:));~~

(s) Penalties and fines~~((:));~~

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations~~((:));~~

(u) Federal, state, and other income taxes~~((:));~~

(v) Costs of special care services except where authorized by the department~~((:));~~

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs~~((:));~~

(x) Expenses of profit-sharing plans~~((:));~~

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care~~((:));~~

(z) Personal expenses and allowances of owners or relatives~~((:));~~

(aa) All expenses of maintaining professional licenses or membership in professional organizations~~((:));~~

(bb) Costs related to agreements not to compete~~((:));~~

(cc) Goodwill and amortization of goodwill~~((:));~~

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care~~((:));~~

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions((-));

(gg) Lease acquisition costs and other intangibles not related to patient care((-));

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds((-));

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs((-));

(jj) Beginning January 1, 1985, interest costs((-);

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care((-);

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year((-);

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia((-);

(nn) Depreciation expense in excess of twenty-five hundred dollars per year for passenger cars or other vehicles primarily used for the administrator, facility staff, or central office staff((-);

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of licensing at the time of such pool personnel use((-);

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel((-);

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year((-);

(rr) Costs and fees otherwise allowable for legal services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a total cost basis, reported by all contractors for the most recent cost report period: PROVIDED, That this limit shall not apply to a contractor ((ff) unless the contractor has ((not)) exceeded this percentile ((at any time during)) for each of the three years preceding the most recent cost report year((-);

(ss) Costs and fees otherwise allowable for accounting and book-keeping services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a per patient-day cost basis, reported by all contractors for the most recent cost report period(~~(-PROVIDED; That),~~ provided this limit shall not apply to a contractor ((ff) unless the contractor has ((not)) exceeded this percentile ((at any time during)) for each of the three years preceding the most recent cost report year; and

(tt) After July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-713 RATE DETERMINATION. (1) Each contractor's reimbursement rate will be determined prospectively once

each calendar year to be effective July 1. Rates may be adjusted more frequently to take into account program changes.

(2) If the contractor participated in the program for at least six months of the prior calendar year, its nursing services, administration and operations, property and return on ((equity)) investment rates will be determined based on the contractor's allowable costs in the prior period. If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-719 METHOD OF RATE DETERMINATION.

(1) The department shall take data used in determining rates from the most recent complete, desk-reviewed annual cost report submitted by contractors.

(2) The department shall exclude data containing obvious errors from the determination of predicted costs and rate upper limits for WAC 388-96-735.

(3) The department shall apply inflation adjustments as follows:

(a) For July rate setting, a percentage adjustment determined by the legislature shall be applied to allowable costs in the nursing services and administration and operations cost areas if the cost report for a contractor covers all twelve months of the cost report period. If the cost report covers less than twelve months, the department shall reduce the inflation factor to reflect the shorter period.

(b) The department shall apply an inflation factor of 2.5 percent to the January 1, 1983, food cost area rate for all contractors to determine the July 1, 1983, food cost center rate. For July rate setting in subsequent years, the department shall apply the adjustment factor determined annually by the legislature to the January 1, 1983, rate.

(c) The department shall not ((adjust)) increase property, return on investment, ((and)) or enhancement rates for inflation adjustments determined by the legislature in biennial budget acts.

(4) The department shall compute the occupancy level for each facility by dividing the actual number of patient days by the product of the numbers of licensed beds and calendar days in the report period. If a facility's occupancy is below eighty-five percent, the department shall compute, per patient day, return on investment, property and administration and operations prospective rates and lids utilizing patient days at the eighty-five percent occupancy level. The department shall use actual occupancy level for facilities at or above eighty-five percent occupancy.

(5) If a nursing home provides residential care to individuals other than skilled or intermediate care patients:

(a) The facility may request in writing, and

(b) The department may grant in writing an exception to the requirements of subsection (4) of this section by including such other residents in computing occupancy. Exceptions granted shall be revocable effective ninety days after written notice of revocation is received from the department. No exception shall be granted unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-745 PROPERTY COST AREA REIMBURSEMENT RATE. (1) The department shall determine the property cost area rate for each facility by dividing:

(a) The prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

(b) The retained savings from the property cost center as provided in WAC 388-96-228, by

(c) Total patient days for the facility in the prior period. Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. The department shall not reimburse depreciation of leased office equipment.

(2) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the property cost center rate to anticipated patient day level.

(3) When a new facility is constructed after obtaining a certificate of need, the department shall determine allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4) ~~((and))~~, (5), and (6) of this section. The department shall determine construction types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the Marshall and Swift Valuation Service published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(4) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

- (a) Architect's fees;
- (b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);
- (c) Interest on building funds during period of construction and processing fee or service charge;
- (d) Sales tax on materials;
- (e) Site preparation (including excavation for foundation and backfill);
- (f) Utilities from structure to lot line;
- (g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.); and
- (h) Other items included by the Marshall and Swift Valuation Service when deriving the calculator method costs.

(5) The department shall allow such construction costs, at the lower of actual costs or the maximums shown in the following tables, adjusted forward from May 1, 1987, to the average date of construction for any changes in construction costs shown by relevant cost indexes published by Marshall and Swift Publication Company. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

BASE COSTS PER BED FOR ALL BEDS IN THE FACILITY BY FACILITY CLASS, QUALITY, AND SIZE:

Class and Quality	0 to 60 Beds	61 to 120 Beds	Over 120 Beds
A-good	\$50,139	42,079	39,006
A-average	40,967	34,381	31,870
B-good	48,104	40,371	37,422
B-average	39,786	33,389	30,951
C-good	35,939	30,161	27,959
C-average	27,924	23,435	21,723
C-low	22,019	18,479	17,130
D-good	32,622	27,377	25,378
D-average	25,221	21,167	19,621
D-low	19,796	16,613	15,400

ADDITIONS TO BASE COSTS BY FACILITY CLASS, QUALITY, AND SIZE:

Class and Quality	Add to Base Cost for All Facilities	Add for Each Bed from 61 to 120 Beds	Add for Each Bed Over 120 Beds
A-good	\$239,773	2,810	1,990
A-average	195,908	2,296	1,626
B-good	230,041	2,696	1,910
B-average	190,261	2,230	1,579
C-good	171,866	2,014	1,427
C-average	133,537	1,565	1,108
C-low	105,299	1,234	874
D-good	156,003	1,828	1,295
D-average	120,612	1,413	1,001
D-low	94,667	1,109	786

~~((5))~~ (6) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

- (a) Actual cost per square foot, or
- (b) The average per square foot land value of the ten nearest urban or rural nursing homes at the time of purchase of the land in question. The average land value shall depend on classification of the home in question, assessed for purposes of taxation.

~~((6))~~ (7) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3) ~~((and))~~, (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual

costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3) ~~((and))~~, (4), and (5) for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

AMENDATORY SECTION (Amending Order 2742, filed 12/31/88 [12/21/88])

WAC 388-96-754 A CONTRACTOR'S RETURN ON INVESTMENT. (1) The department shall establish for individual Medicaid facilities return on investment allowances composed of a financing allowance and a variable return allowance.

- (2) The department shall determine the financing allowance by:
 - (a) Multiplying the net invested funds of each facility by eleven percent and dividing by the contractor's total patient days. Annual patient days taken from the contractor's cost report for the most recent twelve-month cost report period will be used. If the cost report covers less than twelve months, the department will estimate annual patient days and working capital costs for a full year based upon data in the cost report. If a capitalized addition or retirement of an asset results in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the financing and variable return allowances to anticipated patient day level; and
 - (b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. Subject to provisions contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For land purchases on or after July 18, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration per this chapter.

(3) The department shall determine the variable return allowance according to the following procedure:

- (a) The department shall rank all facilities in numerical order from highest to lowest based upon average per diem allowable costs for the sum of the administration and operations and property cost centers for the preceding cost report period. In the case of a new contractor, property and administration and operations cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor. The department shall adjust the new contractor's costs to the cost year used to establish the most recent variable return ranking for all providers using inflation factors authorized by provisions of this chapter.
- (b) The department shall compute the variable return allowance by multiplying the total prospective rate for each facility by the appropriate percentage which shall not be less than one percent nor greater than four percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. The department shall assign facilities in the highest quarter a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment for each facility and shall be added to the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property

cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease agreement existing on January 1, 1980, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or subsequent to April 1, 1985, per a provision of the lease agreement existing on January 1, 1980, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

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

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-763 RATES FOR RECIPIENTS REQUIRING EXCEPTIONALLY HEAVY CARE. (1) A contractor certified to ((care for SNF patients)) provide skilled nursing services may apply for an individual prospective reimbursement rate for a Medicaid recipient whose special nursing and direct care-related service needs are such that the hours of nursing services ((care)) needed are ((at least)) twice or more the contractor's current reimbursed per patient day average of ((hours of)) nursing services hours.

(2) When application for an exceptional care rate is made before determining where the recipient will be placed, pre-admission qualification may be granted when the recipient's special nursing and direct care needs require hours of nursing services twice or more the current statewide per patient day average. For reviews, to determine continued qualification only for such recipients, conducted during the first year after placement, the department will continue to utilize the most current statewide average available to the department. For subsequent reviews to determine continued qualification, the contractor's average, set forth under subsection (1) of this section, shall be substituted for the statewide average.

(3) The contractor or other applicant shall apply for ((an individual at)) exceptional care rate qualification for an exceptionally heavy care recipient in accordance with instructions furnished by the department. The facility shall bill the department at the authorized exceptional care rate within one hundred twenty days from the exceptional care

rate's effective date. Bills for services submitted after one hundred twenty days shall be denied as untimely.

((+)) (4) When the department grants an individual rate for an exceptionally heavy care recipient, it shall be for a specified period of time the department determines, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. ((The department shall compute the rate to cover the projected costs of providing necessary nursing care for the recipient in excess of the contractor's regular per patient day nursing services rate.)) Discharge or transfer of the recipient, permanently or temporarily, shall terminate an exceptional care rate which shall be non-transferable to a different facility. Qualification upon re-admission shall require re-application. Regardless of whether statewide average nursing hours or facility average nursing hours are used for qualification, the exceptional care rate for a recipient shall be calculated by:

(a) Deriving a ratio equivalent to actual or projected nursing hours per patient day needed by the recipient in excess of the facility-specific reimbursed average nursing hours per patient day divided by the facility-specific reimbursed average nursing hours per patient day;

(b) Multiplying the ratio by the facility-specific nursing services rate; and

(c) Adding the result of subsection (4)(b) of this section to the total facility-specific reimbursement rate.

((+)) (5) Factors used in the calculation process set forth under subsection (4) of this section shall be the most current and available factors from department records at the time the calculation is performed.

(6) A pre-admission exceptional care qualification shall be effective for only thirty days. The contractor shall notify the department, in writing, as soon as the recipient is admitted to the contractor's facility. When placement with a long-term care contractor has not occurred within thirty days after the qualification effective date, an updated plan of care shall be submitted.

(7) Unless the department establishes a different time table for review, an updated plan of care shall be completed and submitted every ninety days for each exceptional care recipient, including documentation supporting the need for services identified in the plan of care. A decision to continue, revise, or terminate an exceptional care rate shall be based on review of the updated plan of care and supporting documentation, a current care need assessment and other information available to the department.

(8) An exceptional care rate shall not be revised during the period the exceptional care rate is in effect because the facility-specific nursing services or total rate is revised or re-set; however, when an exceptional care rate is continued or revised as authorized in this section, the facility rate in place at the time of continuation or revision shall be used in the calculation process. An exceptional care rate shall be revised during the period the rate is in effect only when:

(a) An updated plan of care indicates a significant change in care needs; or

(b) Funded services are not fully delivered.

(9) No retroactive revision shall be made to an exceptional care rate, provided that:

(a) When application is made within thirty days after the recipient is admitted to the contractor's facility, an approved rate shall be effective the date of admission; and

(b) When an exceptional care rate is revised due to a significant change, the revised rate will be effective on the date the department receives the updated plan of care and supporting documentation.

(10) The department shall notify the contractor, in writing, of the disposition of its application as soon as possible and in no case longer than thirty days following receipt of a properly completed application.

AMENDATORY SECTION (Amending Order 2573, filed 12/23/87)

WAC 388-96-768 MINIMUM WAGE. (1) Effective January 1, 1988, contractors shall adjust and maintain wages for all employees to conform to no less than the minimum hourly wage established by the legislature. This wage is four dollars and seventy-six cents an hour beginning January 1, 1988, and five dollars and fifteen cents an hour beginning January 1, 1989. If moneys are appropriated by the legislature, costs to prospectively fund these minimum wage requirements shall be reimbursed in the enhancement cost center.

(2) Minimum wage requirements set forth in this section shall not apply to an employee who:

(a) The department of labor and industries determines is entitled to payments for temporary and total disability; and

(b) A physician authorizes to return to available work other than the employee's usual work.

(3) The employee shall be paid the minimum wage or more when resuming usual work.

AMENDATORY SECTION (Amending Order 2602, filed 3/2/88)

WAC 388-96-771 RECEIVERSHIP. (1) If the nursing home is providing care to recipients of state medical assistance, the receiver shall:

(a) Become the Medicaid contractor for the duration of the receivership period;

(b) Assume all reporting responsibilities for new contractors;

(c) Assume all other responsibilities for new contractors set forth in this chapter; and

(d) Be responsible for the refund of Medicaid rate payments in excess of costs during the period of receivership.

(2) In establishing the prospective rate during receivership the department shall consider:

(a) Compensation, if any, ordered by the court for the receiver. Such compensation may already be available to the receiver through the rate as follows:

(i) The return on investment, or

(ii) The administrator's salary in the case of facilities where the receiver is also the administrator.

If these existing sources of compensation are less than what was ordered by the court, additional costs may be allowed in the rate up to the compensation amount ordered by the court.

(b) Start-up costs and costs of repairs, replacements, and additional staff needed for patient health, security, and welfare. To the extent such costs can be covered through return on investment, no additional monies will be added to the rate;

(c) Any other allowable costs as set forth in this chapter.

(3)(a) Upon order of the court, the department shall provide emergency or transitional financial assistance to a receiver not to exceed thirty thousand dollars.

(b) The department shall recover any emergency or transitional expenditure made by the department on behalf of a nursing home not certified to participate in the Medicaid Title XIX program from revenue generated by the facility which is not obligated to the operation of the facility.

~~(c) ((If the department has not fully recovered any emergency or transitional expenditure at the termination of receivership)) In order to help recover an emergency or transitional expenditure, regardless of whether the facility is certified to participate in the Medicaid Title XIX program or not, the department may:~~

~~(i) File an action against the former licensee or owner at the time the expenditure is made to recover such expenditure; or~~

~~(ii) File a lien on the facility or on the proceeds of the sale of the facility.~~

(4) If recommendations on receiver's compensation are solicited from the department by the court, the department shall consider the following:

(a) The range of compensation for nursing home managers;

(b) Experience and training of the receiver;

(c) The size, location, and current condition of the facility;

(d) Any additional factors deemed appropriate by the department.

(5) When the receivership terminates, the department may revise the nursing home's Medicaid reimbursement ~~((as follows))~~. The Medicaid reimbursement rate for:

~~(a) ((The Medicaid reimbursement rate for)) The former owner or licensee shall be what it was ((prior to)) before receivership, unless the former owner or licensee requests prospective rate revisions from the department as set forth in this chapter((:)); and~~

~~(b) ((The Medicaid reimbursement rate for)) Licensed replacement operators shall be determined consistent with rules governing prospective reimbursement rates for new contractors as set forth in this chapter.~~

AMENDATORY SECTION (Amending Order 2742, filed 12/21/88)

WAC 388-96-774 PROSPECTIVE RATE REVISIONS. (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st. The department shall determine all prospective reimbursement rates for 1984 and thereafter using the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply. The department may grant

revisions for inflation only as authorized in WAC 388-96-719(3) and may grant other revisions for cost increases only as authorized in this section. The department shall not grant rate adjustments for wage increases except as authorized in WAC 388-96-756 and not for increases in use of temporary employment services providing direct patient care. This section shall apply to rate revision requests and periods subsequent to May 20, 1985.

(2) The department shall adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.

(3) The department may adjust rates for any of the following:

(a) Variations in the distribution of patient classifications or changes in patient characteristics from:

(i) The prior reporting year((:)); or

(ii) Those used to set the rate for a new contractor((:)); or

(iii) Corresponding to the nursing staff funded for a new contractor.

(b) Program changes required by the department((:)); and

(c) Changes in staffing levels at a facility required by the department.

(4) Contractors requesting an adjustment shall submit:

(a) A financial analysis showing:

(i) The increased cost((:)); and

(ii) An estimate of the rate increase, computed according to allowable methods, necessary to fund the cost((:));

(b) A written justification for granting the rate increase; and

(c) A certification and supporting documentation showing the changes in staffing have commenced, or other commenced or completed improvements.

(5) Contractors receiving prospective rate increases per this section shall submit quarterly reports, beginning the first day of the month following the date the increase is granted, showing how the additional rate funds were spent. If the funds were not spent for changes or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.

(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying:

(a) Additional staff to be added((:));

(b) Changes in Medicaid patient characteristics requiring the additional staff((:)); and

(c) The predicted improvements in patient care services which will result. The department shall respond to such requests within sixty days following the receipt of a properly completed request.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider one or more of the following:

(a) Whether additional staff requested by a contractor is necessary to meet patient care needs;

(b) Comparisons of staffing patterns of facilities having similar size and patient characteristics;

(c) The physical layout of the facility;

(d) Nursing service planning and management for maximum efficiency;

(e) Historic trends in underspending of a facility's nursing services component rate((:));

(f) Numbers ~~((and))~~, positions, and scheduling of existing staff;

(g) Increases in acuity (debility) levels of contractors' residents;

(h) Survey, inspection of care, and department consultation results; and

(i) The facility's ability to fund its staffing request through the facility's existing ((nursing services and food)) total Medicaid reimbursement rate((s)).

(8) If a request made under subsection (3) of this section is approved by the department, the cost of funding the additional staff may be reduced for rate revision purposes by amounts shifted out of nursing services in 1986 or 1987, as reflected in the preliminary or final settlement reports for 1986 and 1987.

(9) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:

(a) Compensation of the receiver((:));

(b) Reasonable expenses of receivership and transition of control((:)); and

(c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.

(10) The department shall not grant a rate adjustment effective earlier than sixty days prior to receipt of the written request for such adjustment accompanied by all related documentation and information required by this section.

REPEALER

The following section of the Washington Administrative Code is repealed:

388-96-773 ADJUSTMENTS TO PROSPECTIVE RATES.

WSR 90-06-001
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 90-12—Filed February 22, 1990, 8:12 a.m.]

Date of Adoption: February 21, 1990.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-48-015.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The rockfish stock in Admiralty Inlet cannot sustain recent harvest levels and allowing the harvest to continue without limit places the rockfish stock at considerable risk of collapse in the near future.

Effective Date of Rule: 12:01 a.m., February 23, 1990.

February 21, 1990
 Judith Merchant
 Deputy Director
 for Joseph R. Blum
 Director

NEW SECTION

WAC 220-48-01500D BEAM TRAWL AND BOTTOM TRAWL—SEASONS Notwithstanding the provisions of WAC 220-48-015, effective 12:01 AM, February 23, 1990, it is unlawful to fish for or possess bottomfish taken with beam trawl or bottom trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 25B except:

Open to fish for or possess bottomfish taken with beam trawl and bottom trawl gear from 12:01 AM Tuesday to 11:59 PM Wednesday of each week.

WSR 90-06-002
PREPROPOSAL COMMENTS
DEPARTMENT OF ECOLOGY
 [Filed February 22, 1990, 8:14 a.m.]

Subject of Possible Rule Making: Rules are being drafted to amend the dangerous waste regulations, chapter 173-303 WAC. These regulations contain siting criteria and new permit requirements for those who treat, store, dispose, or otherwise manage dangerous waste.

Persons may comment on this subject in writing or by telephone, Curtis Dahlgren, (206) 438-7595, Department of Ecology, Mailstop PV-11, Olympia,

Washington 98504-8711, Monday through Friday, 8:00 to 5:00.

Other Information or Comments by Agency at this Time, if any: The rules are required by the Dangerous Management Act, chapter 70.105 RCW, as amended. Once adopted, these rules will be applied on a statewide basis to a wide range of sizes and types of hazardous waste management facilities.

February 21, 1990
 Fred Olson
 Deputy Director

WSR 90-06-003
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
 [Memorandum—February 20, 1990]

This is to inform you of changes in dates and locations for the Washington State Transportation Commission. Listed below are the changes:

March 13 and 14 in Olympia (previously March 14 and 15)

April meeting in Clarkston, Washington (previously Olympia)

May meeting in Edmonds, Washington (previously Olympia)

June meeting in Wenatchee, Washington (previously Olympia)

July 16 and 17 in Olympia (previously July 18 and 19)

August meeting in Blaine, Washington (previously Olympia)

September meeting in Tacoma, Washington (previously Olympia)

WSR 90-06-004
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Professional Licensing Services)
 [Order 037—Filed February 22, 1990, 3:13 p.m.]

Date of Adoption: February 22, 1990.

Purpose: Amendment to WAC 308-175-200 AIDS prevention and information education requirements—Health care assistants, to allow for waiver of seven hours of required training if applicants have met curriculum requirements.

Citation of Existing Rules Affected by this Order:
 Amending WAC 308-175-200.

Statutory Authority for Adoption: RCW 18.135.030.

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: EMTs needing immediate certification to immunize during emergency situations are unable to be certified under existing rules. This change would allow a temporary certification to be provided under emergency situations for a limited period of time.

Effective Date of Rule: Immediately.

February 22, 1990
Pam Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION [(Amending Order PM 785, filed 11/2/88)]

WAC 308-175-200 AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS—HEALTH CARE ASSISTANTS. (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 chapter 70.24 RCW.

(2) Applications for certification. Effective January 1, 1989 persons applying for certification shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4).

(3) 1989 Renewal of certificate. Effective for the 1989 renewal period beginning January 1, 1989 all persons making application for certification renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4). Those persons who must renew during 1989 shall submit evidence of compliance with the education requirements of subsection (4) with their renewal application. Those persons who must renew during 1990 shall submit evidence of compliance with subsection (4) on or before December 31, 1989. Persons whose 1989 certificate expires on or before March 31, 1989 will, upon written application, be granted an extension to April 15, 1989, to meet the AIDS education requirement. Renewal applicants who have documented hardship that prevents obtaining the required education may petition for an extension.

(4) AIDS education and training.

(a) Acceptable education and training. The director will accept education and training that is consistent with the topical outline supported by the office on AIDS. Such education and training shall be a minimum of seven clock hours and shall include, but is not limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective January 1, 1989, the requirement for certification, renewal, or reinstatement of any certificate on lapsed, inactive, or disciplinary status shall include completion of AIDS education and

training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (a).

(c) Documentation. The applicant shall:

(i) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987.

(ii) Keep records for two years documenting attendance and description of the learning;

(iii) Be prepared to validate, through submission of these records, that attendance has taken place.

(5) Temporary emergency waiver of 7 hours training requirement. The Secretary may waive the minimum seven clock hour requirement of subsection (4)(a) if evidence is provided which documents compliance with aids training curriculum content. Certificates issued under this provision will be effective for a 120 days only.

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

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 90-06-005

**NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD**
[Memorandum—February 20, 1990]

The March meeting for Community Economic Revitalization Board has been rescheduled from Saturday, March 17, to Thursday, March 15, 1990. The meeting will be held from 10:00 a.m. to 12:00 p.m. at Cavanaugh's River Inn in Spokane.

Any questions regarding the CERB meeting should be directed to: CERB Program Manager, Community Economic Revitalization Board, c/o Department of Trade and Economic Development, 101 General Administration Building, AX-13, Olympia, WA 98504-0613, phone (206) 586-1667.

WSR 90-06-006

**EMERGENCY RULES
PARKS AND RECREATION COMMISSION**
[Filed February 22, 1990, 3:33 p.m.]

Date of Adoption: February 21, 1990.

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.

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 1988 legislature amended the 1967 Seashore Conservation Area Act, RCW 43.51.650 through [43.51.]685, by adopting SHB 1862 now codified as RCW 43.51.685 through [43.51.]765. Specifically, SHB 1862 required local governments to prepare and adopt beach recreation management plans for approval by Washington State Parks and Recreation Commission. Furthermore, SHB 1862 (New Section II) repealed the provisions (RCW 43.51.689 [43.51.680]) which in the past authorized the commission to adopt rules for vehicular traffic on the ocean beaches. These rules were contained in chapter 352-36 WAC. However, SHB 1862 also provided that current administrative rules regulating vehicular traffic on the ocean beaches would remain in effect until a beach recreation management plan for each beach was adopted or approved by the commission. Therefore, since the approval of these plans will have the effect of repealing the current vehicular traffic rules, it is necessary for the commission to adopt the enforceable provisions of the ocean beach recreation management plans as emergency rules to prevent an enforcement gap. The proposed emergency rules are based on the enforceable provisions found in Chapter One of each plan and are included in the requested action. The proposed emergency rules remain in effect for up to one hundred twenty days.

Effective Date of Rule: Immediately.

February 21, 1990
Moyes Lucas
Chairman

*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 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 Quinault 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 Quinault 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 90-06-007
PERMANENT RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Order 90-03—Filed February 22, 1990, 4:00 p.m.]

Date of Adoption: January 26, 1990.

Purpose: Implementation of section 523, chapter 19, Laws of 1989, 1st ex. sess., the Omnibus Appropriations Act, known as the local education enhancement program.

Citation of Existing Rules Affected by this Order: Amending [new] WAC 392-140-190 through 392-140-200 [392-140-202].

Statutory Authority for Adoption: RCW 28A.41.170(1).

Pursuant to notice filed as WSR 90-01-139 on December 20, 1989.

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

February 22, 1990

Judith A. Billings

Superintendent of

Public Instruction

NEW SECTION

WAC 392-140-190 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPLICABLE PROVISIONS. WAC 392-140-190 through 392-140-202 apply to the distribution of moneys to school districts for local education program enhancement pursuant to section 523, chapter 19, Laws of 1989 1st ex. sess. This section provides moneys for enhancement of school district education programs.

NEW SECTION

WAC 392-140-191 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ANNUAL AVERAGE FULL-TIME EQUIVALENT STUDENTS. As used in this chapter, "annual average full-time equivalent students" means the same as defined in WAC 392-121-133.

NEW SECTION

WAC 392-140-192 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—SCHOOL YEAR. As used in this chapter, "school year" means the same as defined in WAC 392-121-031.

NEW SECTION

WAC 392-140-193 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—FOLLOWING SCHOOL YEAR. As used in WAC 392-140-190 through 392-140-202, the term "following school year" means the school year immediately following the school year for which the allocation of local education program enhancement moneys are made.

NEW SECTION

WAC 392-140-194 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ALLOCATION ENROLLMENT. As used in this chapter, "allocation enrollment" means the school district's annual average full-time equivalent students except in the following cases:

(1) For a school district enrolling less than one hundred annual average full-time equivalent students, allocation enrollment means the sum of the following:

(a) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(b) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(c) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(2) For a school district operating small school plants designated remote and necessary, allocation enrollment means the sum of the following:

(a) The school districts annual average full-time equivalent enrollment less the annual average full-time equivalent enrollment in the small school plants designated remote and necessary; plus

(b) For the small school plant designated remote and necessary:

(i) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(ii) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(iii) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

NEW SECTION

WAC 392-140-195 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—PROCEDURAL REQUIREMENTS. As used in this chapter, the term "procedural requirements" means that the school district board of directors has:

(1) Assessed the needs of the schools within the school district;

(2) Prioritized those needs identified in subsection (1) of this section; and

(3) Developed;

(a) An expenditure plan for the allocation of local education program enhancement moneys; and

(b) An evaluation methodology to assess benefits to students.

NEW SECTION

WAC 392-140-196 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—ELIGIBLE PROGRAMS. As used in this chapter, "eligible programs" means those programs meeting the educational needs identified by the school district in completing its procedural requirements in the following program areas:

(1) Prevention and intervention services in the elementary grades;

(2) Reduction of class size;

(3) Early childhood education;

(4) Student-at-risk programs, including dropout prevention and retrieval, and substance abuse awareness and prevention;

(5) Staff development and in-service programs;

(6) Student logical reasoning and analytical skill development;

(7) Programs for highly capable students;

(8) Programs involving students in community services;

(9) Senior citizen volunteer programs; and

(10) Other programs that enhance a school district's basic education program.

NEW SECTION

WAC 392-140-197 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—DEFINITION—SPI FORM 1161. As used in WAC 392-140-190 through 392-140-202, the term "SPI Form 1161" means the form prepared by the superintendent of public instruction on which school districts report the expenditures by each eligible program for the current school year. SPI Form 1161 also provides for an explanation of any expenditures shown against other programs that enhance a school district's basic education program.

NEW SECTION

WAC 392-140-198 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—SCHOOL DISTRICT APPLICATION AND APPLICATION DEADLINE. (1) Each school district shall submit an application attesting that the school district board of directors:

(a) Has met all procedural requirements;

(b) Will expend local education program enhancement moneys on eligible programs; and

(c) Submit a report by November 15 of the following school year setting forth such information on the school district's use of local education program enhancement moneys as required on SPI Form 1161.

(2) Applications shall be filed with the superintendent of public instruction according to the following:

(a) January 31, 1990, for those school districts receiving local education program enhancement moneys for both the 1989-91 and 1990-91 school years; or

(b) January 31, 1991, for those school districts receiving local education program enhancement moneys for only the 1990-91 school year.

NEW SECTION

WAC 392-140-199 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—CALCULATION OF SCHOOL YEAR ALLOCATION. The superintendent of public instruction shall calculate the school year allocation of local education enhancement moneys by multiplying \$35.26 by the school year allocation enrollment.

NEW SECTION

WAC 392-140-200 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—APPORTIONMENT OF THE ANNUAL ALLOCATION. The superintendent of public instruction shall apportion local education program enhancement moneys upon receipt of a completed application in like manner and with the same conditions as that provided in WAC 392-121-400.

NEW SECTION

WAC 392-140-201 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—END OF YEAR REPORT. Each school district shall submit a completed SPI Form 1161 by November 1 of the following school year.

NEW SECTION

WAC 392-140-202 1989-91 LOCAL EDUCATION PROGRAM ENHANCEMENT—CARRY-OVER PROHIBITION. Local education program enhancement moneys which remain unspent at the end of a school year by a school district during the applicable school year will revert to the state treasury. The basis for the reversion will be a comparison of the direct expenditures reported on SPI Form F-196, Program 75 to the school year allocation for the applicable school year.

WSR 90-06-008

EMERGENCY RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 23, 1990, 8:02 a.m.]

Date of Adoption: February 23, 1990.

Purpose: Establish procedures for establishing prevailing wages for handicapped workers.

Statutory Authority for Adoption: RCW 39.12.022.

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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: RCW 39.12.022 requires the department to allow for employment of handicapped workers at less than prevailing wage to prevent curtailment of employment opportunities. These rules will help to prevent loss of employment opportunities for handicapped workers who function at less than 100 percent productivity levels.

Effective Date of Rule: Immediately.

February 23, 1990

Joseph A. Dear

Director

[NEW SECTION]

WAC 296-127-400 APPLICABILITY. WAC regulations 296-127-400 through 296-127-470 are issued pursuant to RCW 39.12.022, authorizing the director of the department of labor and industries, to the extent necessary in order to prevent curtailment of opportunities for employment, to issue special certificates for employment of individuals whose earning capacity is impaired by physical or mental deficiency or injury at wages lower than the prevailing rate applicable under RCW 39.12.020. Certificates shall be subject to the conditions prescribed in these regulations.

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

[NEW SECTION]

WAC 296-127-410 DEFINITION. For the purposes of WAC regulations 296-127-400 through 296-127-470, "handicapped worker" means an individual whose earning capacity for the work to be performed is impaired by physical or mental deficiency or injury.

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

[NEW SECTION]

WAC 296-127-420 APPLICATION FOR CERTIFICATE. (1) Application for a certificate authorizing the employment of a handicapped worker at less than the prevailing rate shall be filed with the office of the industrial statistician not less than annually upon forms approved by the director or an authorized representative of the director. (2) The application shall set forth, among other things, the nature of the disability, a description of the duties to be performed by the handicapped worker, and the percentage of the prevailing rate the employer proposes to pay the handicapped worker per hour. (3) The application shall be signed jointly by the employer and the handicapped worker for whom such application is being made, except as otherwise authorized by the director or an authorized representative of the director.

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

[NEW SECTION]

WAC 296-127-430 CONDITIONS FOR GRANTING A CERTIFICATE. (1) A certificate may be issued if the application is in proper form and sets forth facts showing:

(a) A wage below prevailing rate is necessary to prevent curtailment of the handicapped worker's opportunities for employment;

(b) the handicap impairs the earning capacity of the worker for the work to be performed;

(c) the percentage of full productivity at which the handicapped worker functions; and

(d) an addendum containing a detailed explanation of the nature of the disability.

(2) The director or an authorized representative of the director may require the submission of additional information to that shown on the application and may require the handicapped worker to take a medical examination

where it is deemed necessary in order to determine whether or not the issuance of a certificate is justified.

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

[NEW SECTION]

WAC 296-127-440 ISSUANCE OF CERTIFICATE. If the application and other available information indicate that the requirements of this regulation are satisfied, the director or an authorized representative of the director may issue a certificate. If issued, copies of the certificate shall be mailed to the employer and the handicapped worker. If denied, the employer and the handicapped worker shall be given written notice of the denial.

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

[NEW SECTION]

WAC 296-127-450 TERMS OF CERTIFICATE. (1) A certificate shall specify, among other things, the name of the handicapped worker, the name of the employer, the duties to be performed by the handicapped worker, the percentage of the prevailing rate authorized to be paid and the period of time during which that percentage of the prevailing rate may be paid. A certificate shall also indicate that the percentage of the prevailing rate to be paid a handicapped worker shall change to reflect an increase or decrease in the worker's productivity when the worker's productivity is determined to change.

(2) A certificate shall be effective for a period of one year or less as designated by the director or his authorized representative. A handicapped worker employed under such certificate may be paid at the specified percentage of the prevailing rate only during the effective period of the certificate.

(3) The percentage of the prevailing rate authorized to be paid shall be fixed at a figure designed to reflect adequately the percentage of productivity at which handicapped worker functions. No certificate shall authorize payment of less than 75 percent of the state minimum wage to a handicapped worker.

(4) Any money received by a handicapped worker by reason of any state or federal pension or compensation program for handicapped persons shall not be considered as offsetting any part of the wage or remuneration due the handicapped worker by the employer.

(5) A handicapped worker shall be paid not less than one and one-half times the rate specified in the certificate for hours worked in excess of 40 hours per work-week or 8 hours per day.

(6) The terms of any certificate, including the percentage of the prevailing rate authorized to be paid, may be amended by the director or an authorized representative of the director upon written notice to the parties concerned, if the facts justify such amendment.

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

[NEW SECTION]

WAC 296-127-460 RENEWAL OF CERTIFICATE. Application for renewal of any certificate shall be filed in the same manner as an original application. An application for renewal shall include the most recent evaluation conducted within the past year of the productivity level at which the handicapped worker functions. If such application has been filed prior to the expiration date of the certificate, the certificate shall remain in effect until the application for renewal has been granted or denied.

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

[NEW SECTION]

WAC 296-127-470 REVIEW. Any person aggrieved by any action of the director or his authorized representative taken pursuant to this regulation may, within 15 days after notice of such action has been mailed, file with the director a petition for review of the action complained of, setting forth grounds for seeking such review. If reasonable grounds exist, the director or an authorized representative of the director may grant such review and to the extent deemed appropriate afford all interested persons an opportunity to be heard on such review.

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

**WSR 90-06-009
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—February 21, 1990]**

The following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Near Eastern Languages and Civilization.

Below please find a listing of holidays falling on Mondays, Near Eastern Languages and Civilization Faculty Meetings (usually the first and third Mondays of each month from 12:30-1:30 p.m. in Denny 215), Middle East Center Meetings (usually the second Monday), through May 1990. These are all regular meetings, and usually incorporate special meetings in them, if possible.

- Mondays, 1990
- Holiday
- January 1 – New Years Day
- January 15 – M.L. King Day
- February 19 – Presidents Day
- May 28 – Memorial Day
- NELC Mtg
- January 8
- February 5
- March 5
- March 19-G
- April 2
- April 16

- May 7
- May 21
- June 4
- MEC Mtg
- January 22
- February 12
- March 12
- April 9
- May 14
- June 11-G
- No Mtg
- January 29
- February 26
- March 26 (Sp Q b)
- April 23, 30

**WSR 90-06-010
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed February 23, 1990, 10:53 a.m.]**

Continuance of WSR 90-02-096 [and 90-05-048].
Title of Rule: Chapter 173-166 WAC, Emergency drought relief.

Submit Written Comments to: Doug McChesney, Water Resources Program, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711, by March 30, 1990.

Date of Intended Adoption: April 3, 1990.
February 23, 1990
Fred Olson
Deputy Director

**WSR 90-06-011
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—February 23, 1990]**

BOARD OF TRUSTEES
February 23, 1990, 8:00 a.m.
Louise Anderson Hall, First Floor Lounge
Breakfast will be served to board members at 7:00 a.m. in Louise Anderson Hall, 2nd Floor.

**WSR 90-06-012
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed February 23, 1990, 2:38 p.m.]**

Continuance of WSR 90-01-146 and 90-02-005.
Title of Rule: Rules concerning prior notification of pesticide applications for individuals sensitive to pesticides in chapter 16-228 WAC.

Purpose: To provide added protection of the health of certain citizens sensitive to pesticides.

Statutory Authority for Adoption: Chapters 17.21 and 15.58 RCW.

Statute Being Implemented: Chapter 17.21 RCW.

Summary: These rules would provide for prior notification of persons registered with the department as sensitive to pesticides of landscape applications performed adjacent to or within thirty feet of their residence.

Reasons Supporting Proposal: The proposal is an industry proposal to regulate their own industry.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Art G. Losey, Assistant Director, 406 General Administration Building, AX-41, Olympia, 753-5062.

Name of Proponent: The PCO Industry, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This proposal would be enforceable and will have little fiscal impact.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules would provide for prior notification of persons registered with the department as sensitive to pesticides of landscape applications performed adjacent to or within thirty feet of their residence and would provide protection for these persons from exposure to such pesticides.

Proposal does not change existing rules.

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

Date of Intended Adoption: March 16, 1990.

February 23, 1990

Art G. Losey

Assistant Director

WSR 90-06-013

NOTICE OF PUBLIC MEETINGS

TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—February 23, 1990]

MEETING NOTICE FOR
MARCH AND APRIL 1990

TRANSPORTATION IMPROVEMENT BOARD
TRANSPORTATION BUILDING
OLYMPIA, WASHINGTON 98504

Note: The February 15, 1990, board meeting was cancelled due to inclement weather.

Work session, 6:00 p.m., Thursday, March 15, 1990, in Issaquah at Tibbetts Creek Manor, 750 17th Avenue N.W.

TIB meeting, 9:00 a.m. – 12:00 p.m., Friday, March 16, 1990, in Issaquah at Tibbetts Creek Manor, 750 17th Avenue N.W.

TIB meeting and hearing, 9:30 a.m., Friday, April 27, 1990, in Olympia at the Transportation Commission Board Room, Transportation Building.

WSR 90-06-014

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 27, 1990, 3:01 p.m.]

Continuance of WSR 89-23-116 and 90-01-147.

Title of Rule: Chapter 16-228 WAC, Pesticide applicator record keeping.

Purpose: Record-keeping requirements for pesticide applicators.

Statutory Authority for Adoption: Chapters 15.58 and 17.21 RCW.

Statute Being Implemented: Chapter 17.21 RCW.

Summary: The proposed amendments include changes in pesticide applicator record keeping and include a form which would be used jointly by the Departments of Agriculture and Labor and Industries.

Reasons Supporting Proposal: Pesticide laws were revised by the 1989 legislative session in EHB 2222. Revisions included that the Departments of Agriculture and Labor and Industries adopt one form that covers pesticide applicator record keeping and a workplace pesticide list.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ted Maxwell, Program Manager, 406 General Administration Building, AX-41, (206) 753-5062.

Name of Proponent: Departments of Agriculture and Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Record information required by law would be kept on a prescribed form by the Departments of Labor and Industries and Agriculture so that this information will be available in a uniform way when required by the agencies.

Proposal Changes the Following Existing Rules: Prior to EHB 2222, the record-keeping information was only required for commercial applicators and public operators. Record-keeping information is now required for all certified applicators and all persons applying pesticides to more than one acre of agricultural land. These amendments will also require the information to be kept on a prescribed form.

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

Date of Intended Adoption: May 9, 1990.

February 27, 1990

Art Losey

Assistant Director

WSR 90-06-015

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 27, 1990, 3:39 p.m.]

Original Notice.

Title of Rule: WAC 308-56A-500 Definitions; 308-56A-505 Elimination of manufactured home title—Eligibility; 308-56A-510 Elimination of manufactured

home title—Application; 308-56A-515 Elimination of manufactured home title—When perfected; and 308-56A-520 Elimination of manufactured home title—Fees.

Purpose: Implementation of chapter 343, Laws of 1989 and chapter 65.20 RCW.

Statutory Authority for Adoption: RCW 65.20.110.

Statute Being Implemented: RCW 65.20.010 - [65.20.]100, 46.12.055 and 46.12.290.

Summary: WAC 308-56A-505 through 308-56A-520 are necessary for the implementation and administration of the Manufactured Home Real Property Act, sections 1 through 27, chapter 343, Laws of 1989.

Reasons Supporting Proposal: Rules are required to establish fees and to clarify certain provisions in the new law.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1st Floor Highways-Licenses Building, 3-7379; Implementation: Dedre C. Dhillon, 1st Floor Highways-Licenses Building, 3-0554; and Enforcement: Nancy Kelly, 2nd Floor Highways-Licenses Building, 3-6920.

Name of Proponent: Department of Licensing, Title and Registration Services, Nancy Kelly, Administrator, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-56A-500 adopts definition used in RCW 65.20.010 as used in these new WAC sections and defines "eliminate the title"; WAC 308-56A-505 further clarifies the conditions which must exist for the eliminating of manufactured home title issued pursuant to chapter 46.12 RCW; WAC 308-56A-510 clarifies persons who must sign an application for elimination of a manufactured home title and the acceptance of a building permit as evidence the home is attached to the land; WAC 308-56A-515 defines the document to be issued confirming the elimination of the certificate of title; and WAC 308-56A-520 establishes the fees that may be collected.

Proposal does not change existing rules.

These are original rules promulgated for the implementation of the Manufactured Home Real Property Act.

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

Hearing Location: Highways-Licenses Building, 2nd Floor Conference Room, Olympia, Washington, on April 19, 1990, at 9:00 a.m. - 11:00 a.m.

Submit Written Comments to: Nancy Kelly, Department of Licensing, P.O. Box 9909, Olympia, WA 98504, by April 18, 1990.

Date of Intended Adoption: April 27, 1990.

February 26, 1990

Mary Faulk
Director

NEW SECTION

WAC 308-56A-500 DEFINITIONS: The definitions set forth at RCW 65.20.020 shall apply to this chapter. In addition, "eliminate the title" shall have the same meaning as "eliminating the title".

NEW SECTION

WAC 308-56A-505 ELIMINATION OF MANUFACTURED HOME TITLE - ELIGIBILITY: (1) Any manufactured home purchased or having all ownership transferred to new owners after March 1, 1990, may have the certificate of title under chapter 46.12 RCW eliminated or not issued by perfecting ownership as real property pursuant to chapter 65.20 RCW.

(2) Any existing manufactured home affixed to land owned by the homeowner on March 1, 1990, or thereafter may have the certificate of title issued under chapter 46.12 RCW eliminated by perfecting ownership as real property pursuant to chapter 65.20 RCW.

NEW SECTION

WAC 308-56A-510 ELIMINATION OF MANUFACTURED HOME TITLE - APPLICATION: (1) All applications to eliminate or not issue the certificate of title under chapter 46.12 RCW, and perfect ownership as real property under chapter 65.20 RCW, or to transfer ownership in real property to a certificate of title under chapter 46.12 RCW, must be signed by all persons having an interest in the land and in the manufactured home. Signatories shall include but are not limited to all owners in the community property, all secured parties of the land and manufactured home, and all community property transferees.

(2) Manufactured homes shall be affixed to land prior to making application for eliminating the title pursuant to chapter 65.20 RCW. In the event a manufactured home is being relocated to land and the process of affixing has not been completed, certification from the pertinent authority that a building permit has been issued for affixing the manufactured home to the land will be accepted.

NEW SECTION

WAC 308-56A-515 ELIMINATION OF MANUFACTURED HOME TITLE - WHEN PERFECTED: An application to eliminate the title to a manufactured home is perfected when the department issues notice to the owners and secured parties that the provisions of chapter 65.20 RCW have been satisfied and the effective date thereof. The effective date shall be the date the approved documents are recorded with the county in which the manufactured home is affixed.

NEW SECTION

WAC 308-56A-520 ELIMINATION OF MANUFACTURED HOME TITLE - FEES: The director and the director's agents shall charge and collect the following fees when processing an application to eliminate the title or an application for a title reinstatement after a title has been eliminated to a manufactured home as provided in chapter 65.20 RCW:

(1) Fees as provided in RCW 46.01.140 for each application.

(2) Fees as provided in RCW 46.12.040.

(3) A fee to defray the cost of processing documents and performing services as required by chapter 65.20 RCW of twenty-five dollars for each application. For the purposes of this subsection, an application to transfer a manufactured home from one land location to another is considered one application.

WSR 90-06-016

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Filed February 27, 1990, 3:41 p.m.]

Date of Adoption: February 26, 1990.

Purpose: Implementation of chapter 343, Laws of 1989 and chapter 65.20 RCW.

Statutory Authority for Adoption: RCW 65.20.110.

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 effective date of chapter 65.20 RCW is March 1, 1990. The immediate effectiveness of the rules are required for timely implementation of the Manufactured Home Real Property Act as provided in RCW 65.20.950.

Effective Date of Rule: March 1, 1990.

February 26, 1990
Mary Faulk
Director

NEW SECTION

WAC 308-56A-500 DEFINITIONS: The definitions set forth at RCW 65.20.020 shall apply to this chapter. In addition, "eliminate the title" shall have the same meaning as "eliminating the title".

NEW SECTION

WAC 308-56A-505 ELIMINATION OF MANUFACTURED HOME TITLE - ELIGIBILITY: (1) Any manufactured home purchased or having all ownership transferred to new owners after March 1, 1990, may have the certificate of title under chapter 46.12 RCW eliminated or not issued by perfecting ownership as real property pursuant to chapter 65.20 RCW.

(2) Any existing manufactured home affixed to land owned by the homeowner on March 1, 1990, or thereafter may have the certificate of title issued under chapter 46.12 RCW eliminated by perfecting ownership as real property pursuant to chapter 65.20 RCW.

NEW SECTION

WAC 308-56A-510 ELIMINATION OF MANUFACTURED HOME TITLE - APPLICATION: (1) All applications to eliminate or not issue the certificate of title under chapter 46.12 RCW, and perfect ownership as real property under chapter 65.20 RCW, or to transfer ownership in real property to a certificate of title under chapter 46.12 RCW, must be signed by all persons having an interest in the land and in the manufactured home. Signatories shall include but are not limited to all owners in the community property, all secured parties of the land and manufactured home, and all community property transferees.

(2) Manufactured homes shall be affixed to land prior to making application for eliminating the title pursuant to chapter 65.20 RCW. In the event a manufactured home is being relocated to land and the process of affixing has not been completed, certification from the pertinent authority that a building permit has been issued for affixing the manufactured home to the land will be accepted.

NEW SECTION

WAC 308-56A-515 ELIMINATION OF MANUFACTURED HOME TITLE - WHEN PERFECTED: An application to eliminate the title to a manufactured home is perfected when the department issues notice to the owners and secured parties that the provisions of

chapter 65.20 RCW have been satisfied and the effective date thereof. The effective date shall be the date the approved documents are recorded with the county in which the manufactured home is affixed.

NEW SECTION

WAC 308-56A-520 ELIMINATION OF MANUFACTURED HOME TITLE - FEES: The director and the director's agents shall charge and collect the following fees when processing an application to eliminate the title or an application for a title reinstatement after a title has been eliminated to a manufactured home as provided in chapter 65.20 RCW:

(1) Fees as provided in RCW 46.01.140 for each application.

(2) Fees as provided in RCW 46.12.040.

(3) A fee to defray the cost of processing documents and performing services as required by chapter 65.20 RCW of twenty-five dollars for each application. For the purposes of this subsection, an application to transfer a manufactured home from one land location to another is considered one application.

WSR 90-06-017

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Order R-315, Docket No. TV-2285—Filed February 27, 1990, 4:48 p.m.]

In the matter of amendment of WAC 480-12-165, 480-12-180, 480-12-195 and 480-30-100; and adoption of WAC 480-30-097, 480-40-065, 480-40-100, 480-70-325 and 480-70-335, relating to out-of-service criteria for motor carriers, garbage and refuse collection companies, auto transportation companies, and passenger charter bus operators.

This action is taken pursuant to Notice No. WSR 89-23-046 filed with the code reviser on November 13, 1989, and continued pursuant to Notice No. WSR 90-02-026 filed December 28, 1989. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to the above notices, the matter was scheduled for consideration at 9:00 a.m., Wednesday, January 17, 1990, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notices, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to December 18, 1989, and orally at 9:00 a.m., Wednesday, January 17, 1990, in the Commission's Hearing Room above noted. At the January 17, 1990, meeting the Commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it is determined that WAC 480-12-165, 480-12-180, 480-12-195, 480-30-097, 480-30-100, 480-40-065, 480-40-100, 480-70-325 and 480-70-335 should be amended or adopted to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-12-165, 480-12-180, 480-12-195, 480-30-097, 480-30-100, 480-40-065, 480-40-100, 480-70-325 and 480-70-335 as amended or adopted will make uniform equipment and driver criteria for all common carriers operating over the highways of this state; provide for inspection and out-of-service designation of equipment not meeting safety standards; and provide for disqualification of drivers operating in violation of safety criteria.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-12-165, 480-12-180, 480-12-195, 480-30-097, 480-30-100, 480-40-065, 480-40-100, 480-70-325 and 480-70-335 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 21st day of February, 1990.

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

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-166, Cause No. TV-1487, filed 6/10/81)

WAC 480-12-165 EQUIPMENT—INSPECTION—ORDERED FOR REPAIRS. (1) All motor vehicles operated under chapter 81.80 RCW shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives who shall have power to order out of service any vehicle meeting the standards set forth in this rule, or is not being operated in compliance with state laws in regard to equipment or method.

(2) Equipment standards ((=Out of service criteria:

(a) Steering mechanism:

(i) Turning—The steering wheels are incapable of being turned from full right to full left because of interference by parts of the steering mechanism, or by other damaged or dislocated parts of the vehicle. Power steering mechanism in this test is permitted:

(ii) Steering wheel play—If total movement of more than 30 degrees is required at the steering wheel rim before the front wheels move when the wheels are initially in the straight-ahead position:

(iii) Steering column—Any absence or looseness of bolts or positioning parts resulting in motion of the steering column from its normal position:

(iv) Steering gear attachment—Any absence or looseness of bolts or other parts resulting in motion of the steering gear at the point of attachment to the vehicle's frame:

(v) Ball and socket joints—Any looseness at any ball and socket joint in the steering linkage in excess of three-eighths inch measured in alignment with the shank or neck of the ball:

(vi) Front wheel play—The play about either a horizontal or vertical axis of either front wheel exceeds one-half inch measured at the tread surface of the tire:

(b) Brake systems:

(i) Stopping—The vehicle or combination fails, in two trials, to stop from a speed of twenty miles per hour in a distance of sixty feet from a point at which the brake controls are first moved for the purpose of applying brakes when tested on a smooth, dry, level surface free from loose materials. (Such tests may be made only when they will clearly not interfere with or endanger other traffic, and then only if adequate police protection is utilized to assure the safety of the other traffic on the roadway.)

(ii) Missing or inoperative brakes—Brakes missing, not operating, or the shoes not touching the drum on any wheel required to have operative brakes. (Three axle trucks or truck tractors having on the front wheels brakes which have been rendered inoperative, shall not be placed "out of service" because the front wheel brakes are inoperative. However, this finding should be cited on safety equipment compliance form as a violation of Section 393.48.)

(iii) Pedal reserve—On hydraulic, mechanical or power-assisted brake systems, the service brake pedal first meets firm resistance at a point closer to the floor board or other fixed obstruction to the pedal travel than twenty percent of the total pedal travel from released position when measured in a straight line:

(iv) Brake linings and pads—Any brake lining or pad which has:

(A) Rivets or bolts loose or missing:

(B) Lining friction surface contaminated with oil, grease, or brake fluid in such a manner as to change its frictional characteristics:

(v) Drums and discs—Any drum or disc which:

(A) Is contaminated with oil, grease, or brake fluid in such a manner as to change the frictional characteristics of the friction face:

(B) Has any crack visible on the exterior of any brake drum extending more than three-fourths the width of the drum, except when the drum is properly banded to

prevent the crack from expanding to any degree upon the application of brakes or otherwise. (Bands so used must be free of cracks.)

(vi) Brake internal components = Any internal mechanical parts misaligned, broken, or missing.

(vii) Hydraulic brake systems and external components = An hydraulic brake system which:

(A) Has leaks in the master cylinder:

(B) Has hydraulic hoses worn, chafed, cut or cracked through the outer casing and through one ply of fabric.

(C) Has hydraulic hoses, tubes, or connections leaking, restricted, crimped, cracked, or broken.

(D) The hydraulic service brake pedal, while applied with uniform foot pressure, continues to move forward and downward:

(E) Lacks an operative warning signal as required by Section 393.51(b). (Check exemptions in Section 393.51(g).)

(F) Has any visually observed leading hydraulic fluid anywhere in the brake system:

(G) Has connecting lines or tubes not properly attached or supported to prevent damage by vibration or abrasion by contact with the frame, axle, other lines, or any other part of the vehicle and damage as set forth in (vii)(B) or (C) is present:

(viii) Vacuum systems = Any vacuum system which:

(A) Has evidence of leakage in the system:

(B) Has a vacuum hose worn, chafed, cut, or cracked through the outer casing and through one ply of fabric.

(C) Has a hose tube or connection leaking, restricted, crimped, cracked, or broken:

(D) Has a collapsed vacuum hose when vacuum is applied:

(E) Has connecting lines or tubes not properly attached or supported to prevent damage by vibration or abrasion by contact with the frame, axle, other lines, or any other part of the vehicle and damage as set forth in (viii)(B) or (C) is present:

(F) Lacks an operative low vacuum warning device as required in Section 393.51(d). (Check exemptions in Section 393.51(g).)

(G) In vacuum-assisted systems and the system at atmospheric pressure (no vacuum), the service brake pedal does not move slightly as the engine is started while pressure is maintained on the brake pedal:

(H) With all vacuum brakes fully applied, with the trailer brake connections open (if a trailer is connected) and the engine operated long enough to reach constant vacuum, and the trailer brake connections disconnected from the towing vehicle, the trailer brake application cannot be maintained for at least five minutes:

(I) Fails to have an operative second independent means for applying brakes on towed vehicles equipped with vacuum brakes, as required in Section 393.43(c):

(J) Has any vacuum reservoir not securely attached to the motor vehicle:

(ix) Air-mechanical brake systems = Any air-mechanical brake system which:

(A) Has an air hose worn, chafed, cut or cracked through the outer casing and through one ply of fabric, except the outer casing of steel braided hose:

(B) Has an air hose, tube, or connection leaking, restricted, crimped, or broken:

(C) Has connecting line or tubes not properly attached or supported to prevent damage by vibration or abrasion by contact with the frame, axle, other lines or other part of the vehicle and damage as set forth in (ix)(A) or (B) is present:

(D) Has a brake chamber, foot valve, or any other valve in the system or stop-light switch with a clearly audible leak:

(E) Has an air reservoir not securely attached to the motor vehicle:

(F) Has a belt-driven compressor subject to intermittent operation due to looseness of belts or defective pulley condition, or any looseness of mounting bolts on any compressor:

(G) Has an air pressure drop of more than 3 psi in 1 minute for single-unit vehicle, and 4 psi in 1 minute for vehicle combinations, with engine running at idling speed and the service brake applied:

(H) With control (service) and supply (emergency) lines disconnected, the towed vehicle brakes fail to remain in the applied position for at least 5 minutes:

(I) Lacks an operative low-air warning device as required in Section 393.51(c). (Check exemptions in Section 393.51(g).)

(J) On an air-mechanical braked power unit, towing a trailer with air-mechanical brakes, the power unit is: (I) Not equipped with automatic and manual means for activation, (II) found to be inoperative, or (III) malfunctioning to the extent that towing unit air supply is vented to atmosphere when either of the means are used:

(K) The brakes on air-mechanical braked towed vehicles do not apply automatically when the power unit air pressure is reduced to some point between 45 and 20 psi:

(x) Electric brake systems = Any electric brake system that:

Has loose or dirty terminal connections, or broken, frayed, or unsupported wires:

Has brakes that do not apply and remain applied for at least five minutes when the breakaway safety switch is activated:

(xi) Parking brake system = Any parking brake system that:

(A) Has any mechanical part of the parking brake missing, broken, or disconnected:

(B) Is not capable under any load condition of holding the vehicle or combination of vehicles on the grade on which it is tested:

(C) The application mechanism, when fully applied, will not hold in the applied position without manual effort:

(D) Uses fluid pressure, air pressure, or electric energy to hold it in the applied position:

(c) Lighting devices and reflectors:

During the period of one-half-hour after sunset to one-half-hour before sunrise:

(i) Headlamps = The single vehicle or towing vehicle does not have at least one operative headlamp on one side and at least one other operative road lighting device

on the other, or all required front clearance lamps installed and operative.

(ii) Lamps on rear:

(A) Buses, trucks, and towed vehicles, including driveaway-towaway operations, eighty inches or more in width. There are not at least two operative red lamps, other than stop lamps, on the rear of the rear-most vehicle visible from a distance of five hundred feet.

(B) Truck tractors as single vehicles, and all other vehicles and combination of vehicles less than eighty inches in width. There is not at least one operative red lamp, other than a stop lamp, on the rear of the rear-most vehicle visible from a distance of five hundred feet.

(iii) Lamps on projecting loads — There are not at least two operative red lamps on the rear of loads projecting four or more feet beyond the vehicle body.

(iv) None of the turn signals on a vehicle or combination of vehicles are operative, regardless of light conditions.

(v) At least one operative stop lamp on the rear of a single unit vehicle or the rear-most vehicle of a combination of vehicles, at any time the vehicle or combination is being operated, regardless of light conditions.

(d) Tires:

(i) Tread depth — Any tire on:

(A) Front wheels worn so that less than 2/32-inch tread remains when measured in any two adjacent major tread grooves at three equally spaced intervals around the circumference of the tire.

(B) Any wheel other than a front wheel that has a tire worn so that less than 1/64-inch tread remains when measured in any two adjacent major tread grooves at three equally spaced intervals around the circumference of the tire.

(ii) Any tire that:

(A) Has any visually observed bump, bulge, or knot apparently related to tread or sidewall separation:

(B) Has any tread separation from the carcass:

(I) Exposing fabric in excess of four square inches.

(H) Exposing buffed or prepared carcass surface in excess of four square inches.

(HH) Extending across three-fourths of the width of the tread:

(C) Has cuts — Any tire, cut through three or more layers of textile plies, and the cut being four inches or more long at the third layer.

(D) Is flat — Any tire, on any wheel, flat or having an audible leak.

(E) Contacts mate — Any dual tire so mounted or inflated that it comes in contact with its mate.

(F) Is marked "Not for highway use" or otherwise marked and having like meaning.

(G) Any steering axle tire with any textile ply showing in the tread area or worn through one ply in the sidewall.

(e) Wheel and rims:

(i) Rims and rings which are mismatched, bent, sprung, or cracked. (Not to be confused with rims purposely split or cut at manufacture.)

(ii) Disc wheels with elongated bolt holes or cracks between hand holes or stud holes, or both:

(iii) Cast wheels (spoke type) that are cracked:

(iv) Two or more of the wheel bolts, nuts, or clamps are loose, broken, missing, or mismatched.

(v) Any disc, spoke-type wheel, or rim with welded repair.

(f) Exhaust systems:

(i) Exhaust systems not securely fastened. (Some exhaust systems have mounting brackets that are intended to allow movement to counteract thermal expansion. Such vehicles shall not be written up as in violation of the regulations, unless the bolts or other method of attaching the mounting brackets are loose.)

(ii) Exhaust systems determined to be leaking at a point forward of or directly below the driver compartment of any truck or truck tractor, or forward of or below the passenger compartment of any bus or closed body of any truck used for transporting migratory workers. (For purposes of this item, a vehicle body is not considered to be closed if it uses a canvas tarpaulin or flexible material to exclude weather at the top, sides, or ends.)

Note: The criteria in (f)(i) and (ii) are not to be construed to exclude vehicles equipped with exhaust systems intentionally designed to exhaust to the front end of the vehicle. However, such vehicles should be written up on safety equipment compliance form as being in violation of Section 393.83 of the safety regulations.

Note: Carbon or other types of residue are found in flexible pipe and joints in exhaust systems. The carbon and other materials will work through the flexible pipe and joints. Therefore, actual leakage of exhaust gases must be occurring at the locations specified above before writing up the vehicle on safety equipment compliance form. This can be determined by placing a piece of paper on your hand near the suspected leak point to detect escaping gases.

(g) Fuel systems:

(i) Any fuel system with visible leaks at any point in the fuel system:

(ii) Any fuel tank filler cap missing, poorly fitted or with a defective gasket.

(iii) Any fuel tank not securely attached to the motor vehicle. (Some fuel tanks use springs or rubber bushing to permit movement.)

(h) Coupling devices:

(i) Any tow-bar or adjustable fifth wheel assembly with one-fourth or more of the locking pins missing.

(ii) Any adjustable fifth wheel locking mechanism that does not remain in the locked position without manual effort.

(iii) Any leakage in adjustable fifth wheel locking mechanisms dependent on fluid energy or air pressure.

(iv) Fifth wheel and tow-bar play:

(A) Play lengthwise of the vehicle exceeding one inch between the upper and lower fifth wheel halves.

(B) Where provision is made for adjustment of a fifth wheel lower half or tow-bar, relative to the vehicle frame, there is more than one inch of play lengthwise of the vehicle in any adjustment when locked or latched in position.

(v) Fifth wheel mounting. Fifth wheel mountings including bolts, nuts, welds, and brackets, but not including adjustable features, which are loose, worn, or broken

so as to permit one-fourth inch or more observable relative motion between the fifth wheel mounting and the frame of the vehicle.

(vi) Fifth wheel and tow-bar cracks or breaks. Any cracks or breaks in the tow-bar or fifth wheel except:

(A) Cracks in the ramps or horns of fifth wheels.

(B) Casting shrinkage cracks in the ribs of the body of cast fifth wheels.

(i) Suspension:

(i) Axle positioning parts. Any torque arms, U-bolts, spring hangers, or other axle positioning parts cracked, broken, loose, or missing so as to permit displacement of an axle from its normal position.

(ii) Spring assembly:

(A) One-fourth or more of the leaves in any leaf spring assembly broken or missing, or the main leaf depended upon for positioning the axle is broken.

(B) One or more leaves shifted from normal position that could permit coming in contact with a tire, rim, brake drum, or frame:

(C) Air suspensions, leaking:

(iii) Torsion bar assembly or torque arm. Any part of the torsion arm assembly or torque arm or any part used for attaching the same to the vehicle frame or axle, cracked, broken, or missing.

(iv) Frame members. Any cracked, loose, or broken frame member (permitting shifting of the body onto moving parts or collapse of the frame):

(v) Any suspension system defect or any condition of loading that permits the body or frame to come in contact with a tire or any part of the wheel assemblies:

(vi) Adjustable axle assemblies = any:

(A) Adjustable axle assembly with one-fourth or more of the locking pins missing:

(B) Adjustable axle assembly with more than one inch of play lengthwise along the vehicle in any such adjustment when locked or latched in position:

(j) Safe loading:

(i) Any lading within any passenger-carrying space which interferes with the ready exit of passengers from the vehicle:

(ii) Any lading within the driver's compartment which obscures his view ahead or to the right or left sides or to the rear:

(iii) Protection against shifting cargo:

(A) Any vehicle without front-end structures, or equivalent devices as required by Section 393.106:

(B) Vehicles and loading condition such that any part of the load can fall on the roadway:

(k) Engine:

The engine cannot be started without external assistance within five minutes:

(l) Power train:

Engine cannot be started with the transmission in neutral because of a defective or improperly adjusted clutch. (Transmission cannot be shifted from neutral after engine is started.)

(m) Mirrors:

Any power unit with only one mirror on the driver's side that is cracked, pitted, or clouded to the extent that rear vision is obscured:

(n) Windshield wipers:

Any power unit that has inoperative wiper or parts of blades or arms are missing or are severely damaged on the driver's side:

(o) Vehicles - Hazardous materials:

(i) Loss or leakage of any cargo classed as a hazardous material, when visible on the outside of the vehicle:

(ii) Loaded cargo tanks or portable tanks having loose dome covers or other openings not securely closed:

(iii) Vehicles transporting hazardous materials in such quantity to require placards and no placards are installed on sides, rear and front:

(iv) Vehicles transporting hazardous materials in such quantity to require placards having bare electrical wiring or evidence of burning or short circuiting:

(3) References in subsection (2) of this rule to Sections 393.43, 393.48, 393.51, 393.83, and 396.106 shall refer to those sections contained in the Code of Federal Regulations, part 393, as adopted by the commission in WAC 480-12-180(1), or hereafter amended by the commission in that section. References in subsection (2) of this rule to "psi" shall refer to pounds per square inch:

(4) Duly authorized commission personnel shall order any piece of equipment in need of repairs to be properly repaired, and this equipment shall not be used in further service until a certificate of correction is forwarded to the commission. A certificate of correction form will be furnished by the commission. Additional forms may be obtained from any office of the commission). The purpose of this section is to identify critical vehicle inspection items and provide criteria for placing a vehicle(s) in an out-of-service or restricted service category subsequent to a safety inspection. The criteria for out-of-service condition and restricted service condition are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(a) Out-of-service condition. When any vehicle(s) is in out-of-service condition, no motor carrier shall require nor shall any person operate such motor vehicle declared and marked "out-of-service" until all required repairs have been satisfactorily completed.

(b) Restricted service condition. Any motor vehicle(s) discovered to be in a restricted service condition, while being operated on the highway, may be placed out-of-service at the inspection site or allowed to continue in operation to a repair facility at a distance not to exceed twenty-five miles, at the discretion of the inspector.

AMENDATORY SECTION (Amending Order R-295, Cause No. TV-2225, filed 2/23/89)

WAC 480-12-180 EQUIPMENT-DRIVERS-SAFETY. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.80 RCW shall comply with the following:

(1) Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing motor carrier safety prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 392, excluding section 392.2 and paragraph (c) of section 392.1; part

393, excluding paragraph (b) of section 393.1; part 396, except that with respect to section 396.11 no driver vehicle inspection report need be filed if no defects are found, and excluding paragraph (b) of section 396.1; part 397, excluding section 397.21 and paragraph (c) of section 397.1; as well as and including all appendices and amendments thereto in effect on October 1, 1988, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW.

(2) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (1) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(3) Safety chains or other load fastening devices. Any motor truck, truck tractor, trailer, semitrailer, or any combination thereof, transporting logs upon a public highway where binder devices are required, shall have the load thereon securely fastened and protected as follows:

(a) Placement and number of wrappers required on log trucks using stakes.

(i) In the hauling of one log loads, one wrapper chain or cable shall be required and it shall be secured to the rear bunk and the log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper, secured to the front bunk, is optional.

(ii) In the hauling of two log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(iii) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(iv) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(b) Placement and number of wrappers required on log trucks using chock blocks.

(i) In the hauling of one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

(ii) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subparagraphs (a)(iii) and (iv) of this subsection.

(c) Placement and number of wrappers required on crosswise loaded trucks, trailers, etc. In the case of short logs loaded crosswise, the following method of securing

the load shall be used if the truck trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off: Not less than two chock blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least twelve inches in depth. Other means furnishing equivalent security may be acceptable.

(d) Wrapper placement. When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.

(e) Short logs. To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.

(f) Log on top or in outside saddle. No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.

(g) Fasten in place. All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(h) Surround load. All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut-wrappers.

(i) Gut-wrappers. Gut-wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(j) Wrappers and binders to be placed before leaving immediate loading area. Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.

(k) Construction of wrappers and binders. Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.

(l) Bundle straps or banding. For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(m) Loose ends secured. All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(n) Trucks in sorting yards. Trucks and trailers used around sorting yards, etc., which travel at slow speeds, will not be required to use wrappers providing all logs are contained by and lie below the height of the stakes and there are no persons on the ground exposed to such traffic.

(o) Binder hook design. Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(p) Defective wrappers. Wrappers shall be removed from service when any of the following conditions exist:

- (i) Excessively worn links on chains;
- (ii) Deformed or stretched chain links;
- (iii) Cracked chain links;
- (iv) Frayed, stranded, knotted, or otherwise defective wire rope.

(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not

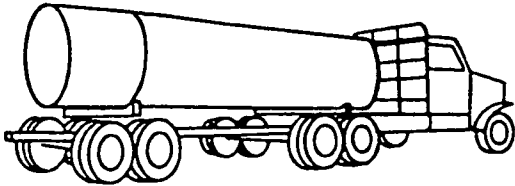
longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(r) Defective binders. Defective binders shall be immediately removed from service.

Note: See the following Diagrams I and II for illustrations of placement and number of load fastening devices.

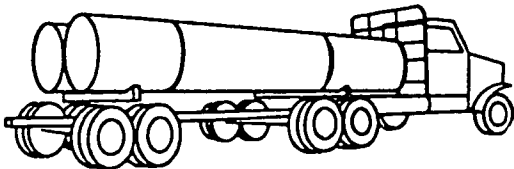
PLACEMENT AND NUMBER OF WRAPPERS

One log load



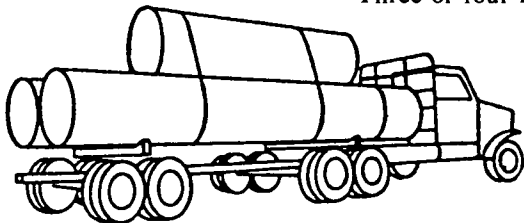
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

Two log load



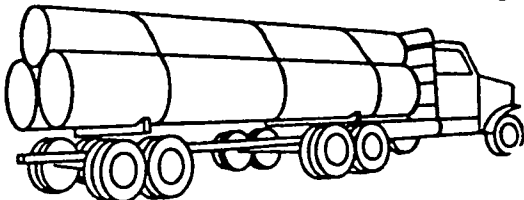
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

Three or four log load forty-four feet or less



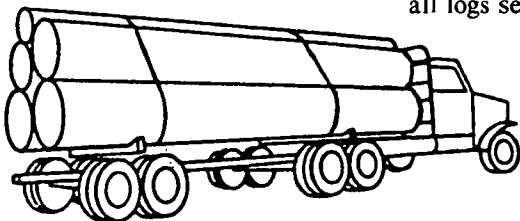
A minimum of two wrappers required.

Three or four log loads more than forty-four feet



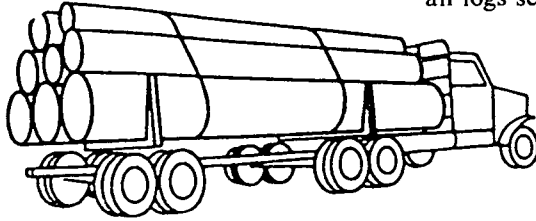
A minimum of three wrappers required.

Five or six log load
all logs seventeen feet or less



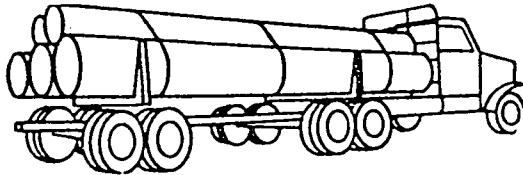
A minimum of two wrappers required.

Seven or more log load
all logs seventeen feet or less



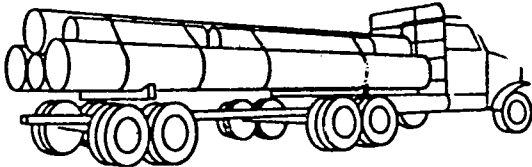
A minimum of two wrappers required.

Five or more log load
if any logs are more than seventeen feet



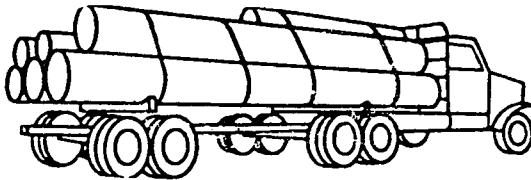
A minimum of three wrappers required.

Outside logs or top logs



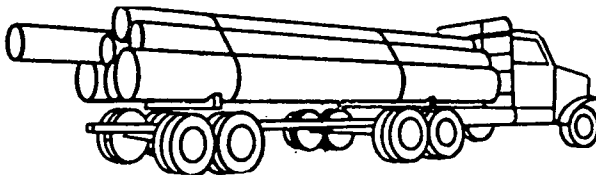
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk



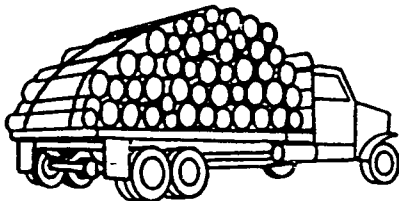
Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

Proper support for logs



Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.

Short logs loaded crosswise



A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.

(4) Approved load fastening devices. The following binder devices are hereby approved for purposes of transporting logs as referred to in subsection (3) of this

section, provided that they meet a breaking strength of at least fifteen thousand pounds:

- (a) Three-eighths inch high-test steel chain;
- (b) One-half inch diameter steel cable; and
- (c) Steel strapping not less than two inches by fifty one-thousandths inches in dimension.

(5) Anti-spray devices. Every vehicle shall be equipped with a device adequate to effectively reduce the wheel spray or splash of water from the roadway to the rear thereof. All such devices shall be as wide as the tires behind which they are mounted and extend downward at least to the center of the axle.

(6) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 383, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.49, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto in effect on October 1, 1988, are adopted and prescribed by the commission to be observed by all common, contract, and registered carriers operating under chapter 81.80 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to October 20, 1979.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date October 20, 1979.

(d) Sections 391.21, 391.23, 391.25, 391.27, 391.31, 391.33, 391.35, and 391.37 shall not apply to a single vehicle owner driver when operating under its own permit.

(e) Section 391.49 shall not apply when a driver has obtained from the department of licensing the proper drivers license endorsement and restrictions (if any) for the operation of the motor vehicle the person is driving.

(7) Out-of-service criteria. All drivers operating motor vehicles under chapter 81.80 RCW shall do so in compliance with the safety rules and regulations defined therein. Duly authorized personnel of the commission shall have the power to order out-of-service any driver found to be operating in violation of those rules and regulations. The criteria for conditions under which a driver may be ordered out-of-service are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(8) Whenever the designation "director, bureau of motor carrier safety" is used in the respective parts of Title 49, Code of Federal Regulations, as described in subsection (6) of this section, such designation for the purpose of this rule shall mean the "Washington utilities

and transportation commission," located in Olympia, Washington.

~~((8))~~ (9) Whenever the term "lightweight vehicle" is used in this section or is used in rules adopted herein by reference, such term shall mean a motor vehicle that:

(a) Was manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of ten thousand pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of ten thousand pounds or less, in the case of an articulated vehicle; or

(b) Was manufactured before January 1, 1972, and has a gross weight, including its load and the gross weight of any vehicle being towed by the motor vehicle, of ten thousand pounds or less, except:

(c) The term "lightweight vehicle" does not include a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with WAC 480-12-195.

AMENDATORY SECTION (Amending Order R-295, Cause No. TV-2225, filed 2/23/89)

WAC 480-12-195 HAZARDOUS MATERIALS REGULATIONS. (1) The rules and regulations governing hazardous materials prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, Parts 170-189, as well as and including all appendices and amendments thereto, in effect on October 1, 1988, are adopted and prescribed by the commission to define hazardous materials for motor vehicle transportation purposes, and to state the precautions that must be observed in storage, packaging, loading, and unloading such materials, and in maintaining, placarding, marking, and certifying motor vehicles and equipment used in transporting such materials, and in the maintenance of shipping papers prepared in conjunction with transporting such materials. The rules and regulations adopted and prescribed by this rule shall be observed by all common, contract, and registered carriers operating in this state.

(2) In addition to any accident reporting requirement now or hereafter prescribed by the commission, every common, contract, and registered carrier operating in this state who reports to the United States Department of Transportation any incidents occurring in this state involving hazardous materials, shall send a copy of any such report to the commission.

(3) Out-of-service criteria.

(a) All motor vehicles operated under chapter 81.80 RCW shall be operated in compliance with the rules and regulations governing the transportation of hazardous materials. They shall at all times be subject to inspection by the commission and its duly authorized representatives who shall have power to order out-of-service any vehicle meeting the standards set forth in this section, or is not being operated in compliance with laws in regard to equipment or method.

(b) Standards. The purpose of this section is to identify critical hazardous materials inspection items and provide criteria for placing a vehicle(s) in an out-of-service or restricted service category subsequent to an

inspection. The criteria for out-of-service condition or restricted service condition are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(i) Out-of-service condition. No motor carrier shall require nor shall any person operate a motor vehicle(s) when an out-of-service condition is found to exist. The vehicle shall not be allowed to continue in operation until the unsafe condition is corrected and the shipment thereon complies with applicable laws, rules, and regulations: PROVIDED, That if safety may be jeopardized by an out-of-service action at the inspection site, the vehicle(s) may be escorted to a safer location.

(ii) Restricted service condition. Vehicles with restricted service conditions shall be placed out-of-service at the inspection site, or at the discretion of the inspector may be allowed to continue in operation to the nearest appropriate repair or correction facility.

NEW SECTION

WAC 480-30-097 EQUIPMENT—INSPECTION—ORDERED FOR REPAIRS. (1) All motor vehicles operated under chapter 81.68 RCW shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives who shall have power to order out-of-service any vehicle meeting the standards set forth in this section, or is not being operated in compliance with state laws in regard to equipment or method.

(2) Equipment standards. The purpose of this section is to identify critical vehicle inspection items and provide criteria for placing a vehicle(s) in an out-of-service or restricted service category subsequent to a safety inspection. The criteria for out-of-service condition and restricted service condition are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(a) Out-of-service condition. When any vehicle(s) is in out-of-service condition, no motor carrier shall require nor shall any person operate such motor vehicle declared and marked "out-of-service" until all required repairs have been satisfactorily completed.

(b) Restricted service condition. Any motor vehicle(s) discovered to be in a restricted service condition, while being operated on the highway, may be placed out-of-service at the inspection site or allowed to continue in operation to a repair facility at a distance not to exceed twenty-five miles, at the discretion of the inspector.

AMENDATORY SECTION (Amending Order R-295, Cause No. TV-2225, filed 2/23/89)

WAC 480-30-100 OPERATION OF MOTOR VEHICLES. (1) All motor vehicles shall be operated in accordance with the requirements of existing state laws and no driver or operator thereof shall operate the same in any other than a careful and prudent manner, nor at any greater speed than is reasonable or proper, having

due regard to the traffic and use of the highway by others, or so as to endanger the life and limb of any person.

(2) Qualifications of drivers. Adoption of United States Department of Transportation motor carrier safety regulations. The rules and regulations governing qualifications of drivers prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 383, part 391, excluding paragraphs (a) and (b) of section 391.2, section 391.69, subparagraph (2) of paragraph 391.71(a), and subparagraph (4) of paragraph 391.71(b); as well as and including all appendices and amendments thereto, in effect on October 1, 1988, are adopted and prescribed by the commission to be observed by all auto transportation companies or excursion service companies operating under chapter 81.68 RCW except:

(a) The minimum age requirement for drivers prescribed in subparagraph (1) of paragraph 391.11(b) shall be eighteen years of age.

(b) With respect to the limited exemption prescribed in section 391.61, the time period identified therein shall be the period of time prior to the effective date of this rule.

(c) With respect to the limited exemptions prescribed in sections 391.65 and 391.71, the time periods identified in these sections shall have as a starting date the effective date of this rule.

(3) No driver or operator of a motor vehicle carrying passengers shall smoke any cigar, cigarette, tobacco or other substance in such vehicle during the time he is driving the vehicle.

(4) No driver or operator of a motor vehicle shall create any disturbance or unnecessary noise to attract persons to the vehicle.

(5) The rules and regulations relating to drivers' logs and drivers' hours of service adopted by the United States Department of Transportation in Title 49, Code of Federal Regulations, part 395, as well as and including all appendices and amendments thereto in effect on October 1, 1988, are adopted and prescribed by the commission to be observed by all auto transportation companies or excursion service companies operating under chapter 81.68 RCW.

(6) No driver or operator of any motor vehicle used in the transportation of passengers shall refuse to carry any person offering himself or herself at a regular stopping place for carriage and who tenders the regular fare to any stopping place on the route of said motor vehicle, or between the termini thereof, if allowed to carry passengers to such point under the certificate for such route: PROVIDED, HOWEVER, That the driver or operator of such motor vehicle may refuse transportation to any person who is in an intoxicated condition or conducting himself in a boisterous or disorderly manner or is using profane language, who is suffering from a contagious disease, or whose condition is such as to be obnoxious to passengers on such motor vehicle. A driver is responsible for the comfort, safety and peace of mind of his passengers to the extent that he should be constantly on the alert for and immediately correct any act of misconduct on the part of occupants of the vehicle.

(7) No auto transportation company or excursion service company operating any motor vehicle used in the transportation of persons, shall permit smoking on said vehicle either by passengers or other persons while present in said motor vehicle.

Auto transportation companies and excursion service companies shall place suitable signs in buses, of sufficient size and number to adequately inform passengers that smoking is not permitted in the motor vehicle.

(8) No motor vehicle used in the transportation of persons shall carry more persons than one hundred fifty percent of its rated carrying capacity but no paying passenger shall be required to stand for a distance in excess of twenty miles. The commission may amend, rescind or grant exceptions to this rule in the event of emergency.

(9) The front seat of all passenger carrying vehicles, if connected with the driver's seat, shall be considered as an emergency seat and no passenger will be allowed to occupy the same unless all of the other seats of such vehicle are fully occupied. In no case shall more than one passenger be allowed to occupy the front seat of any motor vehicle unless such seat is forty-eight or more inches in width in the clear. No passenger shall be allowed to sit in the front seat to the left of the driver.

(10) No motor vehicle used for the transportation of passengers shall carry or transport any baggage, trunk, crate or other load which shall extend beyond the running board of said motor vehicle on the left side.

(11) Except when specially authorized by the commission, no motor vehicle used in the transportation of passengers shall be operated or driven with any trailer or other vehicle attached thereto; except in case a vehicle becomes disabled while on a trip and is unable to be operated by its own power, such disabled vehicle may be towed without passengers to the nearest point where repair facilities are available. No right-hand drive vehicle shall be used except by special authorization of the commission and then only when equipped as directed by it.

(12) Accidents occurring in this state arising from or in connection with the operations of any auto transportation company or excursion service company operating under chapter 81.68 RCW resulting in an injury to any person, or the death of any person shall be reported by such carrier to the commission as soon as possible, but in no event later than twelve hours after the occurrence of the accident. The occurrence of such accidents shall be reported to the commission by telephone at the following numbers: 1-800-562-6150; or if the call is made from out of the state: 1-206-586-1119. Copies of written reports of all accidents, including those described in this section, shall be maintained in the main office of the carrier subject to inspection by the commission.

(13) Auto transportation companies or excursion service companies transporting passengers shall maintain such comfort stations in a clean and sanitary condition along its line or route, and shall make such regular stops thereat as shall be necessary to care properly for the comfort of its patrons.

(14) Out-of-service criteria. All drivers operating motor vehicles under chapter 81.68 RCW shall do so in compliance with the safety rules and regulations defined

therein. Duly authorized personnel of the commission shall have the power to order out-of-service any driver found to be operating in violation of those rules and regulations. The criteria for conditions under which a driver may be ordered out-of-service are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(15) Whenever the designations "director, bureau of motor carrier safety," "director, regional motor carrier safety office," "regional highway administrator," and "federal highway administration" are used in the respective parts of Title 49, Code of Federal Regulations, as described in subsections (2) and (5) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

NEW SECTION

WAC 480-40-065 EQUIPMENT—INSPECTION—ORDERED FOR REPAIRS. (1) All motor vehicles operated under chapter 81.70 RCW shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives who shall have power to order out-of-service any vehicle meeting the standards set forth in this section, or is not being operated in compliance with state laws in regard to equipment or method.

(2) Equipment standards. The purpose of this section is to identify critical vehicle inspection items and provide criteria for placing a vehicle(s) in an out-of-service or restricted service category subsequent to a safety inspection. The criteria for out-of-service condition and restricted service condition are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(a) Out-of-service condition. When any vehicle(s) is in out-of-service condition, no motor carrier shall require nor shall any person operate such motor vehicle declared and marked "out-of-service" until all required repairs have been satisfactorily completed.

(b) Restricted service condition. Any motor vehicle(s) discovered to be in a restricted service condition, while being operated on the highway, may be placed out-of-service at the inspection site or allowed to continue in operation to a repair facility at a distance not to exceed twenty-five miles, at the discretion of the inspector.

NEW SECTION

WAC 480-40-100 OUT-OF-SERVICE CRITERIA. All drivers operating motor vehicles under chapter 81.70 RCW shall do so in compliance with the safety rules and regulations defined therein. Duly authorized personnel of the commission shall have the power to order out-of-service any driver found to be operating in violation of those rules and regulations. The criteria for conditions under which a driver may be ordered out-of-

service are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

NEW SECTION

WAC 480-70-325 EQUIPMENT—INSPECTION—ORDERED FOR REPAIRS. (1) All motor vehicles operated under chapter 81.77 RCW shall be maintained in a safe and sanitary condition. They shall at all times be subject to inspection by the commission and its duly authorized representatives who shall have power to order out-of-service any vehicle meeting the standards set forth in this section, or is not being operated in compliance with state laws in regard to equipment or method.

(2) Equipment standards. The purpose of this section is to identify critical vehicle inspection items and provide criteria for placing a vehicle(s) in an out-of-service or restricted service category subsequent to a safety inspection. The criteria for out-of-service condition and restricted service condition are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

(a) Out-of-service condition. When any vehicle(s) is in out-of-service condition, no motor carrier shall require nor shall any person operate such motor vehicle declared and marked "out-of-service" until all required repairs have been satisfactorily completed.

(b) Restricted service condition. Any motor vehicle(s) discovered to be in a restricted service condition, while being operated on the highway, may be placed out-of-service at the inspection site or allowed to continue in operation to a repair facility at a distance not to exceed twenty-five miles, at the discretion of the inspector.

NEW SECTION

WAC 480-70-335 OUT-OF-SERVICE CRITERIA. All drivers operating motor vehicles under chapter 81.77 RCW shall do so in compliance with the safety rules and regulations defined therein. Duly authorized personnel of the commission shall have the power to order out-of-service any driver found to be operating in violation of those rules and regulations. The criteria for conditions under which a driver may be ordered out-of-service are those defined in the "North American Uniform Out-Of-Service Criteria," in effect on February 15, 1989. Copies of this document are available from the commission upon request.

Purpose: To conform the Department of Health rules on adjudicative proceedings to the new Administrative Procedure Act and other recent statutory changes.

Citation of Existing Rules Affected by this Order: Each rule affected by this rule-making proposal is explained below whether it is a new rule, an amendment, or repeal of a rule.

Statutory Authority for Adoption: RCW 34.05.220.

Pursuant to notice filed as WSR 89-22-103 on November 1, 1989.

Changes Other than Editing from Proposed to Adopted Version: Changes other than editing from the proposal to the adopted version are described below. WAC 248-08-410(1), proposed subsection (1) has been amended to make clear that chapter 18.130 RCW supersedes and takes precedent over this chapter for the professional licensing programs listed under RCW 18.130.040 (2)(b); WAC 248-08-425 (1)(a), "Conduct the hearing de novo" was changed to the plainer English, "Hear and decide the issue anew (de novo)"; WAC 248-08-440(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 as has the period to file a petition for review of an initial order (section 464); WAC 248-08-452, subsection (7) requiring testimony to be under oath or affirmation was deleted since Administrative Procedure Act, section 452(3) addresses this issue; WAC 248-08-464 (1)(a) and (4), the proposal had a fourteen day period to file a petition for review of an initial order. The department feels that fourteen days from mailing of the initial order to the department's receipt of the petition may give too little time for a party to decide whether to file and, if so, to prepare and file a petition. The period has been lengthened to twenty-one days; and WAC 248-08-515, this rule was changed to be consistent with the change in proposed model rule 045 and the adopted version.

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 the Department of Health has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

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 Health actions under the Administrative Procedure Act so the agency must have rules with some variations from the model rules. Variations from the model rules are described below.

WSR 90-06-018

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 038—Filed February 28, 1990, 8:45 a.m., effective March 1, 1990]

Date of Adoption: February 27, 1990.

WAC 248-08 SECTIONS	WAC 10-08 SECTIONS	COMPARISON - REASONS FOR VARIANCE
410 new	001	Application of chapter 248-08 WAC - The DOH section differs from the model section because the purpose of each chapter is different. Chapter 10-08 WAC is a model for all agencies while chapter 248-08 applies only to DOH programs. The DOH section also gives the presiding and reviewing officers' addresses so the public will know where to file documents.
413 Amend	035	Application for an Adjudicative Proceeding - The DOH rule is specific to DOH programs.
425 New	040(3), 050(2) 190, 200 & none	Administrative Law Judge -- Authority -- Application of Law --Assignment--Disqualification
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) (b)-(j)	200(1)-(9)	These nine subsections of the DOH rule are the same as Model Rule 200(1) through (9).
425(1)(k)	190	This subsection comes from Model Rule 190 as limited by APA section 449(5).
425(1)(l)	200(10)	Model Rule 200(10) empowers the presiding officer to take any action "necessary and authorized by statute or rule." The department rule at subsection (1)(l) deletes "statute"

so as to limit the presiding officer's authority to that conferred by rule. This is not intended to preclude the presiding officer from taking action based on statute, but to condition his or her use of non-department rules in accordance with subsection (2) of this rule.

425(1)(m)	see 040(3)	Subsection (1)(m) is intended to broaden the scope of Model Rule 040(3) as envisioned by APA section 050 and to explicitly state the presiding officer's authority to permit a waiver. Situations arise in department hearings where presiding officers must routinely rule on whether a person has waived a right; an example is whether a person who appears <u>pro se</u> at the hearing has knowingly waived the right to representation.
425(2)	none	The APA at section 449(1) states that agency rules are to be used in the conduct of the proceeding but it and the Model Rules are silent on the order of precedence for the source of law to be used in deciding the issue. This rule 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 the topic in clear everyday English to avoid any misunderstanding.
431 New	130	Prehearing Conference - The Model Rule is reworded and renumbered to make reading and understanding easier.
434	040	Notice of Hearing - Subsections 1 and 2 of the Model Rule are reworded to make reading and understanding easier. The Model Rule's restating APA provisions is not included in the department's rule. Subsection 3 of the Model Rule permitting waiver of defects in the notice of hearing is not carried into the department rule because RCW 34.05.050 covers waivers well. The presiding officer's authority to permit a waiver is in department rule section 425(1)(m).
437 New	110	Filing and Service of Papers - The Model Rule is reworded to make reading and understanding easier. Subsection 4 of the Model Rule stating filing of papers on the agency is complete upon receipt at any office of the agency is changed to require receipt of all papers (except for an application) at the office responsible for the adjudicative proceeding.
440 New	none	Vacating an Order of Dismissal for Reason of Default or Withdrawal. - There is no Model Rule dealing with vacating an application that had been dismissed. The APA provides that the time to file a motion to vacate a default dismissal is seven days unless a longer period is set by agency rule. This department rule sets a 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.
446 New	120	Subpoenas - The department rule follows the Model Rule.
449 New	170;180	Teleconference Hearing
449(1),(2)	180	APA section 449(3) permits a hearing to be conducted by electronic means. Model Rule section 180 treats this subject. The department's rule contains two 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 APA conditions conducting a hearing by electronic means to it being "technically and economically feasible" for the participants to see the proceeding. The department's rule uses this standard instead of the Model Rule's limitation of only "technically feasible".
none	170	APA section 449(4) deals with how oral proceedings are preserved. This is treated in Model Rule 170. The department did not adopt the Model Rule because it adds nothing to the APA requirement.
452 New	140;160(1)	Rules of Evidence - The first five subsections of the department rule are the same as Model Rule section 140 with rewording for easier reading and understanding. The sixth subsection differs from Model Rule 140(6) by permitting withdrawal of a stipulation or admission during the proceedings instead of cutting off the right at "closure of the hearing." The cause for a party's seeking to withdraw could occur after closure and the department

prefers to give the party in such a situation the opportunity to seek relief. Model Rule 160(1), requiring testimony to be under oath or affirmation, is contained in APA section 452(3). The Model Rule adds nothing to the APA provision so is not adopted in the department's rules.

461 New	210	Contents of Orders - The department rule adopts only those parts of Model Rule section 210 that are not restatements of the requirements imposed by APA section 461.
464 New	211	<p>Petition for Review -- Response to Petition -- Disqualification of a Review Judge - Department rule section 464 loosely follows Model Rule section 211. Differences are:</p> <ul style="list-style-type: none"> • 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. <p>Unlike Model Rule 211(2), copies are not required to be served on other parties and representatives. See comments immediately below.</p> <ul style="list-style-type: none"> • 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 <u>pro se</u> 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 with a minor wording change.
525 New	150;160(2)	Interpreters - Department subsection 525(1) through (11) are the same as Model Rule 150(1) through (11), with one grammatical change. Subsection 525(12) is the same as Model Rule 160(2). Subsections 525(13) through (18) are the same as Model Rule 150(12) through (17).
535 New	none	Group Hearing - This section has no counterpart in the Model Rules. The department has consolidated applications for adjudicative proceedings filed by different people when each appeared to raise the same question of law. The rule contains safeguards in that any person in a group hearing may request to withdraw from the group in favor of an individual hearing and each member of the group is entitled to representation of his or her choice.
545 New	090	Continuance - Department section 545 is the same as Model Rule section 080 with slight rewording for clarity.
565 New	080	Computation of Time - Section 565 is the same as Model Rule section 090.
575 New	none	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, non-agency 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 sections 425(1); 431(1)(c), (2), and (3); 440; 452(6); 461; and 464 cover the topic adequately and consistently.
248-08	not applicable	These sections are repealed because they conflict with the APA sections applicable, are covered by it and other department adjudicative procedure rules and/or create nonuniform procedures.

WAC 248-320 SECTIONS	WAC 10-08 SECTIONS	COMPARISON - REASONS FOR VARIANCE
340 New	not applicable	Delegation of Authority by Secretary. This nonadjudicative proceeding rule is being transferred from chapter 388-08 to chapter 248-320 WAC.
350 New	250	Declaratory Orders - Forms, Content, and Filing - The department rule is the same as the Model Rule.
360 New	251	Declaratory Orders - Procedural Rights of Persons in Relation to Petition - 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	not applicable	Updating Mailing Lists - This nonadjudicative proceeding rule is being transferred from New chapter 388-08 to chapter 248-320 WAC.

Effective Date of Rule: March 1, 1990.
February 27, 1990
Pam Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Regulation 08.410, effective 3/11/60)

~~WAC 248-08-410 ((FORM AND CONTENT OF DECISIONS IN CONTESTED CASES)) APPLICATION OF CHAPTER 248-08 WAC. ((Every decision and order, whether proposed, initial, or final, shall:~~

- ~~(1) Be correctly captioned as to name of agency and name of proceeding;~~
- ~~(2) Designate all parties and counsel to the proceeding;~~

~~(3) Include a concise statement of the nature and background of the proceeding;~~

~~(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;~~

~~(5) Whenever practical, include the reason or reasons for the particular order or remedy afforded;~~

~~(6) Wherever practical, be referenced to specific provisions of law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.))~~ (1) Scope. This chapter applies to adjudicative proceedings, begun on or after July 1, 1989, in programs administered by the department of health except those professional licensing programs for which the secretary is not the disciplinary authority as defined under RCW 18.130.040 (2)(b). The definition of the word "begun" is the department's receipt of the application for an adjudicative proceeding. Proceedings begun before July 1, 1989, are governed by the procedural rules in effect on June 30, 1989. Legal authority for adopting this chapter is RCW 34.05.220 (1)(a).

(2) Conflict in rules. If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

(3) Physical and mailing addresses. The presiding officer is generally an administrative law judge from the office of administrative hearings. Presiding officer administrative and field office addresses are listed under WAC 10-04-020. The reviewing officer is generally the secretary or the secretary's designee. The secretary's address for professions governed by the Uniform Disciplinary Act is the legal support section of the investigation, legal and audit unit, which is located at 1300 Quince, Olympia, and the mailing address is Legal Support Section, P.O. Box 2245, Olympia, WA 98507-2245. The reviewing officer's address for other programs is the office of appeals which is located in Office Building Number 2, Twelfth and Franklin, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465.

NEW SECTION

WAC 248-08-413 APPLICATION FOR AN ADJUDICATIVE PROCEEDING. (1) Uniform Disciplinary Act application. A person contesting a decision or statement of charges under the Uniform Disciplinary Act shall file a written application for an adjudicative proceeding with the legal support section of the investigation, legal and audit unit. The application must be filed within twenty days of the person's receipt of the decision or statement of charges.

(2) Other program application. A person contesting a department decision in a program not governed by the Uniform Disciplinary Act shall file a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals within twenty-eight days of receipt of the decision.

(3) Application contents. The application must include or have attached:

(a) A specific statement of the issue or issues and law involved;

(b) The grounds for contesting the department decision or statement of charges; and

(c) A copy of the contested department decision or statement of charges.

NEW SECTION

WAC 248-08-425 ADMINISTRATIVE LAW JUDGE—AUTHORITY—APPLICATION OF LAW—ASSIGNMENT—DISQUALIFICATION. (1) Authority. The administrative law judge 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 imposed by the administrative law judge to preserve confidentiality or to prevent disruption;

(l) Permit a person to waive any right conferred upon that person by chapter 34.05 RCW and/or chapter 248-08 WAC, except to the extent precluded by another provision of law; and

(m) Take any other action necessary and authorized by any applicable rule.

(2) Application of law. The administrative law judge shall:

(a) Apply as the first source of law governing an issue the rules of the department as adopted in the Washington Administrative Code (WAC);

(b) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington Constitutions, statutes and regulations, and court decisions;

(c) Not declare any department rule invalid;

(d) If the validity of any department rule is raised as an issue at any proceeding, permit arguments to be made on the record concerning that issue for subsequent review purposes; and

(e) If the sole issue is one of federal or state law requiring adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument to be made on the record regarding the validity of the law.

(3) Assignment of administrative law judge. If the notice of hearing does not state the name of the presiding administrative law judge, the chief administrative law judge 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 administrative law judge may be required to issue a discretionary ruling.

(b) The chief administrative law judge 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 administrative law judge under RCW 34.05.425 shall file such petition with the administrative law judge assigned to preside over the proceeding.

NEW SECTION

WAC 248-08-428 REPRESENTATION. (1) Appellant representation.

(a) The appellant may represent himself or herself, or the appellant may be represented by a lawyer or paralegal or by a relative, friend, or other person.

(b) The appellant may not be represented in an adjudicative proceeding by an employee of the department.

(c) Nothing in this regulation shall be construed as prohibiting an employee of the department from:

(i) Acting as a witness on behalf of an appellant; or
(ii) Referring an appellant to legal resources in the community; or

(iii) Assisting the appellant in obtaining nonconfidential information available to the appellant; or

(iv) Advising the appellant of possible arguments made against the contested decision.

(2) Department representation. The department may be represented by a department employee or by the office of the attorney general.

NEW SECTION

WAC 248-08-431 PREHEARING CONFERENCE. (1) Request, purpose, order, and objection. Upon the administrative law judge's own motion or upon request of a party, the administrative law judge 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 administrative law judge may conduct a prehearing conferences by telephone conference call, in person, or other manner.

(c) Following the prehearing conference, the administrative law judge 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 administrative law judge within ten days after the date such order is served, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Conference on day of hearing. Nothing in this rule shall limit the administrative law judge during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The administrative law judge shall state on the record the results of such conference.

(3) Not a limit to informal settlement. Nothing in this rule shall limit the right of any agency to informally settle a matter to make an adjudicative proceeding unnecessary.

NEW SECTION

WAC 248-08-434 NOTICE OF HEARING. (1) Served by. The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives.

(2) Contents.

(a) If the hearing is conducted by teleconference call, the notice shall so state.

(b) The notice shall state:

(i) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(ii) There shall be no cost to the party or witness for the interpreter.

(c) The notice shall include a form for a party to:

(i) Indicate the need for an interpreter; and

(ii) Identify the primary language or hearing impaired status of the person.

NEW SECTION

WAC 248-08-437 FILING AND SERVICE OF PAPERS. (1) Service required when filing. A party filing a pleading, brief, or other paper, except an application for an adjudicative proceeding, with the support section of the investigation, legal and audit unit, or with the office of appeals, or the administrative law judge shall serve a copy of the paper upon:

(a) Every other party; or

(b) If the other party is represented or has an agent, the other party's representative or agent.

(2) Filing and service made by. Unless otherwise provided by law, filing and service shall be made by:

- (a) Personal service;
- (b) First class, registered, or certified mail;
- (c) Telegraph;
- (d) Electronic telefacsimile transmission and same-day mailing of copies; or
- (e) Commercial parcel delivery company.

(3) Filing complete. Filing with the support section of the investigation, legal and audit unit or with the office of appeals shall be complete upon actual receipt during office hours at the appropriate office. Filing with the administrative law judge shall be complete upon actual receipt during office hours at the office of the administrative law judge.

(4) Service complete. Service shall be complete when:

- (a) Personal service is made;
- (b) Mail is properly stamped, addressed, and deposited in the United States mail;
- (c) A properly addressed telegram is deposited with a telegraph company with charges prepaid;
- (d) An electronic telefacsimile transmission produces proof of transmission; or
- (e) A commercial parcel is delivered to the parcel delivery company with charges prepaid.

(5) Proof of service. Where proof of service is required by statute or rule, filing the papers with the department or the administrative law judge, together with one of the following, shall constitute proof of service:

- (a) An acknowledgement of service;
- (b) A certificate of service including the date the papers were served upon all parties and the signature of the serving party indicating service was completed by:
 - (i) Personal service;
 - (ii) Mailing a copy properly addressed with postage prepaid to each party to the proceeding, or the party's representative or authorized agent;
 - (iii) Telegraphing a copy properly addressed with charges prepaid to each party to the proceeding, or the party's representative or authorized agent; or
 - (iv) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party to the proceeding, or the party's representative or authorized agent; or
 - (v) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

AMENDATORY SECTION (Amending Regulation 08.440, effective 3/11/60)

~~WAC 248-08-440 ((PREHEARING CONFERENCE RULE-RECORD OF CONFERENCE ACTION)) VACATING AN ORDER OF DISMISSAL FOR REASON OF DEFAULT OR WITHDRAWAL. ((The board or department or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements, and such order or statement shall control the subsequent course of~~

~~the proceeding unless modified for good cause by subsequent order.)) (1) Right to request. A party against whom a dismissal for reason of default or withdrawal is entered shall have the right to file a written petition requesting that the order be vacated.~~

~~(2) Contents. The request shall state the grounds relied upon.~~

~~(3) Filed at. The request shall be filed at the legal support section of the investigation, legal and audit unit for Uniform Disciplinary Act proceedings or the office of appeals for other programs within twenty-one days from the date the dismissal order was served.~~

~~(4) Grounds to vacate an order of dismissal. If, in the reasoned opinion of the administrative law judge, good cause to grant the relief is shown, the administrative law judge shall vacate the order of dismissal and reinstate the application.~~

NEW SECTION

WAC 248-08-446 SUBPOENAS. (1) Statutory requirements. The administrative law judge, the department, and attorneys for parties may issue a subpoena. A subpoena shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Contents. Every subpoena shall:

- (a) Identify the party causing issuance of the subpoena;
- (b) State the name of the agency as the department of health;
- (c) State the title of the proceeding; and
- (d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) Service. A subpoena may be served by any suitable person eighteen years of age or older by:

- (a) Exhibiting and reading the subpoena to the witness;
- (b) Giving the witness a copy; or
- (c) Leaving a copy at the place of the witness' residence.

(4) Proof of service. When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) Quashing, modifying, conditioning. The administrative law judge, upon request made promptly and in any event at or before the time specified for compliance in the subpoena, may:

- (a) Quash or modify the subpoena if the subpoena is unreasonable and oppressive; or
- (b) Condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

NEW SECTION

WAC 248-08-449 TELECONFERENCE HEARING. (1) When authorized. The administrative law judge may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate

in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) Documentary evidence. When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 248-08-452(2).

NEW SECTION

WAC 248-08-452 RULES OF EVIDENCE. (1) Objections. The administrative law judge shall rule upon objections to the admissibility of evidence pursuant to RCW 34.05.452.

(2) Submission in advance. The administrative law judge may order:

(a) A party to submit documentary evidence to the administrative law judge and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence not submitted in advance as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) Portions of a document. When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) Expert witness limitation. No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) Witness refusal to answer. The refusal of a witness to answer any question ruled proper shall, in the discretion of the administrative law judge, 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 administrative law judge 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 248-08-461 CONTENTS OF ORDERS. Every order shall correctly caption both the name of the agency and the proceeding and shall designate the parties and representatives participating in the proceeding.

NEW SECTION

WAC 248-08-464 PETITION FOR REVIEW—RESPONSE TO PETITION—DISQUALIFICATION OF REVIEW JUDGE. (1) Initial orders that may become final orders.

(a) If a petition for review is not filed within 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 in proceeding governed by the Uniform Disciplinary Act. Each party shall have the right to file a petition for review of the administrative law judge's order. Whether a petition for review is or is not filed, the secretary or designee shall enter the final order.

(2) Who may petition. Each party has the right to file a petition for review of an order entered by an administrative law judge.

(3) Petition contents. The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) Petition time limits.

(a) The period to timely file a petition for review is twenty-one days from the date the initial decision was served.

(b) The secretary or designee 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 secretary or designee shall waive the twenty-one day limit for filing a petition for review when:

(i) A petition for review is filed within thirty days of the date the initial order becomes final; and

(ii) The petitioner demonstrates good cause for failure to file a timely petition. Good cause includes:

(A) A mistake, inadvertence, or excusable neglect on the part of the petitioner; or

(B) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(5) Petition filing and service. The petition for review shall be in writing and filed with the secretary or designee. The petitioner shall serve copies of the petition upon the other parties or their representative at the time the petition is filed. A petition in a proceeding governed by the Uniform Disciplinary Act shall be filed on the secretary or designee at the legal support section of the investigation, legal and audit unit. A petition in other programs shall be filed on the secretary or designee at the office of appeals.

(6) Notice of petition. When a petition for review is filed, the secretary or designee shall send a copy of the

petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(7) Response time limit, filing, service.

(a) The nonpetitioning party shall file any response with the secretary or designee within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(b) The nonpetitioning party shall serve a copy of the response upon the petitioner and any other party or, if represented, on the representative at the time the response is filed.

(c) A secretary or designee may extend the period to file a response upon request of a party showing good cause.

(8) Disqualification. The secretary or designee shall disclose the assignment of the reviewing officer to any party or representative making inquiry. An individual petitioning to disqualify a reviewing officer under RCW 34.05.425 shall file such petition with the reviewing officer assigned to the proceeding.

AMENDATORY SECTION (Amending Regulation 08.470, effective 3/11/60)

~~WAC 248-08-470 ((EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA NUMBER AND QUALIFICATIONS OF WITNESSES)) RECONSIDERATION. ((That the hearing examiner or other appropriate officer in all classes of cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party, and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.)) Within ten days of service of a review order, any party may file a petition for reconsideration. The petition shall state the specific grounds upon which relief is requested. A petition for reconsideration shall be filed at the legal support section of the investigation, legal and audit unit for proceedings governed by the Uniform Disciplinary Act. A petition for reconsideration in other programs shall be filed at the office of appeals.~~

NEW SECTION

WAC 248-08-515 ADJUDICATIVE PROCEEDINGS—NOTICE TO LIMITED-ENGLISH-SPEAKING PARTIES. When the department is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, shall either be in the primary language of the party or shall include a notice in the primary language of the party which describes the significance of the notice and how the party

may receive assistance in understanding and responding to, if necessary, the notice.

NEW SECTION

WAC 248-08-525 INTERPRETERS. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

(a) Hearing impaired person; or

(b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certified 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 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 administrative law judge 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, neither the participant's relatives nor the involved agency employees shall 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 administrative law judge 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 administrative law judge'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 administrative law judge shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the administrative law judge, 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 administrative law judge 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 administrative law judge, 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 administrative law judge 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) Administrative law judge shall ensure sufficient, extra time is provided to permit translation; and

(iii) Administrative law judge 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 administrative law judge 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 administrative law judge 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 administrative law judge may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

NEW SECTION

WAC 248-08-535 GROUP HEARING. (1) When applicable. When two or more appellants file applications contesting a similar issue, the applications may be consolidated by the department or the administrative law judge and heard as a group. The administrative law judge may consolidate on the administrative law judge's own motion or on a party's request.

(2) Withdrawal from group.

(a) An appellant scheduled for a group hearing may request to withdraw from the group hearing in favor of

an individual hearing. An appellant's request to withdraw from a group hearing shall be granted if the motion is filed before the:

- (i) Administrative law judge has made a discretionary ruling; and
 - (ii) Date of the hearing.
- (b) The administrative law judge may grant a motion to withdraw filed at any time when good cause is shown.
- (3) Right to representation. Each appellant in a group hearing shall retain the right to representation of the appellant's choice.

NEW SECTION

WAC 248-08-545 CONTINUANCE. (1) Authority to grant. The administrative law judge may:

- (a) Order postponements, continuances, extensions of time, and adjournments on the administrative law judge'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 administrative law judge; and
- (b) Inform the administrative law judge whether the other parties agreed to the continuance. If the other parties did not agree to the continuance, the administrative law judge shall promptly schedule a prehearing conference to receive evidence and/or argument and to rule on the request.

NEW SECTION

WAC 248-08-565 COMPUTATION OF TIME. (1) When computing a period of time prescribed or allowed by an applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday.

(3) When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(4) When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

NEW SECTION

WAC 248-08-575 JUDICIAL REVIEW OF FINAL ADJUDICATIVE ORDER. (1) Right to judicial review; exclusive remedy. An appellant or intervener aggrieved, as described under RCW 34.05.530, by the final decision or order in a department of health adjudicative proceeding may appeal the decision or order to court. Judicial review shall only be obtained under chapter 34.05 RCW. Judicial review may not be obtained through

any other procedure. Chapter 34.05 RCW contains the pertinent provisions of law.

(2) Instituting judicial review; filing and serving the petition. As described under RCW 34.05.542(2), within thirty days after the secretary or designee mails the final decision, the petitioner shall file the petition for judicial review with the court and serve a copy of the petition on the department of health, 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 the department of health 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-55, Olympia, WA 98504.

(d) Service of a copy of the petition for judicial review on other parties of record may be had by mailing the copy of the petition to the other parties, properly addressed and postage prepaid.

REPEALER

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

WAC 248-08-001 DEFINITIONS.

WAC 248-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR.

WAC 248-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE IN CERTAIN PROCEEDINGS MAY BE LIMITED TO ATTORNEYS.

WAC 248-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—SOLICITATION OF BUSINESS UNETHICAL.

WAC 248-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT.

WAC 248-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF BOARD OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF.

WAC 248-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS.

WAC 248-08-070 COMPUTATION OF TIME.

WAC 248-08-075 NOTICE OF APPEAL.

WAC 248-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES.

WAC 248-08-090 SERVICE OF PROCESS—BY WHOM SERVED.

WAC 248-08-100 SERVICE OF PROCESS—UPON WHOM SERVED.

WAC 248-08-110 SERVICE OF PROCESS—SERVICE UPON PARTIES.

WAC 248-08-120 SERVICE OF PROCESS—METHOD OF SERVICE.

WAC 248-08-130 SERVICE OF PROCESS—WHEN SERVICE COMPLETE.

WAC 248-08-140 SERVICE OF PROCESS—FILING WITH AGENCY.

WAC 248-08-150 SUBPOENAS WHERE PROVIDED BY LAW—FORM.

WAC 248-08-160 SUBPOENAS WHERE PROVIDED BY LAW—ISSUANCE TO PARTIES.

WAC 248-08-170 SUBPOENAS WHERE PROVIDED BY LAW—SERVICE.

WAC 248-08-180 SUBPOENAS WHERE PROVIDED BY LAW—FEES.

WAC 248-08-190 SUBPOENAS WHERE PROVIDED BY LAW—PROOF OF SERVICE.

WAC 248-08-200 SUBPOENAS WHERE PROVIDED BY LAW—QUASHING.

WAC 248-08-210 SUBPOENAS WHERE PROVIDED BY LAW—ENFORCEMENT.

WAC 248-08-220 SUBPOENAS WHERE PROVIDED BY LAW—GEOGRAPHICAL SCOPE.

WAC 248-08-230 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.

WAC 248-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.

WAC 248-08-250 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.

WAC 248-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.

WAC 248-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEONENTS.

WAC 248-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.

WAC 248-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.

WAC 248-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.

WAC 248-08-310 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT.

WAC 248-08-320 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEONENTS.

WAC 248-08-330 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.

WAC 248-08-340 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.

WAC 248-08-350 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.

WAC 248-08-360 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.

WAC 248-08-370 OFFICIAL NOTICE—MATTERS OF LAW.

WAC 248-08-380 OFFICIAL NOTICE—MATERIAL FACTS.

WAC 248-08-390 PRESUMPTIONS.

WAC 248-08-400 STIPULATIONS AND ADMISSIONS OF RECORD.

WAC 248-08-420 DEFINITION OF ISSUES BEFORE HEARING.

WAC 248-08-430 PREHEARING CONFERENCE RULE—AUTHORIZED.

WAC 248-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE.

WAC 248-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE.

WAC 248-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS.

WAC 248-08-490 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.

WAC 248-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE WITH WAC WAC 248-08-470 OR WAC 248-08-480.

WAC 248-08-510 CONTINUANCES.

WAC 248-08-520 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.

WAC 248-08-530 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS.

WAC 248-08-540 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—WHO MAY PETITION.

WAC 248-08-550 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—REQUISITES.

WAC 248-08-560 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—AGENCY MUST CONSIDER.

WAC 248-08-570 PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL—NOTICE OF DISPOSITION.

WAC 248-08-580 DECLARATORY RULINGS.

WAC 248-08-590 FORMS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF NURSING HOMES, SPECIALIZED NURSING HOMES AND BOARDING HOMES FOR THE AGED

WAC 248-08-700 MEANING OF WORDS TO CONFORM WITH STATUTORY MEANING.

WAC 248-08-705 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

WAC 248-08-710 NOTICE OF HEARINGS.

WAC 248-08-715 HEARING EXAMINERS.

WAC 248-08-720 PARTIES TO HEARING.

WAC 248-08-725 BURDEN OF PROOF.

WAC 248-08-730 RECORD OF TESTIMONY AND PROCEEDINGS.

WAC 248-08-735 DECISIONS.

WAC 248-08-740 NOTICE OF DECISION.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF HOSPITALS

WAC 248-08-750 MEANING OF WORDS.

WAC 248-08-755 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

WAC 248-08-760 NOTICE OF HEARINGS.

WAC 248-08-765 HEARING EXAMINERS.

WAC 248-08-770 PARTIES.

WAC 248-08-775 BURDEN OF PROOF.

WAC 248-08-780 RECORD OF TESTIMONY AND PROCEEDINGS.

WAC 248-08-785 DECISIONS OF BOARD.

WAC 248-08-790 NOTICE OF DECISIONS.

RULES OF PRACTICE AND PROCEDURE RELATING TO THE LICENSING OF PRIVATE PSYCHIATRIC HOSPITALS AND MATERNITY HOMES FOR UNMARRIED MOTHERS

WAC 248-08-800 REASONS AND CITATIONS TO ACCOMPANY ORDERS.

WAC 248-08-805 NOTICE OF DENIALS, SUSPENSIONS AND REVOCATIONS—OPPORTUNITY FOR HEARING.

WAC 248-08-810 HEARING EXAMINERS.

WAC 248-08-815 DECISIONS AND WHEN FINAL.

WAC 248-08-820 POWERS OF HEARING EXAMINERS.

WAC 248-08-825 PARTIES.

WAC 248-08-830 BURDEN OF PROOF.

WAC 248-08-835 RECORD OF TESTIMONY AND PROCEEDINGS.

WAC 248-08-840 DECISIONS.

WAC 248-08-845 NOTICE OF DECISIONS.

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.

Chapter 248-320 WAC ADMINISTRATIVE PROCEDURES

NEW SECTION

WAC 248-320-340 DELEGATION OF AUTHORITY BY SECRETARY. Under RCW 43.70.040, certain powers and duties may be delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

NEW SECTION

WAC 248-320-350 DECLARATORY ORDERS—FORMS, CONTENT, AND FILING. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(3) The original and two legible copies shall be filed with the Department of Health, 1300 Quince Street, Mailstop: EY-12, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-360 DECLARATORY ORDERS—PROCEDURAL RIGHTS OF PERSONS IN RELATION TO PETITION. If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

NEW SECTION

WAC 248-320-370 DECLARATORY ORDERS—DISPOSITION OF PETITION. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

NEW SECTION

WAC 248-320-400 PETITION FOR RULE MAKING—FORM, CONTENT, AND FILING. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of health." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for rule making." Opposite the foregoing caption shall appear the word "petition."

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or

amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Department of Health, 1300 Quince Street, Mailstop: EY-12, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

NEW SECTION

WAC 248-320-410 PETITION FOR RULE MAKING—CONSIDERATION AND DISPOSITION. (1) Each petition for the adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

NEW SECTION

WAC 248-320-500 UPDATING MAILING LISTS. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

(2) The notice regarding updating of mailing lists is to be mailed by first-class mail.

(3) The form to be filled out by those persons or organizations wishing to continue to receive department notices to adopt, amend, or repeal rules shall specify interest areas covered by these notices, thereby enabling those on mailing lists to limit correspondence received.

Purpose: To conform program rules to the new Administrative Procedure Act, and other recent changes.

Citation of Existing Rules Affected by this Order: Each rule affected by this rule-making proposal is explained below whether it is a new rule, an amendment, or repeal of a rule.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: See below.

Pursuant to notice filed as WSR 89-22-107 on November 1, 1989.

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 the Department of Health has no gap in rules adequate to meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

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 Health actions under the Administrative Procedure Act so the agency must have rules with some variations from the model rules. Variations from the model rules are described below.

WSR 90-06-019

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 039—Filed February 28, 1990, 8:54 a.m., effective March 1, 1990]

Date of Adoption: February 27, 1990.

WAC	ACTION	STATUTORY AUTHORITY	COMPARISON - REASONS FOR VARIANCE
248-06-385	AMEND	43.21C.120	Subsection (2) sets an expected time limit for filing initial and review orders based on the likely complexity of the proceedings and the need for prompt orders. Subsection (3) specifies that the adjudicative officer's authority is to approve the contested department action or to remand the matter to the department. When an action is not approved this procedure permits the agency to review all the data and get additional information before making a new decision as opposed to having the decision based solely on the adjudicative proceeding record.
248-15-110	AMEND	18.71.205	Required by section 60. To be consistent with section 95, chapter 175, Laws of 1989.
248-16-031	AMEND	18.20.909	Required by section 63. To be consistent with section 95, chapter 175, Laws of 1989.
248-17-060	AMEND	Sec 106, Ch 9, Laws of 1989, 1st ex.s.	To be consistent with section 95, chapter 175, Laws of 1989.
248-17-230	AMEND	SAME	SAME
248-18-015	AMEND	70.41.030	Required by section 128 and to be consistent with section 95, Chapter 175, Laws of 1989.
248-19-480	AMEND	70.38.135, (Also Sec 607, Ch 9, Laws of 1989, 1st ex.s.)	Required by section 126 and to be consistent with section 95, Chapter 175, Laws of 1989.
248-22-005	AMEND	Sec 106, Ch 9, Laws of 1989, 1st ex.s.	Required by section 137 and to be consistent with section 95, chapter 175, Laws of 1989.
248-23-010	AMEND	SAME	SAME
248-25-010	AMEND	SAME	SAME
248-26-020	AMEND	SAME	SAME
248-27-025	AMEND	70.126.040	HOUSEKEEPING
248-27-035	AMEND	SAME	HOUSEKEEPING
248-27-045	AMEND	SAME	HOUSEKEEPING
248-27-055	AMEND	SAME	To be consistent with sections 95 and 96, chapter 175, laws of 1989.
248-29-020	AMEND	18.46.060	To conform to sections 63 and to be consistent with section 95, chapter 175, Laws of 1989.

248-31-025	AMEND	70.126.040	HOUSEKEEPING
248-31-035	AMEND	SAME	HOUSEKEEPING
248-31-045	AMEND	SAME	HOUSEKEEPING
248-31-055	AMEND	SAME	To be consistent with sections 95 and 96, chapter 175, laws of 1989.
248-36-025	AMEND	SAME	HOUSEKEEPING
248-36-035	AMEND	SAME	HOUSEKEEPING
248-36-045	AMEND	SAME	HOUSEKEEPING
248-36-055	AMEND	SAME	To be consistent with sections 95 and 96, chapter 175, laws of 1989.
248-55-220	AMEND	70.119.050	To be consistent with section 95, chapter 175, laws of 1989.
248-55-230	REPEAL	SAME	HOUSEKEEPING - The provisions in this section are at 248-08-413.
248-55-235	NEW	SAME	HOUSEKEEPING
248-55-240 AND 250	AMEND REPEAL	SAME	The department is authorized to use an initial order - petition for review - review order procedure by RCW 34.05.464(1) provided it do so by rule. This is the enabling rule for this program. The presiding officer is a board. The procedure for revocation, suspension, or modification of a certificate is that the presiding officer's order is final when the board rules in favor of the certificate holder. The presiding officer's decision is an initial order when the board rules against the certificate holder; the Secretary or designee is the reviewing officer.
248-55-260	REPEAL	SAME	This section is being repealed because it states a right contained in chapter 34.05. RCW.
248-59-030	AMEND	70.116.050	Subsection (1) and (2) are housekeeping. Subsection (3) is so proceedings will continue to be based on the facts existing at the time the department acted as opposed to a <u>de novo</u> proceeding. If the parties agree this provision may be set aside. Subsection (4) specifies who has and what is the burden of proof.
248-59-040	REPEAL	SAME	Subsection (1) states the law regarding assigning administrative law judges to department proceedings that can be administratively reviewed, contains obsolete terminology, and incorrect references. As the items are dealt with in other law, the subsection is being repealed. Subsections (2) and (3) are being moved to WAC 248-59-030.
248-59-050	REPEAL	SAME	This sections's provisions are included in or conflict with section 95, chapter 175, Laws of 1989 and/or chapter 34.05 RCW and/or chapter 248-08 WAC or contain requirements in none of those laws. To achieve greater uniformity, they are being repealed.
248-59-060	REPEAL	SAME	To achieve greater uniformity among all department programs the petition for administrative review procedure in this rule is being repealed in favor of the general provisions in RCW 34.05.464 and WAC 248-08-464.
248-59-070	REPEAL	SAME	This section is being repealed because it contains provisions that are the same as or conflict with chapter 34.05 RCW and chapter 248-08 WAC.
248-59-080	REPEAL	SAME	This section is being repealed because it states a right contained in chapter 34.05 RCW.
248-91-060	AMEND	Sec 106, Ch 9, Laws of 1989 1st ex.s.	To be consistent with section 95, chapter 175, Laws of 1989.

Effective Date of Rule: March 1, 1990.

February 27, 1990
Pam Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 2173, filed 12/6/84)

WAC 248-06-385 ((HEARINGS)) ADJUDICATIVE PROCEEDING. Any person has the right to ((appeal)) an adjudicative proceeding to contest the department's final threshold determination that an EIS is or is not necessary and/or the sufficiency of the final EIS. The ((hearings are)) proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), the rules in this chapter, and by chapter((s 10-08 and 388-08)) 248-08 WAC. ((In case of conflict between this section and chapter 388-08 WAC, the)) If any provision((s)) in this chapter ((take precedence over the rules in chapter 388-08 WAC)) conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(1) ((The request for a hearing must be in writing and filed with the DSHS Office of Hearings, P.O. Box 2465, Olympia, Washington 98504 within thirty days of the department's official notice of issuance of a final threshold determination or final EIS)) A person contesting a department's decision shall within twenty-eight days of the department's official notice of issuance of a final threshold determination or final EIS:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved; and

(ii) The grounds for contesting the department decision.

(2) The initial ((decision)) order should be made within sixty days of the department's receipt of the ((request for a hearing)) application. 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 to enter an order is extended by as many days as the ((hearing)) proceeding is continued on motion by any party ((to the hearing)).

(3)(a) If the ((hearing decision)) adjudicative order is that an EIS should be filed, the administrative law judge or review judge shall remand the matter to ((DSHS)) the department of health to file an EIS.

(b) If the ((hearing decision)) adjudicative order is that the final EIS is not sufficient, the administrative law judge or review judge shall remand the matter to ((DSHS)) the department of health to correct the insufficiency.

AMENDATORY SECTION (Amending Order 1329, filed 8/22/78)

WAC 248-15-110 ((APPEAL, REVOCATION, SUSPENSION OR MODIFICATION)) NOTICE OF ((CERTIFICATE)) DECISION—ADJUDICATIVE PROCEEDING. (1) ((No certificate issued pursuant to this chapter shall be revoked or suspended without formal written notification to the respondent from the department. Such written notification shall state the cause of the)) The department's notice of a denial, suspension, modification, or revocation ((or suspension and shall advise the respondent of the right to appeal the revocation or suspension.

(2) Revocation or suspension shall become final thirty days following the date of the mailing of such notice: PROVIDED, That the applicant or holder of the certificate does not within thirty days from the date of mailing of the department's order to revocation or suspension, make written application to the department for a hearing. Upon receipt of a written application for a hearing, the department shall proceed to conduct a hearing in accordance with the requirements of the Administrative Procedure Act, chapter 34.04 RCW and the rules of practice and procedure issued by the department thereunder. Mailing of notices under this section shall be by registered mail)) of a certificate shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or certificate holder has the right to an adjudicative proceeding to contest the certificate decision.

(2) A certificate applicant or holder contesting a department certificate decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(3) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2786, filed 4/14/89)

WAC 248-16-031 BOARDING HOME LICENSE APPLICATION—DEPARTMENT DENIAL, SUSPENSION, REVOCATION OF LICENSE. (1) Boarding home license applicants shall:

(a) Submit appropriate, signed, completed department application forms to the department;

(b) Apply at least thirty days prior to expiration of license for renewal;

(c) Promptly report changes in information related to the application including identity of:

(i) Officers and directors if operated by a legally incorporated entity; and

(ii) Partners if a legal partnership.

(2) The department shall:

(a) Evaluate qualifications of persons named in boarding home license application prior to granting initial and subsequent licenses;

(b) Deny, suspend, or revoke a boarding home license if the department finds persons named unqualified or unable to operate or direct operation of the facility as described in chapter 18.20 RCW and chapter 248-16 WAC;

(c) Determine if reasonable relationship exists between any previous conviction of the applicant and ability to competently, safely oversee, or operate a boarding home;

(d) Deny, suspend, or revoke a boarding home license if any person named:

(i) Was previously denied a license to operate an agency for care of children, aged, ill, or infirm in Washington or elsewhere;

(ii) Had a license to operate an agency for treatment or care of people revoked or suspended;

(iii) Has a record of a criminal or civil conviction for:

(A) Operating an agency for care of aged, children, ill, or infirm without an appropriate, applicable license; or

(B) Any crime involving physical harm to another person.

(iv) Is identified on department abuse registry as perpetrator of substantiated abuse described in chapter 26.44 RCW;

(v) Committed, permitted, aided, or abetted an illegal act on boarding home premises;

(vi) Demonstrated cruelty, abuse, negligence, assault, or indifference to welfare and well-being of a resident;

(vii) Failed to exercise fiscal accountability and responsibility involving:

(A) A resident;

(B) The department;

(C) Public agencies; or

(D) The business community.

(3) The department may grant a license to operate a boarding home to previously disqualified licensees as specified in subsection (2) of this section if such person provides evidence including demonstrated ability to operate a boarding home according to applicable laws and rules.

(4)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.

(b) A license applicant or holder contesting a department decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the

Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

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 1150, filed 9/2/76)

WAC 248-17-060 DENIAL, SUSPENSION, REVOCATION OF LICENSE—((HEARINGS)) NOTICE—ADJUDICATIVE PROCEEDING. (1) The department is authorized to deny, suspend, modify, or revoke any license issued ((pursuant to)) under this chapter in any case in which ((it)) the department finds ((that)) there ((has been)) is a failure to comply with the requirements of the Emergency Medical Care and Transportation Services Act, chapter 18.73 RCW, and with the standards, rules, and regulations established ((pursuant to)) under this law. ((The department shall issue an order to the applicant or licensee giving notice of any denial, revocation, or suspension, which order shall become final thirty days after the date of mailing: PROVIDED, That the applicant or licensee does not, within thirty days from the date of mailing of the department's order of denial, revocation, or suspension of license, make written application to the department for a hearing. Upon receipt of such a written application for a hearing, the department shall proceed to conduct a hearing on the denial, suspension, or revocation of license. Such hearings shall be conducted in accordance with the Administrative Procedure Act, chapter 34.04 RCW and with the rules of practice and procedure issued by the department thereunder.))

(2)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.

(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

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 1150, filed 9/2/76)

WAC 248-17-230 ((~~APPEAL, REVOCATION, SUSPENSION OR MODIFICATION~~)) NOTICE OF ((~~CERTIFICATE~~)) DECISION—ADJUDICATIVE PROCEEDING. (1) ~~((No certificate issued pursuant to this chapter shall be revoked or suspended without formal written notification to the respondent from the head, emergency medical services. Such written notification shall state the cause of the revocation or suspension and shall advise the respondent of the right to appeal the revocation or suspension.~~

~~(2) No certificate of an emergency medical technician shall be denied, revoked, or suspended without formal written notification to the applicant or holder of the certificate from the department. The denial, revocation, or suspension shall become final thirty days after the date of mailing. PROVIDED, That the applicant or holder of the certificate does not within thirty days from the date of mailing of the department's order of denial, revocation or suspension make written application to the department for a hearing. Upon receipt of a written application for a hearing, the department shall proceed to conduct a hearing in accordance with the requirements of the Administrative Procedure Act, chapter 34.04 RCW and the rules of practice and procedure issued by the department thereunder))~~ The department's notice of a denial, suspension, modification, or revocation of a certificate shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or certificate holder has the right to an adjudicative proceeding to contest a certificate decision.

(2) A certificate applicant or holder contesting a department certificate decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(3) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 249, filed 11/18/82)

WAC 248-18-015 LICENSE EXPIRATION DATES—NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. (1) The department shall issue hospital licenses initially and reissue hospital licenses as often thereafter as necessary to stagger license expiration dates throughout the calendar year so as to cause approximately one-twelfth of the total number of hospital licenses to expire on the last day of each month, but no license issued pursuant to this chapter shall exceed thirty-six months in duration. If there is failure to comply with the provisions of chapter 70.41 RCW or this chapter, the department may, in its discretion, issue a provisional license to permit the operation of the hospital for a period of time to be determined by the department.

(2) The department may deny, suspend, modify, or revoke a license for cause.

(3)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.

(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

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 2344, filed 2/28/86)

WAC 248-19-480 ((~~RIGHT AND NOTICE OF APPEAL~~)) ADJUDICATIVE PROCEEDING. (1) ((Any affected person may request and shall be afforded the opportunity for an administrative hearing on the decision of the secretary's designee to issue or deny)) An applicant denied a certificate of need ((for a project or a separable portion of a project, to grant or deny an exemption requested under WAC 248-19-405, to suspend or revoke a certificate of need, or to withdraw or not withdraw)) or a certificate ((of need)) holder whose certificate was suspended or revoked has the right to an adjudicative proceeding.

~~(2) ((To be effective, a request for an administrative hearing shall be in writing and received by the department within thirty days after the person requesting the hearing received the particular decision of the department which is being appealed or, if a reconsideration hearing was requested and denied, thirty days after the denial of the request for the reconsideration hearing.~~

~~(3) An administrative hearing shall be conducted in accordance with the provisions of chapter 34.04 RCW.~~

~~(4) The decision of the secretary's designee shall be subject to review in an administrative hearing to establish a record of the decision of the secretary's designee. The determination of the official conducting such an administrative hearing)) A certificate applicant or holder contesting a department certificate decision shall ((be made in writing)) within ((forty-five)) twenty-eight days ((after the conclusion)) of receipt of the ((hearing. The official conducting such an administrative hearing may make a proposed decision, findings of fact and conclusions of law, pursuant to RCW 34.04.110, or the official may remand the matter to the secretary's designee for further action or consideration.¹ The written determination shall be sent to the applicant, the appropriate advisory review agencies, and the department. The department shall make any written determination available to others upon request.~~

Note:

¹Chapter 34.04 RCW provides entitlement to judicial review to any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form)) decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(3) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1898, filed 11/4/82)

WAC 248-22-005 LICENSURE. Private psychiatric hospitals and private alcoholism hospitals for adults, adolescents, and children shall be licensed under chapter 71.12 RCW, Private establishments. The purpose of this section is to establish minimum standards for safety and adequate care of patients with signs and/or symptoms of acute emotional or psychiatric impairment or acute alcoholism and associated substance use during diagnosis and treatment.

(1) Application for license.

(a) An application for a private hospital license shall be submitted on forms furnished by the department. The

application shall be signed by the legal representative of the governing body.

(b) The applicant shall furnish to the department full and complete information and promptly report any changes which would affect current accuracy of such information as to the identity of each officer and director of the corporation, if the hospital is operated by a legally incorporated entity, profit or nonprofit, and of each partner if the hospital is operated through a legal partnership.

(2) Disqualified applicants.

(a) Each and every individual named in an application for a license shall be considered separately and jointly as applicants and if anyone is deemed unqualified by the department in accordance with the law or these rules and regulations, the license may be denied, suspended, or revoked. A license may be denied, suspended, or revoked for failure or refusal to comply with the requirements established by chapter 71.12 RCW or with these rules and regulations promulgated pursuant thereto and, in addition, any of the following:

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

(ii) Aiding or abetting the commission of an illegal act on the premises of the hospital;

(iii) Cruelty, assault, abuse, neglect or indifference to the welfare of any patient;

(iv) Misappropriation of property of the patients; and

(v) Failure or inability to exercise fiscal accountability and responsibility toward the individual patient, the department, or the business community.

(b) Before granting a license to operate as a hospital, the department shall consider the ability of each individual named in the application to operate a hospital in accordance with the law and with these regulations. Individuals who have previously been denied a license to operate a health care facility in the state or elsewhere, or who have been convicted criminally or civilly of operating such a facility without a license, or who have had their license to operate such a facility suspended or revoked shall not be granted a license unless, to the satisfaction of the department, they affirmatively establish clear, cogent, and convincing evidence of their ability to operate the hospital for which the license is sought, and for conformance with all applicable laws and rules and regulations.

(3) Denial, suspension, modification, or revocation of a license; adjudicative proceeding. ~~((Upon finding as a result of an inspection,))~~

(a) When the department determines that a facility has failed or refused to comply with the requirements of chapter 71.12 RCW and/or these rules ((and regulations)), the department may, if the interests of the patients so demand, issue ((a written notification letter)) to the applicant or licensee ((giving)) a notice ((of intent)) to deny a license application, or to suspend, modify, or revoke a license ((thirty days after the date of mailing. This letter shall be followed by a formal revocation letter, provided the applicant or licensee does not within thirty days from the date of mailing of the department's notice of intent to reject, revoke or suspend a license

~~make written application to the department for a hearing. Upon receipt of such an application, the department shall fix a time for such hearing and shall give the applicant or licensee a notice of the time fixed for such hearing. Procedures governing hearings under these regulations shall be in accord with procedures set out in chapter 248-08 WAC, especially WAC 248-08-750 through 248-08-790, as now or hereafter amended. All hearings conducted under these regulations shall be deemed to be contested cases within the meaning of chapter 34.04 RCW)) to a license holder. The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest a license decision.~~

~~(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:~~

~~(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and~~

~~(ii) Include in or with the application:~~

~~(A) A specific statement of the issue or issues and law involved;~~

~~(B) The grounds for contesting the department decision; and~~

~~(C) A copy of the contested department decision.~~

~~(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.~~

(4) Submission of plans. The following shall be submitted with an application for license: PROVIDED, HOWEVER, That when any of the required plans are already on file with the department for previous applications for license or construction approval, only plans for portions or changes which are not on file need to be submitted.

(a) A plan showing streets, driveways, water and sewage disposal systems, the location of buildings on the site, and grade elevations within ten feet of any building in which patients are to be housed.

(b) Floor plans for each building in which patients are to be housed. The floor plans shall provide the following information: Identification of each patient's sleeping room by use of a lettering or numbering system; the useable square feet of floor space in each room; the clear glass window area in each patient's sleeping room, the height of the lowest portion of the ceiling in any patient's sleeping room; the floor elevations referenced to the grade level.

(5) Posting of a license. The license for the hospital shall be posted in a conspicuous place on the premises.

(6) New construction.

(a) When new construction is contemplated, the following shall be submitted to the department for review:

(i) A written program containing, at a minimum, information concerning services to be provided and operational methods to be used which will affect the extent of facilities required by these regulations;

(ii) Duplicate sets of preliminary plans which are drawn to scale and include: A plot plan showing streets, driveways, water and sewage disposal systems, grade and location of building(s) on the site; the plans for each floor of the building(s), existing and proposed, which designate the function of each room and show all fixed equipment. The preliminary plans shall be accompanied by a statement as to the source of the water supply and the method of sewage and garbage disposal and a general description of construction and materials, including interior finishes.

(b) Construction shall not be started until duplicate sets of final plans (drawn to scale) and specifications have been submitted to and approved by the department. Final plans and specifications shall show complete details to be furnished to contractors for construction of buildings. These shall include:

(i) Plot plans;

(ii) Plans for each floor of the building(s) which designate the function of each room and show all fixed equipment in the planned locations of beds and other furniture in patient's sleeping rooms;

(iii) Interior and exterior elevations, building sections and construction details;

(iv) A schedule of floors, wall and ceiling finishes, and the types and sizes of doors and windows; plumbing, heating ventilation and electrical systems; and

(v) Specifications which fully describe workmanship and finishes.

(c) Adequate provision shall be made for the safety and comfort of patients if construction work takes place in or near occupied areas.

(d) All construction shall take place in accordance with the approved final plans and specifications. The department shall be consulted prior to making any changes from the approved plans and specifications. As indicated by the nature or extent of proposed changes, the department may require the submission of modified plans or addenda for review prior to considering proposed change(s) for approval. Only those changes which have been approved by the department may be incorporated into the construction project shall be submitted for the department's file on the project, even though it was not required that these be submitted prior to approval.

(7) Compliance with other regulations.

(a) Rules and regulations adopted by the Washington state fire marshal under the provisions of RCW 71.12-.485 which are found in Title 212 WAC apply.

(b) If there is no local plumbing code, the uniform plumbing code of the international association of plumbing and mechanical officials shall be followed.

(c) Compliance with these regulations does not exempt private hospitals from compliance with the local and state electrical codes or local zoning, building, and plumbing codes.

(8) Transfer of ownership. The ownership of a hospital shall not be transferred until the transferee has been

notified by the department that the transferee's application for license has been approved. Change in administrator shall be reported to the department.

AMENDATORY SECTION (Amending Order 1899, filed 11/4/82)

WAC 248-23-010 LICENSURE. Residential treatment facilities shall be licensed under chapter 71.12 RCW, private establishments. Chapter 248-23 WAC establishes minimum licensing standards for the safety, adequate care and treatment of clients who are residents in a residential treatment facility.

(1) Application for license.

(a) An application for a residential treatment facility license shall be submitted on forms furnished by the department. Applications shall be signed by the legal representative of the owner.

(b) The applicant shall furnish to the department full and complete information and promptly report any changes which would affect the current accuracy of such information as to the identity of each officer and director of the corporation, if the program is operated by a legally incorporated entity, profit or nonprofit, and of each partner, if the program is a legal partnership.

(2) Disqualified applicants.

(a) Each and every individual named in an application for a residential facility license shall be considered separately and jointly as applicants, and if anyone is deemed disqualified/unqualified by the department in accordance with the law or these rules and regulations, a license may be denied, suspended or revoked. A license may be denied, suspended or revoked for failure or refusal to comply with the requirements established by chapter 71.12 RCW or with rules and regulations promulgated pursuant thereto, and, in addition, for any of the following:

- (i) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation;
- (ii) Permitting, aiding or abetting the commission of an illegal act on the premises of the residential treatment facility;
- (iii) Cruelty, abuse, neglect or assault, or indifference to the welfare of any client;
- (iv) Misappropriation of the property of the client; and
- (v) Failure or inability to exercise fiscal accountability and responsibility toward the individual client, the department, or the business community.

(b) Before granting a license to operate a residential treatment facility, the department shall consider the ability of each individual named in the application to operate the residential treatment facility in accordance with the law and with these regulations. Individuals who have previously been denied a license to operate a health care or child care facility in this state or elsewhere, or who have been convicted civilly or criminally of operating such a facility without a license, or who have had their license to operate such a facility suspended or revoked, shall not be granted a license unless, to the satisfaction of the department, they affirmatively establish clear, cogent and convincing evidence of their ability to

operate the residential treatment facility, for which the license is sought, in full conformance with all applicable laws, rules and regulations.

(3) Visitation and examination of the residential treatment facility by the department to ascertain compliance with this chapter and chapter 71.12 RCW shall occur as necessary and at least one time each twelve months.

(4) Denial, suspension, modification, or revocation of a license; adjudicative proceeding. (~~Upon finding, as a result of an inspection;~~)

(a) When the department determines that a facility has failed or refused to comply with the requirements of chapter 71.12 RCW and/or these rules ((and regulations)), the department may, if the interests of the clients so demand, issue ((a written notification letter)) to the applicant or licensee ((giving)) a notice ((of intent)) to deny a license application or to suspend, modify, or revoke a license ((thirty days after the date of mailing. This letter shall be followed by a denial, suspension or revocation letter provided the applicant or licensee does not within thirty days from the date of mailing of the department's notice of intent to reject, revoke or suspend a license make written application to the department for a hearing. Upon receipt of such an application to the department, the department shall fix a time for such hearing and shall give the applicant or licensee a notice of the time fixed for such hearing. Procedures governing hearings under these regulations shall be in accord with procedures set out in chapter 248-08 WAC, especially WAC 248-08-700 through 248-08-740. All hearings conducted under these regulations shall be deemed to be contested cases within the meaning of chapter 34.04 RCW)) to a license holder. The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(5) Submission of plans. The following shall be submitted with an application for license: PROVIDED, HOWEVER, That when any of the required plans are already on file with the department through previous applications for license or construction approval, only

plans for portions or changes which are not on file need to be submitted.

(a) A plot plan showing street, driveways, water and sewage disposal systems, the location of buildings on the site and grade elevations within ten feet of any building in which clients are to be housed.

(b) Floor plans of each building in which clients are to be housed. The floor plans shall provide the following information:

(i) Identification of each client's sleeping room by use of a lettering or numbering system, or some equivalent mechanism of identification;

(ii) The usable square feet of floor space in each room;

(iii) The clear window glass area in each client's sleeping room;

(iv) The height of the lowest portion of the ceiling in any client's sleeping room;

(v) The floor elevations referenced to the grade level.

(6) Posting of license. A license for the residential treatment facility shall be posted in a conspicuous place on the premises.

(7) New construction.

(a) When new construction is contemplated, the following shall be submitted to the department for review:

(i) A written program containing, at a minimum, information concerning services to be provided and operational methods to be used which will affect the extent of facilities required by these regulations.

(ii) Duplicate sets of preliminary plans which are drawn to scale and include: A plot plan showing streets, driveways, the water and sewage disposal systems, grade and location of building(s) on the site; the plans for each floor of the building(s), existing and proposed, which designate the functions of each room and show all fixed equipment. The preliminary plans shall be accompanied by a statement as to the source of the water supply and the method of sewage and garbage disposal and a general description of construction and materials, including interior finishes.

(b) Construction shall not be started until duplicate sets of final plans (drawn to scale) and specifications have been submitted to and approved by the department. Final plans and specifications shall show complete details to be furnished to contractors for construction of buildings. These shall include:

(i) Plot plans;

(ii) Plans for each floor of the building(s) which designate the function of each room and show all fixed equipment and the planned location of beds and other furniture in client's sleeping rooms;

(iii) Interior and exterior elevations, building sections and construction details;

(iv) A schedule of floors, wall and ceiling finishes, and the types and sizes of doors and windows;

(v) Plumbing, heating, ventilation, and electrical systems; and

(vi) Specifications which fully describe workmanship and finishes.

(c) Adequate provisions shall be made for the safety and comfort of clients as construction work takes place in or near occupied areas.

(d) All construction shall take place in accordance with the approved final plans and specifications. The department shall be consulted prior to making any changes from the approved plans and specifications. When indicated by the nature or extent of proposed changes, the department may require the submission of modified plans or addenda for review prior to considering proposed change(s) for approval. Only those changes which have been approved by the department may be incorporated into a construction project. In all cases, modified plans or addenda on changes which are incorporated into the construction project shall be submitted for the department's file on the project even though it was not required that these be submitted prior to approval.

(8) Exemptions. The state board of health may, in its discretion, exempt a residential treatment facility from complying with parts of these rules pursuant to the procedures set forth in WAC 248-08-595.

(9) Compliance with other regulations.

(a) Rules and regulations adopted by the Washington state fire marshall under provisions of RCW 71.12.485 which are found in Title 212 WAC apply.

(b) If there is no local plumbing code, the uniform plumbing code of the international association of plumbing and mechanical officials shall be followed.

(c) Compliance with these regulations does not exempt a residential treatment facility from compliance with local and state electrical codes or local zoning, building and plumbing codes.

(10) Transfer of ownership. The ownership of a residential treatment facility shall not be transferred until the transferee has been notified by the department that the transferee's application for a license has been approved. Change in administrator shall be reported to the department.

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

AMENDATORY SECTION (Amending Order 2668, filed 8/9/88)

WAC 248-25-010 LICENSURE—ADULT RESIDENTIAL REHABILITATION CENTERS AND PRIVATE ADULT TREATMENT HOMES. Centers and treatment homes shall obtain a license under chapter 71.12 RCW. Chapter 248-25 WAC establishes minimum licensing standards for the safety, adequate care, and treatment of residents living in centers or treatment homes.

(1) Application for license.

(a) Applicants shall apply for a center or treatment home license on forms furnished by the department. The owner or a legal representative of the owner shall sign the application.

(b) The applicant shall furnish to the department full and complete information and promptly report any changes affecting the current accuracy of such information as to:

(i) The identity of each officer and director of the corporation, if the program is operated by legally incorporated entity, profit or nonprofit; and

(ii) The identity of each partner, if the program is a legal partnership.

(2) Disqualified applicants.

(a) The department shall consider each and every individual named in an application for a center or treatment home license, separately and jointly, as applicants. If the department deems anyone disqualified or unqualified in accordance with the law or these rules, a license may be denied, suspended, or revoked.

(b) The department may deny, suspend, or revoke a license for failure or refusal to comply with the requirements and rules established under provisions of chapter 71.12 RCW, and in addition, but not limited to, for any of the following:

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

(ii) Permitting, aiding, or abetting the commission of an illegal act on the premises of a center or treatment home;

(iii) Cruelty, abuse, neglect or assault, or indifference to the welfare of any resident;

(iv) Misappropriation of the property of the resident;

(v) Failure or inability to exercise fiscal accountability and responsibility toward the individual resident, the department, or the business community.

(c) The department shall consider the ability of each individual named in the license application prior to granting a license to determine:

(i) Ability of each individual to operate the center or treatment home in accordance with the law and these rules;

(ii) If there is cause for denial of a license to an individual named in the application for any of the following reasons:

(A) Previous denial of a license to operate a health or personal care facility in Washington state or elsewhere, or

(B) Civil or criminal conviction for operating a health or personal care facility without a license, or

(C) Previous revocation or suspension of a license to operate a health or personal care facility.

(d) The department shall deny a license for reasons listed in subsections (2)(c)(ii) of this section unless an applicant affirmatively establishes clear, cogent, and convincing evidence of ability to operate a center or treatment home in full conformance with all applicable laws, rules and regulations.

(3) Inspection of premises. Centers and treatment homes shall permit the department to visit and examine the premises of centers and treatment homes annually and as necessary to ascertain compliance with chapter 71.12 RCW and chapter 248-25 WAC.

(4) Denial, suspension, or revocation of a license; adjudicative proceeding.

(a) ~~((Upon the department's decision to deny, suspend, or revoke a license,))~~ The department shall issue a letter to an applicant or licensee stating the department is denying an application, or is suspending, modifying, or revoking a license because:

(i) Findings upon inspection reveal failure or refusal of a center or treatment home to comply with chapter 71.12 RCW and chapter 248-25 WAC; and

(ii) The criteria in WAC 248-25-010 (2)(b) are satisfied; and

(iii) The health, safety, or welfare of residents is endangered.

(b) The department's notice of a denial, suspension, modification, or revocation ((letter becomes effective thirty days after the date of mailing unless the applicant or licensee makes a written request to the department for a hearing within thirty days of the date of mailing of the letter)) of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(c) ~~((The written request for a hearing may be made to the Office of Hearings, P.O. Box 2465, Olympia, Washington 98504-2465. When the request for hearing is mailed, it shall be treated as having been made on the date it was postmarked, provided it is received by the office of hearings properly addressed with no postage due))~~ A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(d) ~~The ((procedures governing hearings are provided in))~~ proceeding is governed by the Administrative Procedure Act (chapter 34.04 RCW), this chapter, and chapter ((+0-08)) 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(5) Submission of plans and programs for centers. Centers shall submit the following with an application for license unless already on file with the department:

(a) A written description of activities and functions containing, at a minimum, information concerning services to be provided and operational methods to be used affecting the physical plant and facilities required by chapter 248-25 WAC;

(b) A plot plan showing street, driveways, water and sewage disposal systems, the location of buildings on the site, and grade elevations within ten feet of any building housing residents;

(c) Floor plans of each building housing residents with the following information:

(i) Identification of each resident's sleeping room by use of a lettering or numbering system, or some equivalent mechanism of identification;

(ii) The usable square feet of floor space in each room;

(iii) The clear window glass area in each resident's sleeping room;

(iv) The height of the lowest portion of the ceiling in any resident's sleeping room; and

(v) The floor elevations referenced to the grade level.

(6) New construction for centers.

(a) Centers shall submit the following to the department for review when new construction is contemplated:

(i) A written description of activities and functions containing, at a minimum, information concerning services to be provided and operational methods to be used affecting the physical plant and facilities required by these regulations;

(ii) Duplicate sets of preliminary plans drawn to scale and including:

(A) A plot plan showing streets, driveways, the water and sewage disposal systems, grade and location of building or buildings on the site; and

(B) The plans for each floor of the building or buildings, existing and proposed, designating the functions of each room and showing all fixed equipment.

((f))(iii) A(†) statement about:

(A) Source of the water supply;

(B) The method of sewage and garbage disposal; and

(C) A general description of construction and materials, including interior finishes.

(b) Licensees and applicants shall start construction only after department receipt and approval of:

(i) Specifications and duplicate sets of final plans drawn to scale;

(ii) Specifications showing complete details to contractors for construction of buildings; and

(iii) Plans and specifications including:

(A) Plot plans;

(B) Plans for each floor of each building designating the function of each room and showing all fixed equipment and the planned location of beds and other furniture in residents' sleeping rooms;

(C) Interior and exterior elevations, building sections, and construction details;

(D) A schedule of floor, wall and ceiling finishes, and the types and sizes of doors and windows;

(E) Plumbing, heating, ventilation, electrical systems, fire safety; and

(F) Specifications fully describing workmanship and finishes.

(c) Centers shall make adequate provisions for safety and comfort of residents as construction work takes place in or near occupied areas.

(d) Centers shall:

(i) Ensure all construction takes place in accordance with department approved final plans and specifications;

(ii) Consult with the department prior to making any changes from the approved plans and specifications;

(iii) Incorporate only department-approved changes into a construction project;

(iv) Submit modified plans or addenda on changes incorporated into a construction project to the department file on the project even though submission of the modified plans or addenda was not required by the department prior to approval.

(e) The department may require submission of modified plans or addenda for review prior to considering a proposed change or changes for approval.

(7) Compliance with other regulations.

(a) Centers shall comply with rules and regulations adopted by the Washington state fire marshal under provisions of RCW 71.12.485.

(b) Centers involved in construction shall comply with the state building code as required in chapter 19.27 RCW.

(c) Center compliance with chapter 248-25 WAC does not exempt it from compliance with codes under other state authorities or local jurisdictions, such as state electrical codes or local zoning, building, and plumbing codes.

(8) Posting of license. Centers shall post the license in a conspicuous place on the premises.

(9) Transfer of ownership. A center shall transfer ownership or, if a corporation, sell a majority of stock, only after the transferee has received department approval of the license application and reported change of center administrator.

(10) Exemptions.

(a) The secretary or designee may exempt a center or treatment home from compliance with specified subsections of these regulations when the department ascertains such exemptions may be made in an individual case without jeopardizing the safety or health of the residents in a particular center or treatment home.

(b) Centers and treatment homes shall keep all written exemptions granted by the department pursuant to chapter 248-25 WAC on file in the center or treatment home.

AMENDATORY SECTION (Amending Order 2130, filed 8/3/84)

WAC 248-26-020 LICENSURE. (1) Application for license.

(a) An application for an alcoholism treatment facility license shall be submitted on forms furnished by the department. An application shall be signed by the owner of the facility, or his or her legal representative, and the administrator.

(b) The applicant shall furnish to the department full and complete information, and promptly report any changes.

(2) Disqualified applicants.

(a) Each and every individual named in an application for an alcoholism treatment facility license shall be considered separately and jointly as applicants and, if anyone be deemed unqualified by the department in accordance with the law or these rules and regulations, the license may be denied, suspended, or revoked.

(b) A license may be denied, suspended, or revoked for failure or refusal to comply with the requirements established by chapter 71.12 RCW or with these rules and regulations and, in addition, any of the following:

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

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

(iii) Cruelty, assault, abuse, neglect, or indifference to the welfare of any patient;

(iv) Misappropriation of the property of the patients;

or

(v) Failure or inability to exercise fiscal accountability and responsibility toward the individual patient, the department, or the business community.

(c) Before granting a license to operate an alcoholism treatment facility, the department shall consider the ability of each individual named in the application to operate the alcoholism treatment facility in accordance with the law and these regulations. Individuals having been previously denied a license to operate a health or personal care facility in this state or elsewhere, or having been convicted civilly or criminally of operating such a facility without a license, or having had their license to operate such a facility suspended or revoked shall not be granted a license unless to the satisfaction of the department they affirmatively establish clear, cogent, and convincing evidence of their ability to operate the alcoholism treatment facility, for which the license is sought, in full conformance with all applicable laws, rules, and regulations.

(d) Individuals convicted of a felony, child abuse, and/or any crime involving physical harm to another person, or individuals identified as perpetrators of substantiated child abuse pursuant to chapter 26.44 RCW, shall be disqualified by reason of such conviction if such conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, and/or administration of an alcoholism treatment facility unless, to the satisfaction of the department, the individual establishes clear, cogent, and convincing evidence of sufficient rehabilitation subsequent to such conviction or abuse registry listing to warrant public trust.

(3) Submission of plans. The following shall be submitted with an application for license: PROVIDED HOWEVER, That whenever any of the required plans are already on file with the department through previous applications for license or construction approval, only plans for portions or changes not on file need to be submitted.

(a) A plot plan showing streets, driveways, water and sewage disposal systems, locations of buildings on the site, and grade elevations within ten feet of any building where patients are to be housed.

(b) Floor plans of each building where patients are to be housed. The floor plans shall provide the following information:

- (i) Identification of each room by use of a system;
 - (ii) Identification of category of service intended for each room;
 - (iii) The usable square feet of floor space in each patient sleeping room;
 - (iv) The clear window glass area in each patient's sleeping room;
 - (v) The height of the lowest portion of the ceiling in any patient's sleeping room; and
 - (vi) Floor elevations referenced to the grade level.
- (c) If new construction or remodeling is planned, requirements in WAC 248-26-020(7) shall apply.

(4) Classification or categories of alcoholism treatment services. For the purpose of licensing, alcoholism treatment services provided by alcoholism treatment facilities shall be classified as follows:

(a) Alcoholism detoxification services are either acute or subacute services required for the care and/or treatment of individuals intoxicated or incapacitated by alcohol during the initial period the body is cleared of alcohol and the individual recovers from the transitory effects of intoxication. Services include screening of intoxicated persons, detoxification of intoxicated persons, counseling of alcoholics regarding their illness to stimulate motivation to obtain further treatment, and referral of detoxified alcoholics to other, appropriate alcoholism treatment programs.

(b) Alcoholism intensive inpatient treatment services are those services provided to the detoxified alcoholic in a residential setting including, as a minimum, limited medical evaluation and general health supervision, alcoholism education, organized individual and group counseling, discharge referral to necessary supportive services, and a patient follow-through program after discharge.

(c) Alcoholism recovery house services are the provision of an alcohol-free residential setting with supporting services and social and recreational facilities for detoxified alcoholics to aid their adjustment to alcohol-free patterns of living and their engagement in occupational training, gainful employment, or other types of community activities.

(d) Alcoholism long-term treatment services are long-term provision of a residential care setting providing a structural living environment, board, and room for alcoholics with impaired self-maintenance capabilities needing personal guidance and assistance to maintain sobriety and optimum health status.

(5) Authorization and designation of categories of alcoholism treatment service.

(a) The license issued to an alcoholism treatment facility shall show the category or categories of alcoholism treatment the facility is licensed to provide.

(b) For each category of alcoholism treatment service, the licensee shall designate and maintain the particular category or categories of service for which the department has shown approval on the license.

(c) If maintenance and operation are not in compliance with chapter 71.12 RCW or chapter 248-26 WAC, the department may deny, suspend, or revoke authorization to provide a particular category of treatment service.

(6) Posting of license. The license for an alcoholism treatment facility shall be posted in a conspicuous place on the premises.

(7) New construction.

(a) When new construction is planned, the following shall be submitted to the department for review:

(i) A written program containing, at a minimum, information concerning services to be provided and operational methods to be used affecting the extent of facilities required by these regulations.

(ii) Duplicate sets of preliminary plans for new construction drawn to scale and including:

(A) A plot plan showing streets, driveways, the water and sewage disposal systems, grade and location of building or buildings on the site;

(B) Plans of each floor of the building or buildings, existing and proposed, designating the function of each room and showing all fixed equipment:

(iii) Preliminary plans shall be accompanied by a statement as to:

(A) Source of the water supply;

(B) Method of sewage and garbage disposal; and

(C) A general description of construction and materials including interior finishes.

(b) Construction shall not be started until duplicate sets of final plans for new construction, drawn to scale, and specifications have been submitted to and approved by the department. Final plans and specifications shall show complete details to be furnished to contractors for construction of buildings. These shall include:

(i) Plot plan;

(ii) Plans of each floor of the building or buildings designating the function of each room and showing all fixed equipment;

(iii) Interior and exterior elevations, building sections, and construction details;

(iv) A schedule of floor, wall, and ceiling finishes, and the types and sizes of doors and windows;

(v) Plumbing, heating, ventilating, and electrical systems; and

(vi) Specifications fully describing the workmanship and finishes.

(c) Adequate provisions shall be made for the safety and comfort of patients if construction work takes place in or near occupied areas.

(d) All construction shall take place in accordance with the approved final plans and specifications.

(i) The department shall be consulted prior to making any changes from the approved plans and specifications.

(ii) When indicated by the nature or extent of proposed changes, the department may require the submission of modified plans or addenda for review prior to considering proposed change or changes for approval.

(iii) Only those changes approved by the department shall be incorporated into a construction project.

(iv) In all cases, modified plans or addenda on changes incorporated into the construction project shall be submitted for the department's file on the project even though it was not required these be submitted prior to approval.

(8) Exemptions.

(a) The secretary or designee may exempt an alcoholism treatment facility from compliance with parts of these regulations when it has been found after thorough investigation and consideration such exemption may be made in an individual case without jeopardizing the safety or health of the patients in the particular alcoholism treatment facility.

(b) The secretary or designee may, upon written application, allow the substitution of procedures, materials, or equipment for those specified in these regulations when such procedures, materials, or equipment have been demonstrated, to the satisfaction of the secretary, to be at least equivalent to those prescribed.

(c) All exemptions or substitutions granted pursuant to the foregoing provisions shall be reduced to writing

and filed with the department and the alcoholism treatment facility.

(9) Compliance with other regulations.

(a) Rules and regulations adopted by the Washington state fire marshal under provision of RCW 71.12.485 which are found in chapter 212-40 WAC apply.

(b) If there is no local plumbing code, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, 1979 edition, shall be followed.

(c) Compliance with these regulations does not exempt an alcoholism treatment facility from compliance with local and state electrical codes or local zoning, building, and plumbing codes.

(10) Transfer of ownership. The possession or ownership of an alcoholism treatment facility shall not be transferred until the transferee has been notified by the department that the transferee's application for license has been approved.

(11) Denial, suspension, modification, or revocation of licenses or a license appeal; notice; adjudicative proceeding. (~~Upon finding, as a result of an inspection;~~)

(a) When the department determines a facility has failed or refused to comply with the requirements of chapter 71.12 RCW and/or these rules (and regulations), the department may deny, suspend, modify, or revoke a license ((in accordance with RCW 34.04.170: Procedures governing hearings under these regulations shall be in accord with procedures set out in chapter 248-08 WAC. All hearings conducted under these regulations shall be deemed to be contested cases within the meaning of chapter 34.04 RCW)). The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-27-025 LICENSURE OF THE HOME HEALTH AGENCY. (1) Persons operating home health agencies defined under chapter 70.127 RCW shall

submit applications and fees to the department by July 1, 1989.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a home health agency without first obtaining an appropriate license from the department; or

(b) Use the words "home health agency," "home health care services," or "visiting nurse services" in its corporate or business name, or advertise using such words unless licensed as a home health agency under chapter 70.127 RCW.

(3) Applicants for a home health agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner;

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid under RCW 43.20B.110 and chapter 440-44 WAC, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

(d) Prohibit transfer or reassignment of a license without thirty-day-prior-notice to the department and department approval;

(e) Issue a license following approval of a new or current owner's application;

(f) Conduct on-site reviews of the agency, which may include in-home visits with consent of the patient, to determine compliance;

(g) Examine and audit records of the agency if the department has reason to believe persons are providing care without an appropriate license;

(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;

(i) Give written notice of any violations, including a statement of deficiencies observed;

(j) Inform the owner or applicant of the requirement to:

(i) Present a plan of correction to the department within ten working days; and

(ii) Comply within a specified time not to exceed sixty days.

(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:

(i) The deficiency is an immediate threat to life, health, or safety; or

(ii) The owner fails to comply with any of the provisions under WAC 248-27-045(3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.

(7) The department may:

(a) Issue a license effective for one year or less unless the license is suspended or revoked;

(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter;

(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW or this chapter. (~~Actions to deny, suspend, modify, or revoke the license shall be consistent with chapter 34.05 RCW, Administrative Procedure Act.~~)

(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:

(a) Full name and address of the current owner and prospective new owner;

(b) Name and address of the agency and new name under which the agency will be operating, if known; and

(c) The date of the proposed change of ownership.

(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.

(10) The agency shall inform the department, in writing, at the time of opening or closing the agency or branch offices included in the agency license.

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-27-035 LICENSE DENIALS—SUSPENSIONS—MODIFICATIONS—REVOCATIONS.

(1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) Fails or refuses to comply with the provisions under chapter 70.127 RCW or this chapter;

(b) Continues to operate after the license is revoked or suspended for cause without subsequent reinstatement by the department;

(c) Makes a false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;

(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;

(e) Willfully prevents or interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;

(f) Willfully prevents or interferes with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 248-27-045, Civil Fines;

(h) Uses false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.

(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.

~~((3) The department shall inform the owner or applicant, in writing, of a denial, suspension, modification, or revocation of a license, and of the right to appeal, with such notice:~~

~~(a) Stating the reasons for the adverse action, and~~

~~(b) Personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt.~~

~~(4) Unless stated otherwise, the department shall consider a denial, suspension, modification, or revocation effective twenty-eight days after receipt.~~

~~(5) The department may make the date of action effective:~~

~~(a) Later than twenty-eight days after receipt if the department states the effective date in the written notice to the owner or applicant; and~~

~~(b) Sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare if the department states the effective date and the reasons supporting the effective date in the written notice.))~~

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-27-045 CIVIL FINES. (1) Following an on-site review, in-home visit, or audit, the department shall give written notice either in person or by personal service or certified mail, return receipt requested, of any violation under chapter 70.127 RCW or this chapter.

The notice shall inform the owner or applicant as appropriate including:

(a) Describing the conditions of noncompliance;

(b) Specifying a reasonable time of compliance not to exceed sixty days;

(c) Explaining the possibility of a violation subjecting the owner or applicant to denial, revocation, modification, or suspension of the license, and/or civil fines; and

(d) Explaining the right of the owner or applicant to appeal.

(2) The department may assess civil monetary penalties in addition to or in lieu of denial, suspension, modification, or revocation of a license if the owner fails to comply with a notice of violation.

(3) The department may assess civil monetary penalties not to exceed one thousand dollars per violation in any case where the department finds the owner, applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or owner's assets:

(a) Failed or refused to comply with requirements under chapter 70.127 RCW or this chapter;

(b) Continued to operate after the license was revoked or suspended for cause and not subsequently reinstated by the department;

(c) Has knowingly, or with reason to know, made a false statement of a material fact in the:

(i) Application for the license; or

(ii) Data attached; or

(iii) Record required under chapter 70.127 RCW; or

(iv) Matter under investigation by the department.

(d) Refused to allow representatives of the department to inspect any book, record, file, or part of the agency under this chapter;

(e) Willfully prevented, interfered with, or attempted to impede the work of any representative of the department and the lawful enforcement of a provision under chapter 70.127 RCW and this chapter;

(f) Willfully prevented or interfered with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Failed to pay or make arrangements to pay any civil monetary penalty assessed by the department under chapter 70.127 RCW within ten days after the assessment became final;

(h) Used false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresented or was fraudulent in any aspect of the conduct of the home health business.

(4) Failure to pay or make arrangements to pay civil monetary penalties within ten days from the time the assessment becomes final may result in denial, suspension, modification, or revocation of the license, in addition to either the assessment of the penalties or to the assessment of additional penalties.

~~((5) The department shall give written notice to the owner or applicant against whom the department assesses a civil fine, including the right to appeal. The written notice shall:~~

- (a) State the reasons for the adverse action;
- (b) Be personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt; and
- (c) State the effective date of the civil fine action is:
 - (i) Twenty-eight days after receipt of the written notice; or
 - (ii) A later date at the discretion of the department;))

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-27-055 ((~~APPEALS—HEARINGS~~))
LICENSE ACTION AND/OR CIVIL FINE—NOTICE—ADJUDICATIVE PROCEEDING. (1) ((An owner or applicant aggrieved by)) The department's notice of a denial, suspension, modification, or revocation of a license(, or imposition of a civil penalty, may request a department hearing.

(2) Any owner or applicant requesting a department hearing shall make the request, in writing, and:

- (a) State the issue and law upon which the appeal relies;
- (b) State the grounds for contesting the denial, suspension, modification, or revocation of license or imposition of civil fines;
- (c) State current address and telephone number;
- (d) Attach to the request a copy of the department notice of denial, suspension, modification, or revocation of license or imposition of civil fine;
- (e) Submit the request for hearing within twenty-eight days of the date of receipt of the department notice of denial, suspension, modification, or revocation of license or imposition of civil penalty; and
- (f) Deliver the request by personal service or by certified mail to the Office of Appeals, 12th Avenue and Franklin Street, P.O. Box 2465, Olympia, Washington 98504-2465.

(3) The department shall:

(a) Treat a mailed request as effective on the date it was postmarked, if the mailed request is received by the office of appeals properly addressed and with no postage due;

(b) Conduct hearings under chapters 10-08 and 388-08 WAC and chapter 34.05 RCW, Administrative Procedure Act;

(c) Apply this section if any provision of this section conflicts with chapter 388-08 WAC; and

(d) Follow the decision-making procedure including:

- (i) Initial decision;
- (ii) Petition for review; and
- (iii) Review decision procedure.

(4) When an owner or applicant files an appeal within the time limits specified under this section, department action to deny, suspend, modify, or revoke a license, or impose a civil fine shall proceed as follows:

(a) When the department gives an owner or applicant twenty-eight or more days' written notice and the owner or applicant files an appeal before the effective date on the written notice, the department:

- (i) Shall delay implementing the adverse action until the order from the administrative hearing is served upon the owner or applicant; and
- (ii) May implement part or all of the adverse action while the proceedings are pending if the:
 - (A) Presiding or reviewing officer permits the department to start such action; and
 - (B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.
- (b) When the department gives an owner or applicant less than a twenty-eight-day written notice and the owner or applicant files an appeal, the department may:
 - (i) Implement the adverse action on the effective date stated in the written notice; or
 - (ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause)) shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or licensee holder has the right to an adjudicative proceeding to contest the decision.
- (2) The department's notice of imposition of a civil fine shall be consistent with RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.
- (3) A license applicant or holder or a person the department imposes a civil fine on contesting a department decision shall within twenty-eight days of receipt of the decision:
 - (a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and
 - (b) Include in or with the application:
 - (i) A specific statement of the issue or issues and law involved;
 - (ii) The grounds for contesting the department decision; and
 - (iii) A copy of the contested department decision.
- (4) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(ii) May implement part or all of the adverse action while the proceedings are pending if the:

(A) Presiding or reviewing officer permits the department to start such action; and

(B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.

(b) When the department gives an owner or applicant less than a twenty-eight-day written notice and the owner or applicant files an appeal, the department may:

(i) Implement the adverse action on the effective date stated in the written notice; or

(ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause)) shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or licensee holder has the right to an adjudicative proceeding to contest the decision.

(2) The department's notice of imposition of a civil fine shall be consistent with RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.

(3) A license applicant or holder or a person the department imposes a civil fine on contesting a department decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(4) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2338, filed 1/29/86)

WAC 248-29-020 LICENSURE. (1) Application for license—Fee.

(a) An application for a childbirth center license shall be submitted on forms furnished by the department. The application shall be signed by the legal representative of the governing body.

(b) The applicant shall furnish to the department full and complete information and promptly report any changes which would affect the current accuracy of such information as to the identity of each officer and director of the corporation, if the birth center is operated by a legally incorporated entity, profit or nonprofit, and of each partner if the birth center is operated through a legal partnership.

(c) Each application for license shall be accompanied by a license fee as established by the department under RCW 43.20A.055: PROVIDED, That no fee shall be required of charitable or nonprofit or government-operated birth centers. Upon receipt of the license fee, when required, the department shall issue a childbirth center license if the applicant and the birth center facilities meet the requirements of this chapter.

(2) License renewal—Limitations—Display.

(a) A license, unless suspended or revoked, shall be renewed annually.

(i) Applications for renewal shall be on forms provided by the department and shall be filed with the department not less than ten days prior to expiration.

(ii) Each application for renewal shall be accompanied by a license fee as established by the department under RCW 43.20A.055.

(iii) The department shall inspect and investigate each childbirth center as needed and at least annually to determine compliance with standards herein (chapter 248-29 WAC) and applicable standards of chapter 18.46 RCW.

(b) Each license shall be issued only for the premises and persons named. Licenses shall be transferrable or assignable only with written approval by the department.

(c) Licenses shall be posted in a conspicuous place on the licensed premises.

(3) ~~(License=)~~Denial, suspension, modification, revocation of a license; notice; adjudicative proceeding.

(a) The department may, if the interests of the clients so demand, deny, suspend, or revoke a license when there has been failure or refusal to comply with the requirements ~~((established in chapter 248-29 WAC or applicable sections))~~ of chapter 18.46 RCW ~~((, in accordance with RCW 18.46.050 and chapter 34.04 RCW))~~ and/or these rules. The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A license applicant or holder contesting a department license decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(4) New construction—Major alterations.

(a) When new construction or major alteration is contemplated, the following shall be submitted to the department for review:

(i) A written program containing, at a minimum, information concerning services to be provided and operational methods to be used which will affect the extent of facilities required by these regulations;

(ii) Duplicate sets of preliminary plans which are drawn to scale and include: A plot plan showing streets, driveways, water, and sewage disposal systems, grade and location of the building or buildings on the site; the plans for each floor of each building, existing and proposed, which designate the functions of each room and show all fixed equipment. The preliminary plans shall be accompanied by a statement as to the source of water supply and the method of sewage and garbage disposal and a general description of construction and materials, including interior finishes.

(b) Construction shall not be started until duplicate sets of final plans (drawn to scale) and specifications have been submitted to and approved by the department. Final plans and specifications shall show complete details to be furnished to contractors for construction of buildings or major alterations in existing buildings. These shall include:

(i) Plot plans;

(ii) Plans for each floor of each building which designate the function of each room and show all fixed equipment and the planned location of beds and other furniture;

(iii) Interior and exterior elevations, building sections, and construction details;

(iv) Schedule of floors, wall, and ceiling finishes, and the types and sizes of doors and windows; plumbing, heating, ventilation, and electrical systems; and

(v) Specifications which fully describe workmanship and finishes.

(c) Adequate provisions shall be made for the safety and comfort of clients as construction work takes place in or near an occupied area.

(d) Construction shall take place in accordance with approved final plans and specifications. Only those changes which have been approved by the department may be incorporated into the construction project. Modified plans, additions, or changes incorporated into the construction project shall be submitted to the department for the department file on the project.

(5) Compliance with other regulations.

(a) Applicable rules and regulations adopted by the Washington state fire marshal.

(b) If there is no local plumbing code, the Uniform Plumbing Code of the National Association of Plumbing and Mechanical Officials shall be followed.

(c) Compliance with these regulations does not exempt birth centers from compliance with the local and state electrical codes or local fire, zoning, building, and plumbing codes.

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-31-025 LICENSURE OF THE HOSPICE AGENCY. (1) Persons operating hospice agencies

defined under chapter 70.127 RCW shall submit applications and fees to the department by July 1, 1989.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a hospice agency without first obtaining an appropriate license from the department; or

(b) Use the words "hospice agency" or "hospice care" in its corporate or business name, or advertise using such words unless licensed as a hospice agency under chapter 70.127 RCW.

(3) Applicants for a hospice agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner;

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide for a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid under RCW 43.20B.110 and chapter 440-44 WAC, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

(d) Prohibit transfer or reassignment of a license without thirty days prior notice to the department and department approval;

(e) Issue a license following approval of a new or current owner's application;

(f) Conduct on-site reviews of the agency, which may include in-home visits with the consent of the patient, to determine compliance;

(g) Examine and audit records of the agency if the department believes a person is providing care without an appropriate license;

(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;

(i) Give written notice of any violations, including a statement of deficiencies observed;

(j) Inform the owner or applicant of the requirement to:

(i) Present a plan of correction to the department within ten working days; and

(ii) Comply within a specified time not to exceed sixty days.

(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:

(i) The deficiency is an immediate threat to life, health, or safety; or

(ii) The owner fails to comply with any of the provisions of WAC 248-31-045(3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

(l) Initiate disciplinary action, under RCW 70.127.170 and this chapter, if the owner or applicant fails to comply.

(7) The department may:

(a) Issue a license effective for one year or less unless the license is suspended or revoked;

(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter; and

(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW and this chapter. (~~Actions to deny, suspend, modify, or revoke the license shall be consistent with chapter 34.05 RCW, Administrative Procedure Act.~~)

(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:

(a) Full name and address of the current owner and prospective new owner;

(b) Name and address of the agency and new name under which the agency will be operating, if known; and

(c) The date of the proposed change of ownership.

(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.

(10) The agency shall inform the department, in writing, at the time of opening or closing the agency or branch offices included in the agency license.

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-31-035 LICENSE DENIALS—SUSPENSIONS—MODIFICATIONS—REVOCATIONS.

(1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) Fails or refuses to comply with the provisions under chapter 70.127 RCW or this chapter;

(b) Continues to operate after the license is revoked or suspended for cause without subsequent reinstatement by the department;

(c) Makes a false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;

(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;

(e) Willfully prevents or interferes with, or attempts to impede in any way, the work of a representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;

(f) Willfully prevents or interferes with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 248-27-045, Civil Fines;

(h) Uses false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.

(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.

~~((3) The department shall inform the owner or applicant, in writing, of a denial, suspension, modification, or revocation of a license, and of the right to appeal, with such notice:~~

~~(a) Stating the reasons for the adverse action; and~~

~~(b) Personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt.~~

~~(4) Unless stated otherwise, the department shall consider a denial, suspension, modification, or revocation effective twenty-eight days after receipt.~~

~~(5) The department may make the date of action effective:~~

~~(a) Later than twenty-eight days after receipt if the department states the effective date in the written notice to the owner or applicant; and~~

~~(b) Sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare if the department states the effective date and the reasons supporting the effective date in the written notice:))~~

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-31-045 CIVIL FINES. (1) Following an on-site review, in-home visit, or audit, the department shall give written notice either in person or by personal service or certified mail, return receipt requested, of any violation under chapter 70.127 RCW or this chapter. The notice shall inform the owner or applicant as appropriate including:

(a) Describing the conditions of noncompliance;

(b) Specifying a reasonable time of compliance not to exceed sixty days;

(c) Explaining the possibility of a violation subjecting the owner or applicant to denial, revocation, modification, or suspension of the license, and/or civil fines; and

(d) Explaining the right of the owner or applicant to appeal.

(2) The department may assess civil monetary penalties in addition to or in lieu of denial, suspension, modification, or revocation of a license if the owner fails to comply with a notice of violation.

(3) The department may assess civil monetary penalties not to exceed one thousand dollars per violation in any case where the department finds the owner, applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or owner's assets:

(a) Failed or refused to comply with requirements under chapter 70.127 RCW or this chapter;

(b) Continued to operate after the license was revoked or suspended for cause and not subsequently reinstated by the department;

(c) Has knowingly, or with reason to know, made a false statement of a material fact in the:

(i) Application for the license; or

(ii) Data attached; or

(iii) Record required under chapter 70.127 RCW; or

(iv) Matter under investigation by the department.

(d) Refused to allow representatives of the department to inspect any book, record, file, or part of the agency under this chapter;

(e) Willfully prevented, interfered with, or attempted to impede the work of any representative of the department and the lawful enforcement of a provision under chapter 70.127 RCW and this chapter;

(f) Willfully prevented or interfered with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Failed to pay or make arrangements to pay any civil monetary penalty assessed by the department under chapter 70.127 RCW within ten days after the assessment became final;

(h) Used false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresented or was fraudulent in any aspect of the conduct of the agency business.

(4) Failure to pay or make arrangements to pay civil monetary penalties within ten days from the time the assessment becomes final may result in denial, suspension, modification, or revocation of the license, in addition to either the assessment of the penalties or to the assessment of additional penalties.

~~((5) The department shall give written notice to the owner or applicant against whom the department assesses a civil fine, including the right to appeal. The written notice shall:~~

~~(a) State the reasons for the adverse action;~~

~~(b) Be personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt; and~~

~~(c) State the effective date of the civil fine action is:~~

~~(i) Twenty-eight days after receipt of the written notice; or~~

~~(ii) A later date at the discretion of the department.)~~

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-31-055 ((APPEALS=HEARINGS)) LICENSE ACTION AND/OR CIVIL FINE—NOTICE—ADJUDICATIVE PROCEEDING. (1) ((An owner or applicant aggrieved by the department's denial, suspension, modification, or revocation of a license, or imposition of a civil penalty, may request a department hearing)) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(2) ((Any owner or applicant requesting a department hearing shall make the request, in writing, and:

(a) State the issue and law upon which the appeal relies;

(b) State the grounds for contesting the denial, suspension, modification, or revocation of license or imposition of civil fines;

(c) State the current address and telephone number;

(d) Attach to the request a copy of the department notice of denial, suspension, modification, or revocation of license or imposition of civil fine;

(e) Submit the request for hearing within twenty-eight days of the date of receipt of the department notice of denial, suspension, modification, or revocation of license or imposition of civil penalty; and

(f) Deliver the request by personal service or by certified mail to the Office of Appeals, 12th Avenue and Franklin Street, P.O. Box 2465, Olympia, Washington 98504-2465)) The department's notice of imposition of a civil fine shall be consistent with RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.

(3) ((The department shall:

(a) Treat a mailed request as effective on the date it was postmarked, if the mailed request is received by the office of appeals properly addressed and with no postage due;

(b) Conduct hearings under chapters 10-08 and 388-08 WAC and chapter 34.05 RCW, Administrative Procedure Act;

(c) Apply this section if any provision of this section conflicts with chapter 388-08 WAC; and

(d) Follow the decision-making procedure including:

(i) Initial decision;

(ii) Petition for review; and

(iii) Review decision procedure.

(4) When an owner or applicant files an appeal within the time limits specified under this section, department

action to deny, suspend, modify, or revoke a license, or impose a civil fine shall proceed as follows:

(a) When the department gives an owner or applicant twenty-eight or more days' written notice and the owner or applicant files an appeal before the effective date on the written notice, the department:

(i) Shall delay implementing the adverse action until the order from the administrative hearing is served upon the owner or applicant; and

(ii) May implement part or all of the adverse action while the proceedings are pending if the:

(A) Presiding or reviewing officer permits the department to start such action; and

(B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.

(b) When the department gives an owner or applicant less than a twenty-eight day written notice and the owner or applicant files an appeal, the department may:

(i) Implement the adverse action on the effective date stated in the written notice; or

(ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause)) A license applicant or holder or a person the department imposes a civil fine on contesting a department decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(4) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-36-025 LICENSURE OF THE HOME CARE AGENCY. (1) Persons operating home care agencies as defined under chapter 70.127 RCW, shall submit application and fees to the department by July 1, 1989.

(2) After July 1, 1990, no person shall:

(a) Advertise, operate, manage, conduct, open, or maintain a home care agency without first obtaining an appropriate license from the department; or

(b) Use the words "home care agency" or "home care services" in its corporate or business name, or advertise using such words unless licensed as a home care agency under chapter 70.127 RCW.

(3) Applicants for a home care agency license shall:

(a) Submit a completed application and fee for initial license or renewal to the department on forms furnished by the department, including signature of the owner or legal representative of the owner; and

(b) Furnish to the department full and complete information as required by the department for the proper administration of department requirements including:

(i) Evidence of current insurance including:

(A) Professional liability insurance coverage specified under RCW 70.127.080; and

(B) Public liability and property damage insurance coverage as specified under RCW 70.127.080.

(ii) Information on organizational and governing structure and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(iii) A list of counties where the applicant will operate;

(iv) A list of branch offices; and

(v) A list of services provided or offered.

(4) Agencies requesting license renewal shall submit a renewal application and fee to the department.

(5) If the applicant or owner meets the requirements of this chapter and chapter 70.127 RCW, the department shall issue or renew a license for the agency, including branch offices.

(6) The department shall:

(a) Deny a license if in the last five years the owner, applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets are found in a civil or criminal proceeding to have committed any act reasonably relating to the fitness of any of the above persons to:

(i) Establish, maintain, or administer an agency; or

(ii) Provide care in the home of another.

(b) Provide a combination of applications and licenses and the reduction of individual license fees if an applicant applies for more than one category of license under chapter 70.127 RCW;

(c) Establish fees to be paid as required under RCW 43.20B.110 and chapter 440-44 WAC, including providing for the reduction of individual license fees if an applicant applies for more than one category of license under RCW 70.127.110;

(d) Prohibit transfer or reassignment of a license without a thirty-day prior notice to the department and department approval;

(e) Issue a license following approval of a new or current owner's application;

(f) Conduct on-site reviews of the agency, which may include in-home visits with the consent of the participant, in order to determine compliance;

(g) Examine and audit records of the agency if the department has reason to believe persons are providing care without an appropriate license;

(h) Provide for combined licensure inspections and audits for owners holding more than one license under RCW 70.127.110;

(i) Give written notice of any violations, including a statement of deficiencies observed;

(j) Inform the owner or applicant of the requirement to:

(i) Present a plan of correction to the department within ten working days; and

(ii) Comply within a specified time not to exceed sixty days.

(k) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency prior to assessing a civil penalty unless:

(i) The deficiency is an immediate threat to life, health, or safety; or

(ii) The owner fails to comply with any of the provisions of WAC 248-36-045(3)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j).

(l) Initiate disciplinary action, under RCW 70.127-.170 and this chapter, if the owner or applicant fails to comply.

(7) The department may:

(a) Issue a license effective for one year unless the license is suspended or revoked;

(b) Inspect an agency and examine records at any time to determine compliance with chapter 70.127 RCW and this chapter; and

(c) Deny, suspend, modify, or revoke an agency license for failure to comply with chapter 70.127 RCW or this chapter. ~~((Actions to deny, suspend, modify, or revoke the license shall be consistent with chapter 34.05 RCW, Administrative Procedure Act.))~~

(8) When a change of ownership is planned, the owner shall notify the department, in writing, at least thirty days prior to the date of transfer, including:

(a) Full name and address of the current owner and prospective new owner;

(b) Name and address of the agency and new name under which the agency will be operating, if known; and

(c) The date of the proposed change of ownership.

(9) The prospective new owner shall submit a new application for an agency license with the fee at least thirty days prior to the change of ownership.

(10) The agency shall inform the department in writing at the time of opening or closing of the agency or branch offices.

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-36-035 LICENSE DENIALS—SUSPENSIONS—MODIFICATIONS—REVOCATIONS.

(1) The department may deny, suspend, modify, or revoke a license or assess civil penalties, or both, against the agency if an applicant, owner, officer, director, or managing employee:

(a) Fails or refuses to comply with the provisions of chapter 70.127 RCW or this chapter;

(b) Continues to operate after the license is revoked or suspended for cause and not subsequently reinstated by the department;

(c) Makes false statement of a material fact in the application for the license or data attached or in any record required by this chapter or matter under investigation by the department;

(d) Refuses to allow representatives of the department to inspect any part of the agency or books, records, or files required by this chapter;

(e) Willfully prevents or interferes with or attempts to impede in any way the work of any representative of the department in the lawful enforcement of chapter 70.127 RCW and this chapter;

(f) Willfully prevents or interferes with any representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Fails to pay or make arrangements to pay a civil monetary penalty assessed by the department within ten days after the assessment becomes final, as provided under WAC 248-36-045, Civil Fines;

(h) Uses false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond those authorized by the agency or law; or

(j) Misrepresents, or is fraudulent in an aspect of, the conduct of the applicant's or owner's business.

(2) If the department finds the public health, safety, or welfare imperatively require emergency action, a license may be summarily suspended pending proceedings for revocation or other action.

~~((3) The department shall inform the owner or applicant in writing of a denial, suspension, modification, or revocation of a license, and of the right to appeal, with such notice:~~

~~(a) Stating the reasons for the adverse action; and~~

~~(b) Personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt.~~

~~(4) Unless stated otherwise, the department shall consider the denial, suspension, modification, or revocation effective twenty-eight days after receipt.~~

~~(5) The department may make the date of action effective:~~

~~(a) Later than twenty-eight days after receipt if the department states the effective date in the written notice to the owner or applicant; and~~

~~(b) Sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare if the department states the effective date and the reasons supporting the effective date in the written notice.))~~

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-36-045 CIVIL FINES. (1) Following an on-site review, in-home visit, or audit, the department shall give written notice either in person or by personal service or certified mail, return receipt requested, of any violation under chapter 70.127 RCW or this chapter. The notice shall inform the owner or applicant as appropriate including:

(a) Describing the conditions of noncompliance;

(b) Specifying a reasonable time of compliance not to exceed sixty days;

(c) Explaining the possibility of a violation subjecting the owner or applicant to denial, revocation, modification, or suspension of the license and/or civil fines; and

(d) Explaining the right of the owner or applicant to appeal.

(2) The department may assess civil monetary penalties in addition to or in lieu of denial, suspension, modification, or revocation of a license if the owner fails to comply with a notice of violation.

(3) The department may assess civil monetary penalties not to exceed one thousand dollars per violation in any case when the department finds the owner, applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or owner's assets:

(a) Failed or refused to comply with requirements of chapter 70.127 RCW or this chapter;

(b) Continued to operate after the license was revoked or suspended for cause and not subsequently reinstated by the department;

(c) Has knowingly or with reason to know made a false statement of a material fact in the:

(i) Application for the license; or

(ii) Data attached; or

(iii) Record required under chapter 70.127 RCW; or

(iv) Matter under investigation by the department.

(d) Refused to allow representatives of the department to inspect any book, record, file or part of the agency required under this chapter;

(e) Willfully prevented, interfered with, or attempted to impede the work of any representative of the department in the lawful enforcement of a provision under chapter 70.127 RCW and this chapter;

(f) Willfully prevented or interfered with a representative of the department in the preservation of evidence of a violation under chapter 70.127 RCW or this chapter;

(g) Failed to pay or make arrangements to pay any civil monetary penalty assessed by the department under chapter 70.127 RCW within ten days after the assessment became final;

(h) Used false, fraudulent, or misleading advertising;

(i) Has repeated incidents of personnel performing services beyond services authorized by the agency or law; or

(j) Misrepresented or was fraudulent in any aspect of the conduct of the home care business.

(4) Failure to pay or make arrangements to pay civil monetary penalties within ten days from the time the assessment becomes final may result in denial, suspension, modification, or revocation of the license, in addition to the assessment of the penalties or to the assessment of additional penalties.

~~((5) The department shall give written notice to the owner or applicant against whom it assesses a civil fine, including the right to appeal. The written notice shall:~~

~~(a) State the reasons for the adverse action;~~

~~(b) Be personally served in the manner of service of a summons in a civil action or given in another manner showing proof of receipt; and~~

~~(c) State the effective date of the civil fine is:~~

~~(i) Twenty-eight days after receipt of the written notice; or~~

~~(ii) A later date at the discretion of the department.))~~

AMENDATORY SECTION (Amending Order 2790, filed 6/7/89)

WAC 248-36-055 ((APPEALS—HEARINGS)) LICENSE ACTION AND/OR CIVIL FINE—NOTICE—ADJUDICATIVE PROCEEDING. (1) ((Any owner or applicant aggrieved by the department's denial, suspension, modification, or revocation of a license, or imposition of a civil penalty, may request a department hearing)) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(2) ((Any owner or applicant requesting a department hearing shall make the request in writing and:

(a) State the issue and law upon which the appeal relies;

(b) State the grounds for contesting the denial, suspension, modification, or revocation of license or imposition of civil fines;

(c) State current address and telephone number, if any;

(d) Attach a copy of the department notice of denial, suspension, modification, or revocation of license or imposition of civil fines;

(e) Submit the request for hearing within twenty-eight days of the date of receipt of the department notice of denial, suspension, modification, or revocation of license or imposition of civil penalty; and

(f) Deliver the request by personal service or by certified mail to the Office of Appeals, 12th Avenue and Franklin Street, P.O. Box 2465, Olympia, Washington 98504-2465)) The department's notice of imposition of a civil fine shall be consistent with RCW 43.20A.XXX and section 96, chapter 175, Laws of 1989. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.

(3) ((The department shall:

(a) Treat a mailed request as effective on the date it was postmarked, if the mailed request is received by the office of appeals properly addressed and with no postage due;

(b) Conduct hearings under chapters 10-08 and 388-08 WAC and chapter 34.05 RCW, Administrative Procedure Act;

(c) Apply this section if any provision of this section conflicts with chapter 388-08 WAC; and

(d) Follow the decision-making procedure including:

(i) Initial decision;

(ii) Petition for review; and

(iii) Review decision procedure.

(4) When an owner or applicant files an appeal within the time limits specified under this section, department action to deny, suspend, modify, or revoke a license, or impose a civil fine shall proceed as follows:

(a) When the department gives an owner or applicant twenty-eight or more days written notice and the owner or applicant files an appeal before the effective date on the written notice, the department:

(i) Shall delay implementing the adverse action until the order from the administrative hearing is served upon the owner or applicant; and

(ii) May implement part or all of the adverse action while the proceedings are pending if the:

(A) Presiding or reviewing officer permits the department to start such action; and

(B) Owner or applicant causes an unreasonable delay in the proceeding and circumstances change so the implementation is in the public interest or for other good cause.

(b) When the department gives an owner or applicant less than a twenty-eight-day written notice and the owner or applicant files an appeal, the department may:

(i) Implement the adverse action on the effective date stated in the written notice; or

(ii) Stay implementation of part or all of the adverse action, if ordered by the presiding or reviewing officer, while the proceedings are pending if the stay is in the public interest or for other good cause)) A license applicant or holder or a person the department imposes a civil fine on contesting a department decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(4) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1917, filed 12/1/82)

WAC 248-55-220 NOTICE OF ((REVOCA-TION)) DECISION—ADJUDICATIVE PROCEED-ING. ((Whenever the department has reasonable cause to believe that in the administration of chapter 70.119 RCW, grounds exist to revoke a certificate of competency, the department shall notify the certificate holder. The notice must:))

(1) ((Be in writing;)) The department's notice of a denial, suspension, modification, or revocation of a certificate of competency shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or certificate holder has the right to an adjudicative proceeding to contest the decision.

(2) ((State the grounds the department relies on to revoke the certificate; and)) A certificate applicant or holder contesting a department certificate decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:(i) A specific statement of the issue or issues and law involved;(ii) The grounds for contesting the department decision; and(iii) A copy of the contested department decision.

~~(3) ((Be delivered personally to the certificate holder or be mailed by certified mail to his or her last known residence or business address))~~ The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

NEW SECTION

WAC 248-55-235 CERTIFICATE DENIAL—ADJUDICATIVE PROCEDURE. The procedure for an adjudicative proceeding to contest the denial of a certificate is chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 1917, filed 12/1/82)

~~WAC 248-55-240 ((HEARING AND RECOMMENDATION BY BOARD))~~ CERTIFICATE SUSPENSION, MODIFICATION, OR REVOCATION—ADJUDICATIVE PROCEDURE. This section contains the procedure for an adjudicative proceeding to contest the suspension, modification, or revocation of a certificate.

(1) The board members shall ~~((hold a hearing to make a record upon which it shall base its recommendation to the secretary))~~ preside at the adjudicative proceeding. The ~~((hearing))~~ proceeding shall be conducted in accordance with the Administrative Procedure Act (chapter ((34.04)) 34.05 RCW), this chapter, and ((under the procedural rules of)) chapter ((10-08)) 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(2) The board may have ~~((a hearings examiner))~~ an administrative law judge assigned to ((preside)) assist the board at the hearing. The ~~((hearings examiner))~~ administrative law judge shall:

(a) ~~((Staff))~~ Conduct the hearing((s));

(b) ~~((Staff))~~ Offer advice and assistance to the board upon request by the board; and

(c) ~~((Staff))~~ Not be a member of the board.

(3) The department has the burden of proving its case by a preponderance of the credible evidence.

(4) At least four members of the board including the water industry representative must consider the record. A majority of the board members who considered the record shall make a written recommendation to the secretary to, or not to, revoke the certificate. The recommendation shall ~~((contain findings of fact and conclusions of law))~~ conform to RCW 34.05.461.

(5) The board's recommendation shall be personally delivered to the certificate holder or mailed ~~((to him or her))~~ by certified mail to ((his or her)) the certificate

holder's last known residence or business address or served in another manner showing proof of receipt.

(6) If the board's recommendation is not to suspend, modify, or revoke the certificate, the recommendation shall be a final order as defined under chapter 34.05 RCW.

(7) If the board's recommendation is to suspend, modify, or revoke the certificate, the recommendation shall be an initial order as defined under chapter 34.05 RCW. The recommendation shall become the final order if no petition for administrative review is filed. If a petition for review is filed, the secretary or designee shall make the final adjudicative order.

REPEALER

The following sections of the Washington Administration Code are repealed:

WAC 248-55-230 APPEAL OF REVOCATION.

WAC 248-55-250 FINAL DECISION BY SECRETARY.

WAC 248-55-260 JUDICIAL REVIEW.

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 1919, filed 12/6/82)

~~WAC 248-59-030 ((APPEAL PROCEDURE))~~ ADJUDICATIVE PROCEEDING. (1) Any party affected by the decision of the water supply and waste section of ~~((DSHS may appeal that))~~ the department has the right to contest the decision ((within twenty days from the date received by certified mail)) in an adjudicative proceeding. If no appeal is filed, the decision of the water supply and waste section shall be final.

(2) ~~((Notice of appeal must:~~

(a) ~~Be in writing;~~

(b) ~~Clearly and concisely state the basis for the appeal;~~

(c) ~~State whether the appellant will represent himself or herself or be represented by another;~~

(d) ~~State the name, address, and telephone number of the appellant and, if represented by another, the representative's name, address, and telephone number; and~~

(e) ~~Be mailed by certified mail to Office of Hearings, Post Office Box 2465, Olympia, Washington 98504))~~ A person contesting a water supply and waste section decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the decision; and

(iii) A copy of the contested decision.

(3) The ((office of hearings shall notify all affected parties of the appeal and schedule of events)) proceeding

is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

(4) Evidence not considered by the water supply and waste section in making their decision shall not be admitted in the adjudicative proceeding unless agreed to by all parties.

(5) The administrative law and review judge shall not modify the initial water supply and waste section decision unless the preponderance of evidence shows that decision is substantially or legally in error.

REPEALER

The following sections of the Washington Administration Code are repealed:

- WAC 248-59-040 APPEAL HEARING.
- WAC 248-59-050 APPEAL DECISION.
- WAC 248-59-060 REVIEW BY SECRETARY.
- WAC 248-59-070 DECISION OF SECRETARY.
- WAC 248-59-080 JUDICIAL REVIEW.

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 6, filed 10/16/68)

WAC 248-91-060 ((~~DECISION OF THE DEPARTMENT~~)) NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. ((After)) (1) The ((~~department has made a decision either granting or denying a request for an approval and a certification of necessity, said decision shall constitute a "contested case" within the meaning of chapter 34.04 RCW~~)) department's notice of a denial, suspension, modification, or revocation of an approval and certificate of necessity shall be consistent with RCW 43.20A.XXX and section 95, chapter 175, Laws of 1989. An applicant or certificate holder has the right to an adjudicative proceeding to contest the decision.

(2) A certificate applicant or holder contesting a department certificate decision shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(3) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

WSR 90-06-020
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—February 26, 1990]

The following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Neurological Surgery.

General Faculty Meeting Schedule for 1990

The following is advance notification of the four general faculty meeting dates for 1990:

Monday	March 12	5:00 p.m.	HMC 10C-14
Monday	June 4	5:00 p.m.	HMC 10C-14
Monday	September 10	5:00 p.m.	HMC 10C-14
Monday	December 3	5:00 p.m.	HMC 10C-14

WSR 90-06-021
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—February 26, 1990]

Following is a revised meeting schedule for regular meetings to be held by the University of Washington's Department of Harborview Medical Center ZA-10.

Harborview Medical Center

Board of Trustees Meeting Schedule, 1990

All meetings held in Room 1C-30, Harborview Medical Center

BOARD COMMITTEES

Public Affairs
(1st Tuesday)
1:00 p.m.

- January 2
- February 6
- March 6
- April 3
- May 1
- June 5

- July 3
- August 7
- September 4
- October 2
- November 6
- December 4

Joint Conference
(2nd Tuesday)
noon

- January 9
- February 13
- March 13
- April 10
- May 8
- June 12
- July 10
- August 14
- September 11

October 9
 November 13
 December 11
 Planning and Marketing
 (3rd Tuesday)
 1:00 p.m.
 January 16
 February 20
 March 20
 April 17
 May 15
 June 19
 July 17
 August 21
 September 18
 October 16
 November 20
 December 18

Facilities, Building
 and Equipment
 (2nd Wednesday)
 10:00 a.m.
 January 10
 February 14
 March 14
 April 11
 May 9
 June 13
 July 11
 August 8
 September 12
 October 10
 November 14
 December 12

Health Care Services
 (1st Thursday)
 1:30 p.m.
 January 4
 February 1
 March 1
 April 5
 May 3
 June 7
 July 5
 August 2
 September 6
 October 4
 November 1
 December 6

Finance
 (4th Wednesday)
 10:00 a.m.
 January 24
 February 21
 March 21
 April 25
 May 23
 June 27
 July 25
 August 22

September 26
 October 24
 November 28
 Board Meeting
 (4th Thursday)
 1:00 p.m.
 January 25
 February 22
 March 22
 April 26
 May 24
 June 28
 July 26
 August 23
 September 27
 October 25
 November 29

MEDICAL CENTER COMMITTEES

HMC Department Managers
 (2nd Tuesday)
 10:00 a.m.
 January 9
 February 13
 March 13
 April 10
 May 8
 June 12
 July 10
 August 14
 September 11
 October 9
 November 13
 December 11

Medical Executive Board
 (1st Thursday)
 noon
 January 4
 February 1
 March 1
 April 5
 May 3
 June 7
 July 5
 August 2
 September 6
 October 4
 November 1
 December 6

WSR 90-06-022
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed February 28, 1990, 1:46 p.m.]

Original Notice.
 Title of Rule: Amending WAC 308-56A-420 and
 308-66-190.

Purpose: To provide accountability and to clarify proper use of the dealer temporary permits; and to increase the time period during which a vehicle title may be transferred.

Statutory Authority for Adoption: RCW 46.70.160.

Statute Being Implemented: RCW 46.16.045.

Summary: RCW 46.16.045, authorizes the department to issue temporary permits through vehicle dealers while vehicle registration applications are being processed.

Reasons Supporting Proposal: Revised rule extends the period for dealers to transfer title to thirty days, which is consistent with the period of time dealer temporary permits are valid.

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 administrative rules clarify the responsibility for timely transfer of title and the general authority for issuing temporary vehicle permits granted by RCW 46.16.045. Such permits are placed on recently purchased vehicles pending transfer of title and issuance of license plates. Effect of the revisions to these rules will be to lengthen the period of time dealers have to accomplish the transfer of title. Revisions will also provide more accountability and clarify restrictions on the use of temporary permits.

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: Highways-Licenses Building, Conference 1, 4th Floor, 12th and Franklin, Olympia, Washington, on April 11, 1990, at 9:00 a.m.

Submit Written Comments to: Marv Ryser, Dealer/Manufacturer Services, Highways-Licenses Building, Olympia, Washington 98504, by April 9, 1990.

Date of Intended Adoption: April 20, 1990.

February 28, 1990

Mary Faulk
Director

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-420 DELIVERY OF VEHICLE ON DEALER'S TEMPORARY PERMIT. (1) A vehicle dealer properly licensed pursuant to chapter 46.70 RCW may deliver a vehicle that does not bear currently valid Washington license plates by utilizing a dealer's temporary license permit.

(2) The application for title portion of the permit must be properly and completely filled out by the selling dealer, detailing all fees collected, including the dealer's report of sale and the date of sale. If ((a tonnage)) license is required, based on gross weight, the amount of ((tonnage)) gross weight purchased must be clearly shown. The application must be signed by the registered owner.

(3) The dealer shall collect all fees required for the registration of a vehicle.

(4) The dealer shall detach the final copy of the permit and shall record the date of ((issuance)) expiration in dark, bold letters and numbers on the permit side of that copy. Date of expiration will be

thirty days after date of delivery of the vehicle. The ((balance of the)) remaining permit copies shall be ((presented to a license agent)) used by the dealer to apply for title transfer and to complete licensing of the vehicle within ((fifteen)) thirty calendar days ((as an application for license and title)) from the date of sale. The selling dealer must submit the application and all title/licensing fees collected to the department of licensing or its agent within the thirty-day period.

((4)) (5) The final copy of the permit and a purchase order identifying the sale must be carried in the vehicle or the towing vehicle at all times the vehicle is operated on the temporary permit.

((5)) (6) If the vehicle is designed with a rear window, the permit will be attached to the inside of the rear window in the lower left corner with the large numbers visible to one standing or following at the rear of the vehicle. The means of attachment will not obscure the year, make, identification number, the owner's name and address or the date of issue.

((6)) (7) The dealer's temporary license permit is valid for ((only fifteen)) thirty calendar days following the date of ((sale)) delivery of vehicle.

((7)) (8) The dealer's temporary license permit cannot:
(a) Be issued for a dealer inventory or a dealer or ((a)) dealer-employed operated vehicle((it cannot));

(b) Be issued as a demonstration permit;

(c) Be issued for a vehicle processed as a courtesy delivery.

((8)) (9) Fees paid for dealers' temporary license permit applications are not refundable unless the dealer ceases doing business as a vehicle dealer. The fee paid for a single application can be taken as a credit on that application when it is presented to a license agent with the balance of the appropriate fees.

((9)) ~~A temporary permit application must be used within twelve months of its date of purchase by a dealer. An unused, expired permit application may be exchanged by a dealer for a new permit by returning it to the department. The expired form to be exchanged must be completely in blank except for the department's date of sale stamp.)~~

(10) ~~((Temporary permits are not transferable from one dealer to another)) The dealer shall maintain records of temporary permit acquisition and distribution including the following:~~

(a) Vehicle purchaser's names;

(b) Vehicle identification;

(c) Date of vehicle delivery; and

(d) Date and location of purchase of each permit and the permit number.

AMENDATORY SECTION (Amending Order MV 170, filed 7/16/73)

WAC 308-66-190 TRANSFER OF CERTIFICATE OF TITLE BY DEALER. (1) When a vehicle displaying current Washington plates is sold by a dealer, the dealer shall make an application for a certificate of title in the purchaser's name within ((ten)) thirty days following the sale of the vehicle.

(2) The dealer shall in every case sign or type his name on the certificate of title accompanying the transfer. If an authorized agent signs for the dealer, he shall give his title.

(3) The name and address of the previous registered owner shall be shown on the application for transfer of title.

(4) The dealer shall insert the odometer mileage reading on title applications as required by RCW 46.12.120.

WSR 90-06-023

PERMANENT RULES

HIGHER EDUCATION PERSONAL BOARD

[Filed February 28, 1990, 2:33 p.m., effective April 1, 1990]

Date of Adoption: February 1, 1990.

Purpose: Rule lists those who are exempted from coverage of Title 251 WAC. It contained an exception for students who were hired before July 20, 1984, this exception was not to extend beyond September 1, 1988. Since it no longer applies, it was abolished.

Citation of Existing Rules Affected by this Order:
Amending WAC 251-04-040 (2)(b).

Statutory Authority for Adoption: RCW 28B.16.100.

Pursuant to notice filed as WSR 90-01-126 on December 20, 1989.

Effective Date of Rule: April 1, 1990.

February 27, 1990

John A. Spitz

Director

AMENDATORY SECTION (Amending Order 179 [90-01-007], filed 6/21/89 [12/7/89], effective 10/1/89 [1/7/90])

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

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

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

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

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

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

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

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

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

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

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

(5) Persons employed to work one thousand fifty hours or less in any twelve consecutive month period

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

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

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

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

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

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

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

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

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 bracketed material preceding the section above was supplied by the code reviser's office.

WSR 90-06-024**PROPOSED RULES****DEPARTMENT OF ECOLOGY**

[Order 90-03—Filed February 28, 1990, 3:49 p.m.]

Continuance of WSR 90-03-111.

Title of Rule: WAC 173-19-360 San Juan County.

Purpose: Continue public hearing for shoreline master program amendment from February 28, 1990, to April 2, 1990.

Hearing Location: Commissioners Meeting Room, Courthouse Annex, 125 Rhone Street, Friday Harbor, WA, on April 2, 1990, at 1:00 p.m.

Submit Written Comments to: Master Program Coordinator, Shorelands and Coastal Zone Management Program, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, by April 12, 1990.

Date of Intended Adoption: May 1, 1990.

February 28, 1990

Fred Olson

Deputy Director

WSR 90-06-025**PROPOSED RULES****DEPARTMENT OF FISHERIES**

[Filed February 28, 1990, 4:58 p.m.]

Continuance of WSR 90-02-112.

Title of Rule: Personal use rules.

Purpose: Amend personal use fishing regulations, continuance for adoption hearing.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: This notice continues the adoption until February 28, 1990, see WSR 90-02-112 for a summary of the proposals.

Reasons Supporting Proposal: See WSR 90-02-112.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 115 General Administration Building, Olympia, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, 753-5012; and Enforcement: James McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 90-02-112.

Proposal Changes the Following Existing Rules: See WSR 90-02-112.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW, see WSR 90-02-112.

Date of Intended Adoption: February 28, 1990.

February 27, 1990

R. Kahler Martinson

for Joseph R. Blum

Director

WSR 90-06-026**PERMANENT RULES****DEPARTMENT OF FISHERIES**

[Filed February 28, 1990, 5:00 p.m.]

Date of Adoption: February 28, 1990.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-56-105, 220-56-115, 220-56-125, 220-56-126, 220-56-128, 220-56-160, 220-56-165, 220-56-175, 220-56-180, 220-56-190, 220-56-195, 220-56-197, 220-56-205, 220-56-235, 220-56-240, 220-56-282, 220-56-310, 220-56-320, 220-56-330, 220-56-350, 220-56-380, 220-56-400, 220-57-140, 220-57-160, 220-57-220, 220-57-260, 220-57-270, 220-57-290, 220-57-465, 220-57-505, 220-57A-080 and 220-57A-180.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 90-02-112 on January 3, 1990; and WSR 90-06-025 on February 28, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-16-440(1), change reference from "False Harbor" to "False Bay"; WAC 220-56-115(2), change "salmon" to "food fish"; WAC 220-56-180 (6)(c), restore allowance for three salmon of any species in Catch Record Card Area 12; WAC 220-56-195(7), delete proposed changes to Port Susan closure; WAC 220-56-235 (2)(b), reduce walleye pollack daily bag limit to 5 fish; WAC 220-56-350 (1)(g), adopt Saturday openings for Camano Island State Park; WAC 220-56-380 (2)(b), delete proposed changes to Seal Rock Forest Service campground; WAC 220-57-160(5), change bag limit from "Bag Limit A" to "Special Bag Limit: 2 fish," and delete alternative proposals; WAC 220-57-242, not adopted; WAC 220-57-290, delete alternative proposals; WAC 220-57-315, not adopted; WAC 220-57-328, not adopted; WAC 220-57-465, restore opening date of August 16th; WAC 220-57-497, not adopted; WAC 220-57-505, Bag Limit A, entire river 1/1 - 9/30; Bag limit C, 10/1 - 12/31 above markers, Bag limit A below markers. Delete alternative proposals; WAC 220-57-515, not adopted; and WAC 220-57-530, not adopted.

Effective Date of Rule: Thirty days after filing.

February 28, 1990

R. Kahler Martinson

for Joseph R. Blum

Director

NEW SECTION

WAC 220-16-440 SAN JUAN ISLANDS MARINE PRESERVE AREA. The following tidal and submerged lands are included within the definition of the "San Juan Islands Marine Preserve Area":

(1) False Bay: The tidelands and bedlands of False Bay on San Juan Island, including all University of Washington-owned tidelands beginning at a marker 400 feet east of the east entrance of False Bay and extending to the entrance of False Bay, all University of Washington-owned tidelands and bedlands within a line beginning at the University of Washington marker on

the shore at the east entrance of False Bay, projected 500 yards offshore, thence northwesterly to a point 500 yards offshore along a line projected from a University of Washington marker on the shore at the west side of a small peninsula at the west entrance of False Bay, thence to shore along said line to the marker, and all University of Washington-owned tidelands west of the marker to a University of Washington marker 600 feet west of the small peninsula.

(2) Friday Harbor: Those tidelands and bedlands adjacent to San Juan Island within a line beginning on the shore 500 yards north of Point Caution, thence 500 yards offshore, thence south and east following the shoreline to the intersection with a line projected from a University of Washington marker located 100 feet north of the north entrance of the floating breakwater of the Port of Friday Harbor and projected towards Reid Island, thence along said line to shore on San Juan Island.

(3) Argyle Lagoon: Those University of Washington-owned tidelands and all bedlands enclosed by the inner spit of Argyle Lagoon on San Juan Island.

(4) Yellow and Low Islands: All tidelands and bedlands within 300 yards of Yellow Island and 300 yards of Low Island.

(5) Shaw Island: Those tidelands and bedlands within a line beginning at a University of Washington marker on the shore at Hicks Bay, 122 degrees, 58 minutes, 15 seconds west longitude, thence due south 500 yards, thence north and west at a distance of 500 yards from shore to the intersection with a line projected 261 degrees true from a University of Washington marker on the shore of Parks Bay, which line passes just south of the unnamed island at the north end of Parks Bay, thence along said line to the shore of Shaw Island, including all tidelands and bedlands of Parks Bay south of said line.

NEW SECTION

WAC 220-16-450 LIGHT 26 LINE. The "Light 26 Line" is defined as a line in the Columbia River from the landward end of the Chinook Jetty following the jetty to Chinook Jetty Light No. 7, then southerly in a straight line to Desdemona Sands Light, then southeasterly in a straight line through Light 26 to the Oregon shore.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

- Abernathy Creek – Highway 4 Bridge.
- Bear River – Highway 101 Bridge.
- Bone River – Highway 101 Bridge.
- Chehalis River – U.P. Railway Bridge in Aberdeen.
- Chinook River – The tide gates at the Highway 101 Bridge.
- Cowlitz River – A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.
- Dakota Creek – A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.
- Duwamish River – First Avenue South Bridge.
- Elk River – Highway 105 Bridge.
- Entiat River – Highway 97 Bridge.
- Germany Creek – Highway 4 Bridge.
- Hoquiam River – Highway 101 Bridge.
- Humtulsips River – Mouth of Jessie Slough.
- Johns River – Highway 105 Bridge.
- Kennedy Creek – Highway 101 Bridge.
- Lake Washington Ship Canal – Line 400 feet below the fish ladder at the Chittenden Locks.
- Lewis River – A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.
- Methow River – Highway 97 Bridge.
- Mill Creek – Highway 4 Bridge.
- Naselle River – Highway 101 Bridge.
- North Nemah River – Line from markers approximately one-half mile below the Highway 101 Bridge.
- Niawiakum River – Highway 101 Bridge.
- North River – Highway 105 Bridge.
- Palix River – Highway 101 Bridge.
- Puyallup River – 11th Street Bridge.
- Samish River – The Samish Island Bridge (Bayview-Edison Road).
- Sammamish River – Kenmore Highway Bridge.
- Skagit River – A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.
- Skamokawa Creek – Highway 4 Bridge.
- Skookum Creek – A line 400 yards below the old railroad bridge.
- Snohomish River – Burlington Northern Railway Bridges crossing main river and sloughs.
- South Nemah River – Lynn Point 117 degrees true to the opposite shore.
- Tucannon River – State Highway 261 Bridge.

Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek – A line projected approximately 14 degrees true from the flashing light at the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

White Salmon River – Highway 14 Bridge.

Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River – Highway 101 Bridge.

Yakima River – Highway 240 Bridge.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon or baitfish.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

(2) It shall be unlawful for any person to take, fish for or possess food fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel (~~((not utilizing power to retract the line in either case,))~~) except as (~~((provided in subsections (3), (4), and (5) of this section.~~

~~((3))~~ follows:

~~((a))~~ It (~~((shall be))~~) is lawful(~~(; while angling for food fish from shore, piers, jetties or docks, for an individual))~~) to(~~(:~~

~~((a))~~ leave the pole in a pole holder while playing or landing the fish(~~(:))~~ if the pole (~~((holder may be affixed to a bench, pier railing, wheelchair or other solid object))~~) is capable of being readily removed from the pole holder.

~~((b))~~ It is lawful to use (~~((a))~~) an electric power-operated reel designed for sport fishing attached to a pole.

~~((4))~~ It is lawful, while in possession of a disability power reel permit, to use a power operated reel while angling for food fish from a vessel, and leave the pole in a pole holder while playing or landing the fish. A disability power reel permit for boat angling will be issued by the department's licensing division to any person who is physically handicapped to the extent the person is unable to engage in angling using a hand-operated reel. For purposes of this section, physically handicapped means an obvious permanent disability involving the loss or incapacity of one hand.

~~The disability power reel permit must be with the angler while the power operated reel is being used and must be presented to authorized officials of the department upon request.~~

~~((5))~~ ~~((c))~~ It (~~((shall be unlawful))~~) is lawful to (~~((take,))~~) fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) except use of hand lines is unlawful in those waters west of the mouth of the Sekiu River, the Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

~~((6))~~ (3) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-125 UNLAWFUL PROVISIONS—SHILSHOLE BAY. (1) It (~~((shall be))~~) is unlawful to use artificial lures to (~~((take,))~~) fish for (~~((or possess))~~) food fish in that portion of Shilshole Bay (~~((upstream))~~) east of a line which is parallel to the Burlington Northern Railroad Bridge and approximately 175 feet (~~((seaward))~~) westerly of the bridge, and which runs through the wooden piling tower structure near the south shore (~~((to the))~~) (~~((west of the Chittenden Locks))~~).

(2) It (~~((shall be))~~) is unlawful to take, or fish for food fish, for personal use, from a boat in that portion of Shilshole Bay (~~((upstream))~~) easterly of the Burlington Northern Railroad Bridge (~~((; to the Chittenden Locks))~~).

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-126 UNLAWFUL PROVISIONS—DUWAMISH WATERWAY. During the period (~~((October))~~) September 1 through October 15, in those waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island:

(1) It is unlawful to take, fish for or possess salmon using any gear other than that gear that meets the requirements of this subsection:

(a) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(c) No leads, weights, or sinkers may be attached below or less than 12 inches above a (~~((nonbuoyant))~~) lure.

(d) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to take, fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

- (3) It is unlawful to use baitfish jigger gear.

NEW SECTION

WAC 220-56-127 UNLAWFUL PROVISIONS—BUDD INLET. During the period July 16 through October 31, in those waters of Budd Inlet south of a line projected true west from the KGY Radio Station Tower to the western shore of the inlet and northerly of a line from the northwesterly corner of the Bayview Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Bayview Market Building (excluding waters of the embayment west of the railroad bridge):

(1) It is unlawful to take, fish for, or possess food fish using any gear other than that gear which meets the requirements of this subsection:

(a) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures, other than natural bait lures, must have no more than one single hook, and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may use either one or two single hooks, none of which may exceed 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater, and they may have any number of hooks.

(c) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(d) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to take, fish for, or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

- (3) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-128 FOOD FISH FISHING—CLOSED AREAS. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the Bayview Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Bayview Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal within a radius of one hundred feet from the confluence of Finch Creek with tidewater adjacent to the Hood Canal Salmon Hatchery are closed December 1 through October 31.

Those waters within 50 feet of the confluence are closed from November 1 through November 30.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay (~~for salmon, the closed~~) waters (~~are the waters below~~) east of the Burlington Northern Railroad Bridge are closed to salmon angling. For (~~bottomfish or other~~) food fish other than salmon, (~~the closed waters are~~) those waters (~~400 feet below the fish ladder at the Chittenden Locks from October 1 through May 31, and below~~) easterly of the Burlington Northern Railroad Bridge (~~all year~~) are closed June 1 through September 30. During the period October 1 through May 31 it is lawful to fish for food fish other than salmon up to the mouth of the Lake Washington Ship Canal.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) (~~Those waters of Elliott Bay southerly and upstream from lines described as a 1,000 foot radius north of a point midway between Port of Seattle Pier 37 and the Crowley Maritime Corporation Pier 18 and a 1,000 foot radius north of a point midway between the Todd Shipyard Pier 13 and the Lockheed Shipyard Pier 4 to the First Avenue South Bridge are closed August 1 through September 30:~~

(13) Those waters of the Duwamish River downstream from the Highway 99 Bridge (the Pacific Highway South Bridge) to the First Avenue South Bridge are closed July 1 through September 30:)) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittenden Locks to the mouth of the Lake Washington Ship Canal are closed to food fish angling at all times.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-160 SPEARFISHING. It shall be lawful to take, fish for and possess food fish taken for personal use in saltwater, except salmon (or crabs, taken for personal use in saltwater)) and sturgeon, if such food fish are taken with underwater spearfishing gear commonly used in the sport of "skin diving," (unless otherwise provided:))

AMENDATORY SECTION (Amending Order 80-45, filed 6/11/80)

WAC 220-56-165 BOW AND ARROW FISHING. It shall be lawful to take, fish for and possess food fish, except salmon, shad, or sturgeon, ~~((and shellfish,))~~ for personal use ~~((in marine waters))~~ by bow and arrow fishing ~~((, unless otherwise restricted))~~.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than ~~((+0))~~ 12 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than ~~((+0))~~ 12 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

(3) Code D: In waters having this code designation, the bag limit in any one day is six salmon not less than ~~((+0))~~ 12 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater than 24 inches in length and all coho salmon greater than 20 inches in length must be released.

(4) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 16 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(5) Code G: In waters having this code designation, the bag limit is four salmon, not more than two of which may be chinook salmon and the minimum size for chinook salmon is 22 inches in length.

(6) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 16 through June 15 in Catch Record Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except the daily bag limit in Catch Record Card Area 12 is three salmon of any species.

(7) Code I: In waters having this code designation, the bag limit, size restrictions, and opening and closing dates are the same as those for gamefish as regulated under Title 77 RCW by the Washington wildlife commission. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

(8) The possession limit in all waters regulated under Bag Limits A, C, D, F, G, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the possession limit for gamefish as regulated under Title 77 RCW by the Washington wildlife commission.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS—SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound:

(a) Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, and 12 - Bag Limit H - open the entire year.

(b) Catch Record Card Areas 10, 11, and 13 - Bag Limit G - open the entire year.

(c) In the above waters there are specified closures as provided for in WAC 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla-Tatoosh Line - Bag Limit F except during the period April 16 through June 15 maximum size limit of 30 inches on chinook salmon if the waters described in this subsection are open - open concurrently with the ocean, and these waters will remain open through October 31 or until the ocean salmon quota for any species is taken.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 - Bag Limit F - when opened by emergency regulation.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) - (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean ~~((, but not to extend beyond August 15, unless otherwise provided))~~. Lawful to fish from the bank only of the north and south jetties 7 days per week when the recreational season is in progress in adjacent ocean waters, (b) Bag Limit A - August 16 through January 31: Waters of the Westport Boat Basin only.

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) -

(a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, (b) Bag Limit A - August 16 through January 31.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-195 CLOSED AREAS—SALT-WATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlenn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through ~~((May 31))~~ June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July 15.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through ~~((August 15))~~ July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April 16 through June 15.

(4) Dabob Bay: Those waters north of a line projected true east from Pulali Point are closed to salmon angling April 16 through August 15.

(5) Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulakala Point are closed to salmon angling April 16 through June 30.

(6) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

(7) ~~((Elliott Bay: Waters easterly of a line projected 187 degrees true from Pier 91 through the Duwamish Head Light to Duwamish Head are closed to salmon angling August 1 through September 9.~~

(8)) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 16 through August 31.

AMENDATORY SECTION (Amending Order 85-20, filed 4/9/85)

WAC 220-56-197 CLOSED AREAS—COHO SALMON ANGLING. ~~((It is unlawful to take or possess coho salmon taken for personal use during the period September 1 through October 31 from those waters of Skagit Bay lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the State Highway 532 Bridge between Camano Island and the mainland, and south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough.))~~ Coho only closures—None.

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below or less than 12 inches above a ~~((nonbuoyant))~~ lure.

(4) All hooks must be attached within three inches of the bait or lure.

NEW SECTION

WAC 220-56-230 BOTTOMFISH—CLOSED AREAS. It is unlawful to fish for or possess bottomfish taken for personal use from the San Juan Islands Marine Preserve Area.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (Punch Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point.

(b) Rockfish – 15 fish.

(c) All other species – no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. (Punch Card Areas 5 through 7) – 15 fish in the aggregate of all species of bottomfish, no more than 2 of which may be lingcod and no more than 10 of which may be rockfish or surfperch. It is unlawful to possess lingcod less than 22 inches in length taken by angling. The daily bag limit taken by spear fishing may include no more than one lingcod in the 15 fish aggregate, with no size restriction.

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island (Punch Card Areas 8-1 through 13) – 15 fish in the aggregate of all species of bottomfish, no more than 1 of which may be lingcod, no more than 5 of which may be rockfish or walleye pollock, and no more than 10 of which may be surfperch or Pacific cod. It is unlawful to possess lingcod less than 22 inches in length taken by angling. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-240 BAG LIMITS—OTHER FOOD FISH. It is unlawful for any one person to take in any one day more than the following quantities and sizes of food fish taken for personal use:

(1) Sturgeon: 2 fish not less than 36 inches nor more than 72 inches in length state-wide, except:

(a) 1 fish not less than 48 inches nor more than 66 inches in length in the Columbia River and tributaries upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.

(b) 2 fish not less than 40 inches nor more than 72 inches in length in Grays Harbor and Willapa Bay and all rivers and streams draining into each.

(c) 2 fish not less than 40 inches nor more than 72 inches in length in the Columbia River and tributaries downstream from a line perpendicular to the river flow where the river becomes the Oregon/Washington boundary approximately 17.3 miles above McNary Dam.

(d) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(e) There is an annual personal use bag limit of 15 sturgeon.

(f) Effective January 1, 1991, the personal use daily bag limit and size limits for sturgeon are as follows:

Sturgeon: Except as provided for in subsection (1)(a) of this section, the state-wide daily limit for sturgeon is two fish in total, with the following size restrictions:

(i) Minimum size is 40 inches in length;

(ii) Maximum size is 72 inches in length;

(iii) Not more than one of the two fish may be less than 48 inches in length; and

(iv) Not more than one of the two fish may equal or exceed 48 inches in length.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-282 STURGEON—LAWFUL GEAR. (1) It is unlawful to fish for sturgeon with other than natural bait, ~~((using no more))~~ and it is unlawful to use other than ~~((two))~~ single barbless hooks.

(2) It is unlawful to fish for sturgeon using barbed hooks in Grays Harbor and Willapa Bay and all rivers and streams draining into each, and in those waters of the Columbia River and tributaries upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam.

NEW SECTION

WAC 220-56-307 SHELLFISH—CLOSED AREAS. It is unlawful to fish for or possess shellfish taken for personal use from the San Juan Islands Marine Preserve Area, except that it is lawful to take crab for personal use from Parks Bay, using personal use crab gear.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance – diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay – diggers may additionally retain up to twenty-four cockles.

- (2) Razor clams: 15 clams.
- (3) Geoduck clams: 3 clams.
- (4) Horse clams: First 7 clams taken.
- (5) Oysters: 18 oysters.
- (6) Rock scallops: 12 scallops.
- (7) Sea scallops: 12 scallops (over 4 inches).
- (8) Common or pink scallops: (~~(20)~~) 10 pounds or (~~(+10)~~) 5 quarts in the shell.
- (9) Shrimp: 10 pounds, whole in the shell.
- (10) Octopus: 2 octopus.
- (11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.
- (12) Crawfish: 10 pounds in the shell.
- (13) Squid: 10 pounds or 5 quarts.
- (14) Sea cucumbers: 25 sea cucumbers.
- (15) Red sea urchins: 18 sea urchins.
- (16) Purple sea urchins: 18 sea urchins.
- (17) Green sea urchins: 36 sea urchins.
- (18) Dungeness crabs: 6 male crabs.
- (19) Red rock crabs: 12 crabs.
- (20) Blue mussels and sea mussels: 10 pounds in the shell.
- (21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.
- (22) Ghost and mud shrimp: 10 dozen.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS. (1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name(~~(, telephone number,)~~) and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the recreational license form. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess crab or shrimp taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) Shellfish pots must be set in a manner that they are covered by water at all times.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-330 CRAB—AREAS AND SEASONS. (1) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear except during the open shellfish pot gear season. The open shellfish pot gear season for crab in Puget Sound waters may open by emergency regulation prior to July (~~(+5)~~) 16, but if not previously opened by emergency regulation will open July (~~(+5)~~) 16 through April 15. The open shellfish pot gear season in waters of the Pacific Ocean,

Grays Harbor, Willapa Harbor, and waters of the Columbia River is December 1 through September 15.

(2) Except as provided in subsection (1) of this section, it is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters.

(3) Except as provided in subsection (1) of this section, it is lawful to fish for and possess red rock crabs of either sex taken for personal use the entire year in state waters.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-350 HARDSHELL CLAMS, COCKLES, MUSSELS—AREAS AND SEASONS.

(1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands of Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams from ~~((June 16))~~ July 1 through December 31.

(e) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed except county tidelands north of the county fishing pier are open January 1 to June 15 of even-numbered years and county tidelands south of the pier are open January 1 to June 15 of odd-numbered years.

(f) The following areas are closed to clam digging through April 15, 1991:

(i) All state-owned tidelands at Bywater Bay.

(ii) All state-owned tidelands at Point Whitney.

(iii) All state-owned tidelands at Eagle Creek.

(g) All state-owned tidelands at Camano Island State Park are closed to clam digging Sunday through Friday of each week.

(h) Penrose Point State Park—All state-owned tidelands at Penrose Point State Park are closed August 1, 1990, through August 31, 1990.

(i) Puget Sound state oyster reserves are closed to clam digging the entire year except the following areas are open for personal use clam harvest:

(i) Oakland Bay—The state-owned oyster reserve tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

(ii) Case Inlet—The state-owned oyster reserve tidelands on the east side of North Bay at the north end of the inlet.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July 16 through September 15. In addition, it is unlawful to take or possess oysters taken from the following areas except during the periods indicated:

(a) Hood Canal south of a line from Misery Point to Quatsap Point – October 1 through June 30.

(b) Seal Rock Forest Service campground – May 16 through July 15.

(c) The following areas are closed through April 15, 1991:

(i) Bywater Bay State Tidelands—All state-owned tidelands.

(ii) Point Whitney—All state-owned tidelands.

~~((c))~~ (d) Kitsap Memorial State Park – May 16 through June 15.

~~((d))~~ (e) Scenic Beach State Park – April 16 through May 15.

~~((e))~~ (f) Department of fisheries tidelands at Hoodspout Salmon Hatchery – ((May 1 through June 30)) closed year round.

~~((f) State tidelands at Bywater Bay – May 16 through July 15:))~~ (g) Eagle Creek – April 1 through April 30.

(h) Brown Point – April 1 through May 15.

(i) Twanoh State Park – January 1 through June 30. Open to harvest Thursday through Sunday of each week.

(3) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-400 ABALONE. (1) It is unlawful to remove undersized abalone from the water, and any undersized abalone must be replaced immediately with the shell outward to the site from which it was removed.

(2) The first five legal size abalone taken must be retained, and it is unlawful to detach abalones once the daily bag limit has been taken.

(3) It is unlawful to possess in the field any abalone taken for personal use which has the shell removed.

(4) Abalone harvest is limited to use of hands or abalone irons. Abalone irons must be less than 24 inches in length, straight, wider than 3/4 inch and thicker than

1/16 inch. All edges must be rounded. Use of curved irons, knives, or other sharp instruments is prohibited.

AMENDATORY SECTION (Amending Order 89-05, filed 3/20/89)

WAC 220-56-175 SALMON ((~~AND~~)), STURGEON, AND HALIBUT CATCH RECORD CARDS. It is unlawful for any person to fail to comply with the ((~~salmon or sturgeon~~)) catch record requirements as provided for in this section:

(1) In order to take or possess for personal use anadromous salmon ((~~or~~)), Columbia River, Grays Harbor, or Willapa Harbor sturgeon (including sturgeon taken from any tributary) or halibut a fisherman must obtain and have in his possession the appropriate catch record card (also referred to as punch card in chapter 75.25 RCW) as described in WAC 220-69-237 ((~~and~~)), 220-69-238, and 220-69-239 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, when obtaining a catch record card shall completely, accurately, and legibly complete all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card.

(3) Immediately upon catching and possessing a salmon ((~~or~~)), sturgeon or halibut, the angler shall enter in the appropriate space the place, date of catch, species (catch type), and, for sturgeon, length.

(4) Every person possessing a catch record card shall by January 31 of the year following the year printed on the card return such card to the department of fisheries.

(5) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized fisheries department employee, exhibit said card to such officer or employee for inspection.

(6) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-140 CHEHALIS RIVER. (1) Bag Limit A - May 1 through June 30: Downstream from the Porter Bridge.

(2) Bag Limit A - July 1 through January 31: Downstream from the Fuller Bridge to the Union Pacific Railroad Bridge in Aberdeen.

(3) Bag Limit A - September 1 through September 30: Downstream from Porter Bridge to the Fuller Bridge. Coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 89-56, filed 7/12/89)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag Limit D - June 1 through December 31: Downstream from Chief Joseph Dam to Rocky Reach Dam. The following are closed waters:

(a) Chief Joseph Dam - waters between the ((~~upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the~~)) west end of the tailrace deck downstream 400 feet to boundary markers in Okanogan County.

(b) Wells Dam - waters between the upstream line of Wells Dam ((~~and a point~~)) to boundary markers 400 feet below the spawning channel discharge ((~~stream~~)) on the Chelan County side and the fish ladder on the Douglas County side.

(2) Rocky Reach Dam to Priest Rapids Dam: Bag Limit D - June 1 through September 15; Bag Limit A September 16 through December 31. The following are closed waters: Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and ((~~points~~)) boundary markers 400 feet downstream of the fish ladders at Rocky Reach and Rock Island Dams and boundary markers at Wanapum Dam 750 feet below the east fish ladder and 500 feet below the west fish ladder.

(3) Priest Rapids Dam to the Vernita Bridge: Bag Limit D - June 1 through August 15; Bag Limit A - August 16 through October 31; Bag Limit C - November 1 through December 31. The following are closed waters:

(a) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and ((~~a point 400~~)) boundary markers 650 feet ((~~downstream~~)) below the fish ladders.

(b) Jackson (Moran) Creek - All waters of the Priest Rapids hatchery system including Columbia River waters out to midstream between markers located ((~~approximately 500~~)) 100 feet ((~~both~~)) upstream and 400 feet downstream of the mouth of the hatchery outlet.

(4) Vernita Bridge to old Hanford townsite wooden power line towers; Bag Limit D - June 16 through August 15; Bag Limit A - August 16 through October 22.

(5) Old Hanford townsite wooden power line towers to Highway 395 Bridge connecting Pasco and Kennewick: Bag Limit D - June 1 through August 15; Bag Limit A - August 16 through December 31. Additionally, Special Bag Limit: 2 salmon per day - April 1 through July 31: Bank fishing only from the hatchery side of the Columbia River from the WDF marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a WDF boundary marker approximately 1/4 mile downstream of Ringold waterway outlet.

(6) Highway 395 Bridge connecting Pasco and Kennewick to the Interstate 5 Bridge: Bag Limit A - January 1 through March 15; Bag Limit C - March 16 through March 31; Bag Limit D - June 16 through July 31; Bag Limit A - August 1 through December 31.

The following waters are closed to fishing for food fish at all times:

(a) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000

feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam – waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(d) Spring Creek – waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(e) Bonneville Dam – waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(7) Interstate 5 Bridge to the Megler-Astoria Bridge: Bag Limit A – January 1 through March 31; Bag Limit D – May 16 through July 31; Bag Limit A – August 1 through December 31. During the month of September, it is unlawful to fish for or possess salmon taken for personal use in those waters of the Columbia River extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a boundary marker east of the mouth of Abernathy Creek.

(8) Megler-Astoria Bridge to the Buoy 10 Line:

(a) Bag Limit ((F)) A – ~~((August 14))~~ October 1 through ((September 4, 1989. Special Bag Limit of three salmon – September 5, 1989, through March 31, 1990. Chinook salmon must not be less than 24 inches in length and coho salmon must be not less than 16 inches in length and there is no size limit for other salmon)) March 31.

(b) Bag Limit F – August 1 through August 15 except waters westerly of the Light 26 Line are closed.

(c) Bag Limit F – August 16 through Labor Day.

(9) North Jetty (mouth of Columbia River): Open to angling from the bank only when state waters north of the conservation zone are open to salmon angling. During such periods fishing from the north jetty is open 7 days per week and the bag limit shall be the same as for the ocean waters when open. Also open to angling from the bank only concurrent with the Buoy 10 fishery. Bag limit and gear requirement will be identical with those in the Buoy 10 fishery.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-220 DUWAMISH RIVER. Bag Limit A – ~~((October))~~ July 1 through November 30: ((All chinook salmon must be released immediately)) Downstream from the Highway 405 Bridge.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-260 GREEN RIVER (KING COUNTY). Bag Limit A – July 1 through October 15: Downstream from the Auburn Eighth Street N.E. Bridge to the Highway 405 Bridge. Bag Limit A – October ((†)) 16 through November 30: Downstream from the downstream side of the Highway 18 Bridge to

the Highway 405 Bridge. ((All chinook salmon must be released immediately))

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-270 HOH RIVER. (1) Bag Limit C – May 16 through November 30: Downstream from the mouth of the south fork Hoh to ~~((the mouth of Willoughby Creek))~~ Morgan's Crossing boat launch site.

(2) Bag Limit A – May 16 through November 30: Downstream from ~~((the mouth of Willoughby Creek))~~ Morgan's Crossing boat launch site.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-290 ICICLE RIVER. ~~((Closed to salmon angling the entire year))~~ Special Bag Limit: Two salmon per day – May 16 through June 30: Downstream from a point 400 feet below Leavenworth National Fish Hatchery to fishing boundary markers at the mouth of the Icicle River.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-465 STILLAGUAMISH RIVER. Bag Limit A – August 16 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream. ((Chinook salmon must be released immediately.))

AMENDATORY SECTION (Amending Order 88-15, filed 4/26/88)

WAC 220-57-505 WHITE SALMON RIVER. (1) Bag Limit C – ~~((January))~~ October 1 through December 31: Upstream from a set of markers approximately 1/2 mile north of Highway 14 Bridge to a line 400 feet downstream from Condit Dam.

(2) Bag Limit A – January 1 through ~~((December 31))~~ September 30: Downstream from a ((set of markers approximately 1/2 mile north of Highway 14 Bridge)) line 400 feet downstream from Condit Dam, and October 1 through December 31: Downstream from a set of markers approximately 1/2 mile north of the Highway 14 Bridge.

(3) (Little) White Salmon River (Drano Lake): Bag Limit A – August 1 through December 31: Downstream from markers on point of land downstream and across from Federal Salmon Hatchery.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57A-080 GOODWIN LAKE (SNOHOMISH COUNTY). ~~((Bag Limit F:))~~ Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57A-180 WASHINGTON SHIP CANAL, LAKE (INCLUDING LAKE UNION). Bag Limit A - August ((+6)) 1 through December 31: West of University Bridge, to a north-south line (~~(perpendicular to the north wing wall)~~) located 400 east of the eastern end of the north wingwall of the Chittenden Locks. Sockeye salmon must be released immediately. Waters between the University Bridge and the concrete abutment ends east of the Montlake Bridge (~~(and waters between the line 400 east of eastern end of the north wingwall of the Chittenden Locks and the railroad bridge west of the locks)~~) are closed to salmon angling at all times.

WSR 90-06-027

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Real Estate Commission)**

[Memorandum—February 28, 1990]

The Department of Licensing and the Washington Real Estate Commission have scheduled a special meeting for April 4, 1990, from 1:00 p.m. to 5:00 p.m.

The meeting will be held at the Stouffer-Madison Hotel, 515 Madison Street, Seattle, WA 98104, (206) 583-0300.

This special meeting will be conducted prior to the regularly scheduled meeting of April 5, 1990. Agendas will be mailed to all interested parties that are on the department's mailing list. Other interested parties may obtain a copy by writing or phoning: Real Estate Program Management, P.O. Box 9012, Olympia, WA 98504, (206) 586-4681.

WSR 90-06-028

**PERMANENT RULES
DEPARTMENT OF NATURAL RESOURCES**

[Order 568—Filed March 1, 1990, 2:17 p.m.]

Date of Adoption: February 28, 1990.

Purpose: To amend Order No. 561, chapter 332-130 WAC, Minimum standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land descriptions.

Citation of Existing Rules Affected by this Order: Amending WAC 332-130-030, 332-130-070, 332-130-080 and 332-130-090.

Statutory Authority for Adoption: RCW 58.24.040(1).

Pursuant to notice filed as WSR 90-03-066 on January 19, 1990.

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

March 1, 1990
James A. Stearns
Supervisor

AMENDATORY SECTION (Amending Order 561, filed 5/11/89)

WAC 332-130-030 LAND SUBDIVISION AND CORNER RESTORATION STANDARDS—RECORDING. The following requirements apply when a land boundary survey is performed(=:). If, in the professional judgment of the surveyor, the procedures of subsections (1) and (2) of this section are not necessary to perform the survey, departures from these requirements shall be explained and/or shown on the survey map produced.

(1) The reestablishment of lost GLO or BLM corners and the subdividing of sections shall be done according to applicable GLO or BLM plats and field notes and in compliance with the rules as set forth in the appropriate GLO or BLM Manual of Surveying Instructions, manual supplements and circulars. Federal or state court decisions that influence the interpretation of the rules should be considered. Methods (~~(and data)~~) used for such corner reestablishment or section subdivision shall be (~~(stated)~~) described on (~~(filed or recorded documents)~~) the survey map produced.

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

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

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

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

(4) Every corner originally monumented by the GLO or BLM that is physically reestablished shall be monumented in accordance with the Survey Recording Act. If the reestablished corner is not filed or recorded as part of a record of survey, plat or short plat, at least three references shall be established and filed or recorded on a Land Corner Record Form. If the reestablished corner is filed or recorded as part of a record of survey, plat or short plat, then ties to at least two other monuments shown on the record document may serve in lieu of the required references. A valid set of coordinates on the Washington coordinate system may serve as one of the

references. However, to best ensure an accurate relocation, references in close proximity to the corner are recommended. Monuments placed shall be magnetically locatable and include a cap stamped with the appropriate corner designation as defined in the current BLM Manual of Surveying Instructions.

AMENDATORY SECTION (Amending Order 561, filed 5/11/89)

~~WAC 332-130-070 SURVEY STANDARDS(= TRANSITION PERIOD)). ((Until January 1, 1991:))~~ The accuracy or precision of field work may be determined and reported by either relative accuracy procedures or ~~((the current))~~ field traverse standards, provided that the final result shall meet or exceed the ~~((current))~~ standards contained in WAC 332-130-090. ~~((On or after January 1, 1991, relative accuracy standards shall be the sole applicable standard:))~~

AMENDATORY SECTION (Amending Order 561, filed 5/11/89)

~~WAC 332-130-080 RELATIVE ACCURACY— PRINCIPLES. ((On or before January 1, 1990, specific relative accuracy standards will be adopted by the department of natural resources to take effect on January 1, 1991:))~~ The following principles of relative accuracy are provided ~~((in the interim))~~ to guide those who may be analyzing their work by these procedures.

(1) Relative accuracy means the theoretical uncertainty in the location of any point or corner relative to other points or corners set, found, reestablished, or established. A standard of relative accuracy can be achieved by using appropriate equipment and implementing field and office procedures that will result in a ninety-five percent probability of achieving the accuracy required.

(2) Relative accuracy is not related to uncertainties due to differences between measured values and record values or uncertainties in the geodetic position.

(3) In the application of a relative accuracy standard, the surveyor must consider the established land use patterns, land values of and in the vicinity of the surveyed parcel, and the client's intended use of the property. Higher levels of precision are expected to be used in situations necessitating higher accuracy.

(4) Each land boundary survey should contain a statement identifying the method of mathematical analysis used in achieving a stated relative accuracy.

AMENDATORY SECTION (Amending Order 561, filed 5/11/89)

~~WAC 332-130-090 FIELD TRAVERSE STANDARDS FOR LAND BOUNDARY SURVEYS.~~ The following standards shall apply to field traverses used in land boundary surveys. Such standards should be considered minimum standards only. Higher levels of precision are expected to be utilized in areas with higher property values or in other situations necessitating higher accuracy.

- (1) Linear closures after azimuth adjustment.
 - (a) City – central and local business and industrial areas 1:10,000
 - (b) City – residential and subdivision lots 1:5,000
 - (c) Section subdivision, new subdivision boundaries for residential lots and interior monument control 1:5,000
 - (d) Suburban – residential and subdivision lots 1:5,000
 - (e) Rural – forest land and cultivated areas 1:5,000
 - (f) Lambert grid traverses 1:10,000
- (2) Angular closure.

(a) Where 1:10,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of $10 \sqrt{n}$, where "n" equals the number of angles in the closed traverse ~~((or three seconds per angle whichever is the least))~~.

(b) Where 1:5,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of $30 \sqrt{n}$ where "n" equals the number of angles in the closed traverse ~~((or eight seconds per angle, whichever is the least))~~.

WSR 90-06-029
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed March 1, 1990, 2:20 p.m.]

Please withdraw WSR 90-02-036, filed on December 29, 1989, for WAC 388-95-337 and 388-95-360. The incorrect WAC base was used. These sections will be filed again for another hearing.

Leslie F. James, Director
 Administrative Services

WSR 90-06-030
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed March 1, 1990, 2:21 p.m.]

Continuance of WSR 90-03-050.

Title of Rule: WAC 388-49-560 Issuance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Randall Francom, Income Assistance, 753-4918.

Name of Proponent: Department of Social and Health Services, governmental.

Date of Intended Adoption: June 1, 1990.

March 1, 1990
 Leslie F. James, Director
 Administrative Services

**WSR 90-06-031
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2943—Filed March 1, 1990, 2:22 p.m.]

Date of Adoption: March 1, 1990.

Purpose: Complies with state and federal requirements (OBRA '87 and PL 100-203) to establish criteria for imposing remedies for nursing homes noncompliant with state licensing and federal Medicaid requirements. This proposed rule replaces the earlier version due to substantial variance from the original.

Citation of Existing Rules Affected by this Order: Amending WAC 388-98-003 Remedies.

Statutory Authority for Adoption: Chapter 372, Laws of 1989.

Pursuant to notice filed as WSR 90-02-099 on January 3, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-98-003(1), editorial changes only; WAC 388-98-003 (3)(a)(i) and (ii), the ceiling on optional civil fines is lowered slightly in response to comments from reviewers that fines were potentially too severe for this level of deficiency; WAC 388-98-003 (3)(b)(i), civil fines are changed from required to optional to allow more discretion in selection of remedies at this level of deficiency; WAC 388-98-003 (3)(b)(iv) and (d)(iii), the time frame for repeat deficiencies is changed from twenty-four to fifteen months in response to comments that the original interval was too restrictive; WAC 388-98-003 (3)(b)(iv)(B) and (C), the scope of this deficiency is separated into two categories to lessen the severity of remedies for citations of moderate scope; WAC 388-98-003 (3)(b)(iv)(C) and (d)(iii)(A) and (B), the phrase "listed in subsections..." is added to clarify language that was unclear; and WAC 388-98-003 (3)(e), the phrase "not subject to optional remedies" was inadvertently omitted from the earlier version.

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

March 1, 1990

Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-98-003 REMEDIES. (1) The department may suspend, revoke, or refuse to renew a license, and/or assess civil monetary penalties when the department finds the licensee or partner, officer, director, or owner of five percent or more of the assets of the nursing home, licensee's agent, employee or individual providing nursing home care or services:

- (a) Operates or operated a nursing home without a license or under a revoked or suspended license;
- (b) Knowingly or with reason to know makes a false statement of a material fact in the application for license, in attached data, or in matters under department investigation;
- (c) Refuses to allow department representatives or agents to inspect required books, records, and files or portions of the nursing home premises;

(d) Willfully prevents, interferes with, or attempts to impede the work of authorized department representatives and the lawful enforcement under provisions of this chapter or chapter 74.42 RCW;

(e) Willfully prevents or interferes with department representatives in the preservation of evidence of violations of provisions under this chapter or chapter 74.42 RCW;

(f) Fails to report patient abuse or neglect in violation of chapter 70.124 RCW;

(g) Fails to pay a civil monetary penalty the department assesses under this chapter within ten days after assessment becomes final;

(h) Retaliates against a patient or employee participating in proceedings specified under RCW 18.51.220; or

(i) Discriminates against Medicaid recipients as prohibited under RCW 74.42.055.

(2) When the department finds:

(a) A licensee or partner, officer, director, or owner of five percent or more of the assets of the nursing home, licensee's agent, employee, or individual providing nursing home care or services fails or refuses to comply with the requirements under chapters 18.51 or 74.42 RCW; or

(b) A Medicaid contractor licensee fails or refuses to comply with the Medicaid requirements of Title XIX of the Social Security Act, as amended; then

(c) The department may impose any or all of the following remedies:

(i) Suspend, revoke, or refuse to renew a license;

(ii) Order stop placement;

(iii) Assess civil monetary penalties;

(iv) Deny payment to a nursing home for Medicaid residents admitted after notice to deny payment. Medicaid recipient residents shall not assume responsibility for payment when the department takes action under this subsection;

(v) Appoint temporary management as provided under section 300 of this chapter; and

(vi) Petition the court to establish receivership.

(3) The criteria set forth in this subsection implement the requirement under section 8, chapter 372, Laws of 1989, that the department establish criteria for the imposition of remedies. These criteria apply to the imposition of remedies under subsection (2) of this section for deficiencies directly impacting a nursing home resident's well being. The criteria do not substitute for standards set forth in section 8, chapter 372, Laws of 1989 for the mandatory imposition of stop placement and denial of payment.

CRITERIA

Deficiency

(a) Actual or threatened harm or injury exists which minimally compromises or could compromise resident well being:

(i) Limited or isolated in scope

Required Remedy

Plan of Correction

Optional Remedy

Civil fine of \$500-\$1000

CRITERIA	CRITERIA
<p><u>Deficiency</u></p> <p>(ii) Moderate to systemic in scope</p>	<p><u>Required Remedy</u> Plan of Correction</p> <p><u>Optional Remedy</u> Civil fine of \$500-\$1500</p>
<p>(b) Actual or threatened harm or injury exists which moderately compromises or could compromise resident well being:</p> <p>(i) Limited or isolated in scope</p>	<p><u>Required Remedy</u> Plan of Correction</p> <p><u>Optional Remedy</u> Civil fine of \$1000-\$2000</p>
<p>(ii) Moderate in scope</p>	<p><u>Required Remedy</u> Civil fine of \$1000-\$3000</p>
<p>(iii) Systemic in scope</p>	<p><u>Required Remedies</u> Stop Placement Termination</p> <p><u>Optional Remedies</u> Civil fine of \$1000-\$3000 per day License Revocation Denial of payment for new Medicaid admissions Dept. on-site monitoring</p>
<p>(iv) Uncorrected; or repeated after correction within 15-months:</p> <p>(A) Limited or isolated in scope</p>	<p><u>Required Remedy</u> Civil fine of \$1500-\$2000</p> <p><u>Optional Remedy</u> Civil fine of \$1500-\$2000 per day</p>
<p>(B) Moderate in scope</p>	<p><u>Required Remedy</u> Civil fine of \$2000-\$3000</p> <p><u>Optional Remedies</u> Stop Placement Termination Denial of payment for new Medicaid admissions Civil fine of \$1000 per day Dept. on-site monitoring</p>
<p>(C) Systemic in scope</p>	<p><u>Required Remedies</u> Stop Placement Termination Civil fine of \$2000-\$3000</p>
	<p><u>Deficiency</u></p> <p>(c) Actual or threatened harm or injury existed which seriously compromised resident well being. The threat has been removed.</p> <p>(d) Actual or threatened harm or injury exists which seriously compromises or could compromise resident well being:</p> <p>(i) Limited or isolated in scope</p>
	<p><u>Optional Remedies</u> Civil fine of \$2000-\$3000 per day License Revocation Denial of payment for new Medicaid admissions Dept. on-site monitoring</p> <p><u>Required Remedy</u> Civil fine of \$1500-3000</p> <p><u>Optional Remedy</u> Civil fine of \$1500-\$3000 per day</p> <p><u>Required Remedies</u> Termination Stop Placement <u>Optional Remedies</u> Civil fine of \$1500-\$3000 per day Denial of payment for new Medicaid admissions Emergency transfer of individual residents Temporary management or receivership Dept. on-site monitoring License Revocation</p> <p><u>Required Remedies</u> Termination Stop Placement License Revocation <u>Optional Remedies</u> Civil fine of \$2500-\$3000 per day License Suspension Emergency closure or patient transfer Temporary management or receivership Denial of payment for new Medicaid admissions Dept. on-site monitoring</p>

CRITERIA

Deficiency

(iii) Uncorrected; or repeated after correction within 15 months:

(A) Limited or isolated in scope

Required Remedies

- Termination
- Stop Placement
- License Revocation
- Civil fine of \$2000-\$3000

Optional Remedies

- Civil fine of \$2000-\$3000 per day
- More severe optional remedies listed in (d)(i) may also be selected.

(B) Moderate to systemic in scope

Required Remedies

- Termination
- Stop Placement
- License Revocation
- Civil fine of \$3000

Optional Remedies

- Civil fine of \$3000 per day
- More severe optional remedies listed in (d)(ii) may also be selected.

(e) Emergency Crisis

Health and safety of a large percentage of the population is imminently threatened due to events such as:

- Structural damage
- Staff Walkout
- Natural disaster (not subject to optional remedies)

Required Remedies

- Emergency closure or emergency resident transfer

Optional Remedies

- A civil fine of \$3000 per day
- Termination
- License Revocation or suspension

(4) Civil monetary penalties shall become due twenty days after the licensee is served with a notice of the penalty, unless the licensee requests a hearing. If a hearing is requested, the penalty becomes due ten days after a final decision in the department's favor is issued. Interest accrues beginning thirty days after the department serves the licensee with notice of the penalty.

**WSR 90-06-032
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2944—Filed March 1, 1990, 2:23 p.m.]

Date of Adoption: March 1, 1990.

Purpose: Provides up to twelve months of child care for families who become ineligible for AFDC due to increased hours of or earnings from employment, or as a result of the loss of income disregards.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-03-100 on January 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-51-300 (2)(c), is changed to delete reference to a written application. No written application will be required for this program; WAC 388-51-300 (2)(c)(ii), is changed to delete reference to a written application. No written application will be required for this program; WAC 388-51-300 (6)(a), is changed to include all income in determining client copayment towards the cost of transitional child care; and WAC 388-51-300 (6)(b), is changed to clarify that five dollars is the minimum client copayment towards the cost of transitional child care.

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

March 1, 1990

Leslie F. James, Director
Administrative Services

**Chapter 388-51 WAC
JOB OPPORTUNITIES AND BASIC SKILLS
TRAINING PROGRAM CHILD CARE AND OTHER
WORK-RELATED SUPPORTIVE SERVICES
AND TRANSITIONAL CHILD CARE**

NEW SECTION

WAC 388-51-300 TRANSITIONAL CHILD CARE. (1) The purpose of this program is to guarantee transitional child care to families who become ineligible for AFDC due to increased earnings from, or hours of, employment or the loss of income disregards. The purpose of transitional child care is to permit the families to accept or retain employment.

(2) A family is eligible for transitional child care provided the family meets following conditions:

(a) Is ineligible for AFDC due to increased hours of, or increased income from, employment or the loss of income disregards due to time limitations;

(b) Received AFDC in three or more of the six months immediately preceding the first month of ineligibility; and

(c) Requests transitional child care benefits and provides the information necessary for determining eligibility and fees;

(i) The department shall provide information on transitional child care to families terminating AFDC for reasons described under subsection (2)(a) of this section.

(ii) Information on how to request transitional child care shall be included in the informational material provided to families terminating from AFDC for reasons described under subsection (2)(a) of this section.

(3) A family's eligibility for transitional child care begins with the first month the AFDC family is ineligible for AFDC for reasons described under subsection (2) of this section, and continues for a period of twelve consecutive months. Families may begin receiving child care

in any month during the twelve-month eligibility period. Transitional child care is limited to a child:

(a) Twelve years of age or under unless the child is physically or mentally incapable of caring for oneself, as verified by the department, based on a determination by a physician or a licensed or certified psychologist;

(b) Under court supervision who may be a dependent child, if needy; or

(c) Who may be a dependent child unless the child is a recipient of benefits under supplemental security income (SSI) or foster care.

(4) A family's eligibility for transitional child care ceases to exist for a remaining portion of the twelve-month period if the caretaker relative:

(a) Terminates employment without good cause. Good cause for failure to retain employment includes, but is not limited to:

(i) Physical, mental, or emotional inability to perform the required activity;

(ii) Court-ordered appearance or temporary incarceration;

(iii) Family or individual emergency or crisis;

(iv) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(v) Inclement weather preventing the individual and others similarly situated from traveling to, or participating in, the prescribed employment;

(vi) The nature of the employment is hazardous to the individual;

(vii) The employment wages do not meet minimum wage standards or are not customary for the work in the community;

(viii) The employment was obtained due to a vacancy caused by a labor dispute;

(ix) Refusal to accept major medical treatment needed to continue employment, for example, major surgery;

(x) Refusal to continue employment, the wages, less mandatory payroll deductions and necessary work-related expenses, do not equal or exceed the family's AFDC cash benefit; or

(xi) Illness or incapacity of another household member requiring the caretaker relative's care.

(b) Fails to cooperate with the department in establishing and enforcing child support obligations; or

(c) Fails to pay required co-payment fees as long as back fees are owed or until satisfactory arrangements are made to make full payment.

(5) If the caretaker relative loses a job with good cause and finds another job, the family may qualify for the remaining portion of the twelve-month eligibility period.

(6) The caretaker relative shall contribute to the transitional child care cost based on the family's ability to pay according to a sliding scale based on the benchmark standard described under WAC 388-77-500(4).

(a) Families with gross income, at or below one hundred thirty-five percent of the benchmark standard, shall contribute five dollars per month toward the transitional child care cost.

(b) Families with gross income exceeding one hundred thirty-five percent of the benchmark standard shall contribute toward the transitional child care cost at the rate

of twenty-five percent of the income exceeding one hundred thirty-five percent of the benchmark standard, but not less than five dollars per month

(c) Co-payments are for the transitional child care total cost without regard to the number of children receiving care.

(7) Individuals failing to cooperate in paying required fees shall lose eligibility for benefits as long as back fees are owed, unless the individual makes satisfactory arrangements for full payment.

(8) The caretaker relatives shall pay directly to the child care provider the caretaker relatives' share of the child care costs.

(9) The department shall inform a participant at the time of applying for the child care program of the right to file a complaint or grievance with the department on any matter concerning participation or required co-payments. The department shall pursue the grievance in accordance with standard grievance procedures, as contained under WAC 388-33-389. The department shall inform a participant that filing a complaint or grievance shall not preclude the participant's right to request at any time a department's fair hearing under chapter 388-08 WAC on the issue.

WSR 90-06-033

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2945—Filed March 1, 1990, 2:24 p.m.]

Date of Adoption: March 1, 1990.

Purpose: An AFDC family who becomes ineligible because of the collection of child or spousal support shall be eligible for medical assistance for four months if certain criteria are met.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-115 Categorically needy medical assistance eligibility.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-02-034 on December 29, 1989.

Changes Other than Editing from Proposed to Adopted Version: Public Law 94-566 was added to properly identify this group of individuals. This does not substantially change the section.

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

March 1, 1990

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2734, filed 12/2/88)

WAC 388-82-115 CATEGORICALLY NEEDY MEDICAL ASSISTANCE ELIGIBILITY. The department shall classify as eligible for categorically needy medical assistance:

(1) A client who:

(a) In August 1972, received:

- (i) Old age assistance (OAA);
 - (ii) Aid to blind (AB);
 - (iii) Aid to families with dependent children (AFDC);
- or
- (iv) Aid to the permanently and totally disabled (APTD); and
 - (b) Received retirement, survivors, and disability insurance (RSDI) benefits; and
 - (c) Is ineligible for OAA, AB, AFDC, or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.
- (2) A client who:
- (a) Was entitled to RSDI benefits in August 1972; and
 - (b) Is ineligible for AFDC, family independence program (FIP), or supplemental security income (SSI) solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.
- (3) A family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided ~~((that))~~:
- (a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; ~~((and))~~
 - (b) A member of such family continues to be employed; and
 - (c) ~~((The family is otherwise eligible for AFDC, and~~
 - ~~((d)))~~ The department shall consider earned income tax credits (EITC) as income for purposes of this subsection.
- (4) A current recipient of Title II, Social Security Administration (SSA) benefits who:
- (a) Was a concurrent recipient of Title II and SSI benefits; ~~((and))~~
 - (b) Is ineligible for SSI benefits and/or state supplementary payments (SSP); and
 - (c) Would be eligible for SSI benefits if the following are deducted from the current Title II benefit amount:
 - (i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the recipient since termination from SSI/SSP; and
 - (ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the recipient's spouse and/or other financially responsible family member living in the same household.
- (5) A recipient of SSI, after January 1, 1981, who continues to be eligible for medical assistance (MA) under P.L. 96-265 and 99-643.
- (6) A pregnant woman, with no other eligible children, who is ineligible for AFDC cash assistance solely because she has not reached the sixth month of pregnancy.
- (7) A client who is denied AFDC or FIP cash payments solely because of a departmental recovery of an overpayment.
- (8) A child under seven years of age, who is born after September 30, 1983, and who meets the income and resource requirements of AFDC or FIP financial assistance.

(9) A family unit shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC, when terminated before April 1, 1990, from AFDC financial assistance solely because of:

(a) The loss of the thirty dollars plus one-third exemption; or

(b) The thirty-dollar income exemption.

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year if:

(a) The child remains a member of the mother's household; and

(b) The mother remains eligible for medical assistance ~~((; and~~

~~((c) The child was born on or after October 1, 1984)).~~

(11) A family unit ineligible for AFDC or FIP financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility; provided the family unit:

(a) Received AFDC or FIP financial assistance in at least three of the six months immediately preceding the month of ineligibility; and

(b) Became ineligible for AFDC or FIP on or after August 16, 1984 ~~((; and before October 1, 1989))~~.

(12) A pregnant woman who does not meet the deprivation requirements of AFDC or FIP financial assistance if:

(a) She would meet the AFDC or FIP financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) She meets the AFDC or FIP financial assistance resource requirements.

(13) An alien denied AFDC, FIP, or SSI cash assistance solely because of deeming of income of the alien's sponsors.

(14) A current disabled client receiving widow's or widower's benefits under section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; ~~((and))~~

(b) Was entitled to and received a widow's or widower's benefit based on a disability under section 202 (e) or (f) of the Social Security Act for January 1984; ~~((and))~~

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P.L. 98-21 was paid to the client; ~~((and))~~

(d) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the act; ~~((and))~~

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under section 215(i) of the act, were disregarded; ~~((and))~~

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(15) Effective July 1, 1988, a disabled or blind client receiving Title II disabled widow/widower benefits (DWB) under section 202 (e) or (f) of the SSA, if the client:

- (a) Is sixty through sixty-four years of age; (~~and~~)
- (b) Is not eligible for the hospital Medicare (Part A of Title XVIII) benefits; (~~and~~)
- (c) Received SSI/SSP (~~prior to~~) before sixty years of age; (~~and~~)
- (d) Became ineligible for SSI/SSP due to receipt of or increase in DWB; and
- (e) Would be eligible for SSI/SSP if the amount of the DWB or increase under section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under section 215(i) of the act were disregarded.

(16) A family unit suspended from FIP financial assistance because of increased earned income. This period of eligibility shall not exceed twelve months as determined by WAC 388-77-737.

(17) A family unit which becomes ineligible for FIP before April 1, 1990, solely because of increased hours of employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility provided (~~that~~):

(a) The family unit received FIP in at least three of the six months immediately preceding the month of ineligibility;

(b) A member of such family continues to be employed(;

~~(c) The family unit is otherwise eligible for FIP).~~

(18) A disabled or blind client receiving Title II disabled adult childhood (DAC) benefits under section 202(d) of the SSA if the client:

- (a) Has attained eighteen years of age; (~~and~~)
- (b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and
- (c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under section 202(d) of the SSA and any subsequent cost-of-living increases provided under section 215(i) of the SSA act were disregarded.

WSR 90-06-034
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2946—Filed March 1, 1990, 2:25 p.m.]

Date of Adoption: March 1, 1990.

Purpose: To incorporate in the Medicaid rules the increase in the federal cost of living adjustment.

Citation of Existing Rules Affected by this Order: Amending WAC 388-99-020 Eligibility determination—Medically needy in own home.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-02-038 on December 29, 1989.

Changes Other than Editing from Proposed to Adopted Version: Subsection (3)(a) is changed to read:

"Health insurance premiums, except Medicare, the individual expects to pay during the base period."

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

March 1, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2758, filed 2/13/89)

WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME. (1) Effective January 1, (~~1989~~) 1990, the department shall set the medically needy income level (MNIL) at:

(a) One person	\$	(396)	<u>414</u>
(b) Two persons	\$	(532)	<u>542</u>
(c) Three persons	\$	(599)	<u>612</u>
(d) Four persons	\$	(667)	<u>683</u>
(e) Five persons	\$	(767)	<u>783</u>
(f) Six persons	\$	(875)	<u>892</u>
(g) Seven persons	\$	(1,008)	<u>1,025</u>
(h) Eight persons	\$	(1,117)	<u>1,133</u>
(i) Nine persons	\$	(1,225)	<u>1,250</u>
(j) Ten persons and above	\$	(1,333)	<u>1,358</u>

(2) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining:

(a) AFDC eligibility for families and children in a nondesignated FIP geographic area. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for individuals applying solely for medical assistance;

(b) SSI/SSP eligibility for aged, blind, or disabled individuals; and

(c) FIP eligibility for families and children.

(3) The department shall allow the following special income disregards:

(a) Health insurance premiums, except Medicare, the individual expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse not to exceed the one person medically needy income level; and

(c) Child care payment amounts allowed as if the individual was a FIP enrollee.

(4) If countable income is equal to or less than the appropriate MNIL, the department shall certify the family or individual eligible.

(5) If countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period under WAC 388-99-055.

(6) The department shall consider the income and resources of the spouse or of the parent of an applicant under eighteen years of age:

(a) In the same household, available to the applicant, whether or not actually contributed; and

(b) Not in the same household, only to the extent of what is actually contributed.

(7) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under chapter 388-92 WAC(~~(, deeming of income)~~).

(8) In mixed households, where more than one assistance unit exists, the department shall determine income for:

(a) The AFDC-related assistance unit according to subsections (2)(a) and (3) of this section; ~~((b-and))~~

(b) The SSI-related assistance unit according to subsections (2)(b) and (3) of this section; and

(c) The FIP-related assistance unit according to subsections (2)(c) and (3) of this section.

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 90-06-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2947—Filed March 1, 1990, 2:26 p.m.]

Date of Adoption: March 1, 1990.

Purpose: Payment standards are reviewed/updated annually.

Citation of Existing Rules Affected by this Order: Amending chapter 388-29 WAC, Standards—Eligibility.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-05-024 on February 13, 1990.

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

March 1, 1990
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2801, filed 5/24/89)

WAC 388-29-001 DEFINITIONS. (1) "Assistance unit" means a person or group of persons required to be included together when determining eligibility for an assistance program.

(2) "Board and room" means a living arrangement in which an individual purchases food, shelter, and household maintenance requirements from ~~((a-single))~~ one vendor.

(3) "Boarding home" means any place where one or more persons purchase~~((s))~~ food, shelter, and household maintenance requirements from ~~((a-single))~~ one vendor.

(4) "Consolidated standards of need" means combining individual requirement amounts into a single dollar value.

(5) "Household maintenance" means the requirements for space heating, water heating, cooking, lights, refrigeration, household supplies, garbage pickup, sewage disposal, and water.

(6) "Life estate" means the right to use property for the duration of a specific person's ~~((life-time))~~ lifetime.

(7) ~~((("Living in own home" means a living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.~~

~~((8)))~~ "Maximum" means no incremental increase in the payment standard for additional members of an assistance unit beyond a designated size.

~~((9)))~~ (8) "Medical institution" means an institution where professional personnel provide medical, nursing, or convalescent care.

~~((10)))~~ (9) "Need" means the difference between the payment standard and the applicant's or recipient's available income, if any.

~~((11)))~~ (10) "Payment standard" means the amount to which the applicant's or recipient's available income and resources are compared in determining financial eligibility.

~~((12)))~~ (11) "Rateable reduction" means the percentage difference between the need standard and the payment standard.

~~((13)))~~ (12) "Requirement" means an item or service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential to some clients under specified conditions.

(b) "Basic requirements" means food, clothing, shelter, transportation, household maintenance, personal maintenance, and necessary incidentals.

(13) "Residing in own home" means a living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.

(14) "Standards of need" or "need standard" means the income required by an applicant or recipient to maintain a minimum and adequate level of living.

AMENDATORY SECTION (Amending Order 2882, filed 10/17/89)

WAC 388-29-100 STANDARDS OF ASSISTANCE—BASIC REQUIREMENTS. (1) The statewide monthly need standards for basic requirements shall be:

(a) Households with an obligation to pay shelter costs effective August 1, 1989.

Treat households residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as renters if the household member makes any utility payment in lieu of a rental payment.

Recipients in Household	Need Standard
1	\$ 579
2	733
3	907
4	1,068
5	1,230
6	1,395
7	1,612
8	1,784
9	1,959
10 or more	2,129

(b) Households without shelter costs effective August 1, 1989.

The monthly standard for clients without shelter costs includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

Recipients in Household	Need Standard
1	\$ 341
2	432
3	535
4	630
5	725
6	823
7	951
8	1,052
9	1,155
10 or more	1,256

(2) One hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Households with shelter costs effective August 1, 1989.

Recipients in Household	185% of Need Standard
1	\$ 1,071
2	1,356
3	1,677
4	1,975
5	2,275
6	2,580
7	2,982
8	3,300
9	3,624
10 or more	3,938

(b) Households without shelter costs effective August 1, 1989.

Recipients in Household	185% of Need Standard
1	\$ 630
2	799
3	989
4	1,165
5	1,341
6	1,522
7	1,759
8	1,946
9	2,136
10 or more	2,323

(3) The state-wide monthly payment standard shall be:

(a) Effective ((August 1, 1989)) January 1, 1990, payment standards for households with shelter costs reflecting a ratable reduction of ((45.9)) 44.9 percent of need standards.

Treat households residing in a lower income housing project, assisted under the United States Housing Act of

1937 or Section 236 of the National Housing Act, as renters if the household member makes any utility payment in lieu of a rental payment.

Recipients in Household	Payment Standard
1	\$ ((314)) 320
2	((397)) 404
3	((492)) 501
4	((578)) 589
5	((666)) 679
6	((756)) 771
7	((873)) 890
8	((966)) 985
9	((1,061)) 1,082
10 or more	((1,153)) 1,176

(b) Effective ((August 1, 1989)) January 1, 1990, payment standards for households without shelter costs reflecting a ratable reduction of ((45.8)) 44.9 percent of the need standard.

The monthly payment standard for clients without shelter costs shall include requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

Recipients in Household	Payment Standard
1	\$ ((186)) 188
2	((235)) 238
3	((290)) 295
4	((342)) 347
5	((393)) 400
6	((446)) 453
7	((515)) 524
8	((570)) 580
9	((626)) 637
10 or more	((680)) 692

AMENDATORY SECTION (Amending Order 2309, filed 12/2/85)

WAC 388-29-110 STANDARDS OF ASSISTANCE—GRANT MAXIMUM((S)). (1) Grants to families of eight or more shall not exceed the following maximum((s)). In computing the grant amount, nonexempt income (and resources; general assistance only) available to meet need shall be deducted from the monthly payment standard specified in this chapter.

(2) Effective January 1, ((1986)) 1990, the maximum is:

Number in household	Maximum
8 or more	\$ ((966)) 985

AMENDATORY SECTION (Amending Order 2309, filed 12/2/85)

WAC 388-29-112 STANDARDS OF ASSISTANCE—CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP). The state-wide standards for the consolidated emergency assistance program shall

be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the payment standard.

(1) Maximum grant.

Recipients in Household	Maximum Grant
1	\$ ((314)) <u>320</u>
2	((397)) <u>404</u>
3	((492)) <u>501</u>
4	((578)) <u>589</u>
5	((666)) <u>679</u>
6	((756)) <u>771</u>
7	((873)) <u>890</u>
8 or more	((966)) <u>985</u>

(2) Payment maximums for individual emergent need items.

	1	2	3	4	5	6	7	8 (or more)
Food	((171)) \$194	216 \$246	268 \$304	315 \$359	363 \$413	412 \$468	476 \$534	526 \$591
Shelter	((201)) 236	242 299	300 370	352 436	406 502	460 569	531 659	588 729
Clothing	((23)) 28	28 35	35 44	41 51	47 59	54 67	62 77	69 86
Minor Medical	((132)) 165	167 209	207 259	243 304	280 350	317 396	367 459	406 508
Utilities	((44)) 80	57 101	70 125	82 147	95 169	108 193	125 223	138 246
Household Maint.	((56)) 59	71 75	88 92	103 109	118 125	135 142	156 164	172 181

Job-related transportation – as needed not to exceed the grant maximum. Transportation of a child to home – as needed not to exceed the grant maximum.

(3) These standards are effective January 1, ((+1986)) 1990.

AMENDATORY SECTION (Amending Order 2309, filed 12/2/85)

WAC 388-29-160 ADDITIONAL REQUIREMENTS—RESTAURANT MEALS. (1) Restaurant meals shall be an additional requirement only when:

(a) The individual is physically or mentally unable to prepare any of his or her meals, and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for an individual.

(2) Effective January 1, ((+1986)) 1990, the monthly standard for restaurant meals shall be one hundred ~~((sixty-eight))~~ seventy-one dollars and thirty-six cents.

AMENDATORY SECTION (Amending Order 2309, filed 12/2/85)

WAC 388-29-200 ADDITIONAL REQUIREMENTS—FOOD FOR GUIDE DOG. (1) The cost of food for a guide dog shall be an additional requirement when an applicant or recipient has a guide dog assigned to him or her by an accredited guide dog organization.

(2) Effective January 1, ((+1986)) 1990, the monthly standard for food for a guide dog shall be thirty-three dollars and sixty-six cents.

AMENDATORY SECTION (Amending Order 2309, filed 12/2/85)

WAC 388-29-220 ADDITIONAL REQUIREMENTS—LAUNDRY. (1) Laundry is an additional requirement when:

(a) The applicant or recipient is physically unable to do his or her laundry, and

(b) He or she has no one able to perform this service for him or her.

(2) Effective January 1, ((+1986)) 1990, the monthly standard for laundry shall be ten dollars and twenty cents.

AMENDATORY SECTION (Amending Order 2215, filed 3/13/85)

WAC 388-29-230 ADDITIONAL REQUIREMENTS—WINTERIZING HOMES—AFDC. (1) Repairs to homes owned or being purchased by AFDC recipients are an additional requirement under the following circumstances:

(a) The primary purpose of the repairs is to minimize heat loss or otherwise increase the efficiency of the home heating system;

(b) The repairs are necessary to render the home habitable;

(c) Lack of repairs would require the assistance unit to move to rental quarters;

(d) The rental costs expended by the assistance unit over a period of two years would exceed the costs, including repairs, attributable to continued occupancy of the home; and

(e) No expenditures for repair of the home have been made previously under the policies outlined in subsection (1)(a) through (d) of this section.

(2) All expenditures for repairs shall be paid by vendor payments when there is sufficient recorded evidence that the home repair was performed.

(3) Effective January 1, 1990, the maximum allowance for winterizing a home is five hundred ten dollars.

AMENDATORY SECTION (Amending Order 2694, filed 9/12/88)

WAC 388-29-280 STANDARDS OF ASSISTANCE—ADULT FAMILY HOME CARE. (1) The basic monthly standard for adult family home care shall be ~~((three))~~ four hundred ~~((eighty-four))~~ dollars and ~~((sixty-five))~~ four cents.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals for a person in an adult family home shall be thirty-eight dollars and eighty-four cents.

(3) ~~((Activities of daily living add-ons~~

~~(a) 1-3 activities..... \$38.43~~

~~(b) 4-7 activities..... \$57.63~~

~~(c) 8-12 activities..... \$83.24~~

~~(4) Health-related services;~~

~~maximum of nine.....each.. \$25.61))~~ Additional service hours are computed at five dollars and thirty-six cents per hour to a maximum of sixty hours.

AMENDATORY SECTION (Amending Order 2759, filed 2/13/89)

WAC 388-29-295 STANDARDS OF ASSISTANCE—SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM. Effective January 1, ~~((1989))~~ 1990, the standards of SSI assistance paid to eligible individuals and couples are:

	Standard	Federal Benefit	State Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties			
Living alone			
Individuals	((396.00-368.00)) \$414.00	\$386.00	\$ 28.00
Couples			
Both eligible	((575.00-553.00)) 601.00	579.00	22.00
With essential person	((574.00-552.00)) 601.00	579.00	22.00
With ineligible spouse	((560.00-368.00)) 578.00	386.00	192.00
Area II: All Counties Other Than the Above			
Living alone			
Individuals	((375.55-368.00)) 393.55	386.00	7.55
Couples			
Both eligible	((553.00-553.00)) 579.00	579.00	0
With essential person	((552.00-552.00)) 579.00	579.00	0
With ineligible spouse	((528.15-368.00)) 546.15	386.00	160.15
Areas I and II: Shared living (all counties)			
Individuals	((251.15-245.34)) 263.15	257.34	5.81
Couples			
Both eligible	((374.97-368.67)) 392.30	386.00	6.30
With essential person	((374.30-368.00)) 392.30	386.00	6.30
With ineligible spouse	((364.97-245.34)) 376.97	257.34	119.63

REPEALER

The following section of the Washington Administrative Code is repealed:

388-29-260 STANDARDS OF ASSISTANCE—PERSONS IN BOARDING HOMES—GENERAL ASSISTANCE.

WSR 90-06-036
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2948—Filed March 1, 1990, 2:27 p.m.]

Date of Adoption: March 1, 1990.

Purpose: To amend the WAC to show the Division of Medical Assistance is responsible for SSI related disability decisions.

Citation of Existing Rules Affected by this Order: Amending WAC 388-92-015 Eligibility determination—SSI.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-02-035 on December 29, 1989.

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

March 1, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2326, filed 1/15/86)

WAC 388-92-015 ELIGIBILITY DETERMINATION—SSI. (1) For the purposes of medical assistance related to SSI, the applicant ~~((must))~~ shall be:

(a) Sixty-five years of age ((65)) or over; or

(b) Blind(;) with:

(i) Central visual acuity of 20/200 degrees or less in the better eye with the use of a correcting lens(;) or ((with))

(ii) A limitation in the fields of vision ((such that)) so the widest diameter of the visual field subtends an angle no greater than 20 degrees; or

(c) Disabled, that is, unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than ((+2)) twelve months or, in the case of a child under the age of ((+8)) eighteen, if ((he)) the child suffers from any medically determinable physical or mental impairment of comparable severity. Decisions on SSI related disability are the responsibility of the ((office of disability insurance benefits;)) division of medical assistance(;) and ((are)) shall be subject to the authority of federal statutes and regulations codified at 42 U.S.C. Sec. 1382c and 20 C.F.R. Parts 404 and 416, as amended, as well as controlling federal court decisions, which define the OASDI and SSI disability standard and determination process.

(d) The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for Medicaid as categorically needy.

(2) A resident of Washington ((who requires)) requiring medical assistance outside the United States ((with)) shall be provided care according to chapter 388-82 WAC.

(3) The applicant ((and/) or recipient ((must)) shall be resource eligible ((see)) under WAC 388-92-050(7)) on the first day of the month to be eligible for

any day or days of that month. The resource determination is made as of the first moment of the first day of the month. Changes in the amount of countable resources during a month do not affect eligibility or ineligibility for that month.

WSR 90-06-037
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2949—Filed March 1, 1990, 2:28 p.m.]

Date of Adoption: March 1, 1990.

Purpose: To implement a change in the federal law.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-95-400 Medically needy—Eligibility determination—Institutional.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-02-037 on December 29, 1989.

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

March 1, 1990

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2672, filed 8/17/88)

WAC 388-95-400 MEDICALLY NEEDY—ELIGIBILITY DETERMINATION—INSTITUTIONAL.

(1) The department shall consider ~~((individuals))~~ persons institutionalized ~~((if they))~~ when the persons reside in or are expected to reside in a medical facility ~~((at least a full calendar month))~~ for thirty consecutive days or more.

(a) SSI/SSP-related ~~((individuals))~~ persons in medical facilities are medically needy if ~~((their))~~ the person's gross income exceeds three hundred percent of the SSI benefit (SSI cap). AFDC-related clients or FIP enrollees in medical facilities are medically needy if countable income exceeds the one-person AFDC or FIP grant standard.

(b) The department shall determine applicants for the medically needy program ineligible when countable income is more than the private nursing home rate plus verifiable recurring medical expenses.

(c) The department shall determine countable income of a medically needy applicant residing in a nursing home by deducting the following amounts from gross income:

(i) Amounts that would be deducted in determining eligibility for AFDC, FIP, or SSI/SSP.

(ii) Previously incurred medical expenses not subject to third-party payment and which are the current liability of the applicant.

~~((c))~~ (d) The department shall determine nursing home residents eligible ~~((if their))~~ when the nursing home resident's countable income is less than the department's contracted rate plus verifiable recurring medical expenses. These ~~((individuals))~~ residents shall:

(i) Participate in the cost of ~~((their))~~ nursing home care per WAC 388-95-360 for post-eligibility allocation of income; and

(ii) Be certified for six months.

~~((d))~~ The department shall determine applicants for the medically needy program ineligible if countable income is above the private nursing home rate plus verifiable recurring medical expenses.)

(e) The department shall determine ~~((eligibility for individuals))~~ applicants with countable income ~~((below))~~ less than the private nursing home rate plus recurring medical expenses, but ~~((above))~~ more than the department's contracted rate ~~((plus medical expenses as follows:~~

~~((i))~~ Such applicants shall be certified) eligible for nursing home care. These recipients shall:

(i) Participate in the cost of their nursing home care. See WAC 388-95-360 for post-eligibility allocation of income;

(ii) ~~((Eligibility for nonnursing home medical care shall require spenddown of))~~ Spenddown all income remaining after allocating income ~~((per subdivision (c)(i) above. Coupons shall be issued))~~ to the department's contracted rate to be eligible for nonnursing home medical care. Medical assistance shall be certified for noninstitutional eligibility only after spenddown has been met; and

(iii) ~~((Certification))~~ Be certified for nursing home care ~~((for such individuals shall be))~~ on a three- or six-month basis. Spenddown of a person's nonnursing home medical expenses shall be on a three- or six-month basis.

(f) ~~((Absence of not more than fourteen consecutive days))~~ For the effect of a social absence from an institutional living arrangement ~~((shall not interrupt an individual's institutional status))~~, see WAC 388-88-115.

~~((f))~~ (g) A transfer between institutions shall not change institutional status.

~~((ii))~~ A transfer from a hospital to a nursing home and discharge within the same calendar month shall not constitute continuous institutional status.)

(2) The department shall use other SSI financial criteria for consideration of resources as defined in WAC 388-95-380 and 388-95-390.

~~((3))~~ The department shall determine eligibility for individuals who reside in a medical facility less than a full calendar month as for a noninstitutionalized person.)

WSR 90-06-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2950—Filed March 1, 1990, 2:29 p.m.]

Date of Adoption: March 1, 1990.

Purpose: Changes individual provider policy to accommodate children in their own homes. Adjusts maximum monthly contracted rate to reflect hourly rate increases due to medical benefits enhancement.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-820 Medicaid personal care services—Definitions; 388-15-870 Medicaid personal care services—Service provision system; and 388-15-880 Payment and authorization.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 90-02-084 on January 3, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-15-870(5), individual providers may deliver services to children in the child's own residence regardless of the hours authorized; and WAC 388-15-880(7), changed to read (7), (8) and (9) instead of (7), (7) and (8).

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

March 1, 1990

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2856, filed 8/29/89, effective 9/29/89)

WAC 388-15-820 MEDICAID PERSONAL CARE SERVICES—DEFINITIONS. (1) "Applicant" means a person (~~(who applied)~~) applying for Medicaid personal care services.

(2) "Client" means a person determined eligible for Medicaid personal care services.

(3) "Community Residence" means:

(a) The client's own home, whether in a building owned or rented by the client;

(b) A licensed adult family home under department contract;

(c) A licensed boarding home under department contract;

(d) A licensed children's foster family home; or

(e) A licensed group care facility.

(4) "Direct personal care services" means assistance with tasks involving direct client care which are directly related to the client's medical condition. Such assistance is limited to allowable help with the tasks listed under subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) of this subsection. The type of help allowable for each task shall not include assistance that must be provided only by a licensed health professional.

(a) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, other basic personal hygiene, and grooming needs. Personal hygiene includes supervising client when performing the tasks, assisting client when caring for own appearance, and performing grooming tasks for client when unable to care for own appearance.

(b) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(c) "Bathing" means assisting client to wash self. Bathing includes supervising client (~~(who can)~~) able to bathe self when guided, assisting client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(d) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(e) "Toileting" means assistance with bladder or bowel problems. Toileting includes supervising the client when able to care for own toileting needs if guided, helping client to and from the bathroom, assisting with bedpan routines, diapering and lifting client on and off the toilet. Toileting may include performing routine peri/colostomy/catheter tasks, for the client when client is able to supervise the activities.

(f) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing the wheelchair, and providing constant physical assistance to the client if totally unable to walk alone or with a mechanical device.

(g) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(h) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(i) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(j) "Body care" means assisting the client with exercises, skin care including the application of ointments or lotions, changing dry bandages or dressings not requiring professional judgment. Body care excludes foot care beyond washing of feet and filing toenails. Body care excludes foot care for clients who are diabetic or have poor circulation. Body care excludes changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(k) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(l) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to

shop for food, medical necessities, and household items required specifically for the health and maintenance of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(5) "Handicapping condition" means a medical condition which causes a functional impairment in activities of daily living.

(6) "Household assistance" means assistance with incidental household services provided as an integral, but subordinate part of the personal care furnished directly to the client. Household assistance shall be considered an integral part of personal care when such assistance is directly related to a medical condition or to a service reflected in the client's service plan and is furnished along with a direct personal care service. The department shall not authorize household assistance as a Medicaid personal care task in an adult family home, licensed boarding home, children's foster family home, or children's group care facility.

(a) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(b) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(c) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(d) "Wood supply" means splitting, stacking, or carrying wood for the client and used as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. Using a chain saw or felling trees is not allowable.

(7) "Immediate family member" means the client's husband or wife, parent, or child.

(8) "Medicaid personal care services" means medically-oriented tasks, directed at the client or the client's immediate environment, that are necessitated by a client's handicapping condition. Such services shall be:

- (a) Based on an assessment of applicant/client needs;
- (b) Provided in conformance with a service plan ordered by the client's attending physician;
- (c) Reviewed by a registered nurse at least every ninety days;
- (d) Performed by qualified and trained personal care aides, excluding members of the client's immediate family.

(9) "Medically-oriented tasks" means direct personal care services, household assistance provided as an integral but subordinate part of the personal care furnished directly to the client, and supervision.

(10) "Personal care aide" means a person meeting the qualification and training requirements established by the department and providing direct personal care services to clients. This person may be an employee of a qualified agency provider or may be under contract as a qualified individual provider.

(11) "Personal care provider" means a qualified agency provider or a qualified individual provider under department contract to provide Medicaid personal care services.

(12) "Personal care service plan" means a plan which is:

(a) Developed by the department in cooperation with appropriate community agency staff;

(b) Written and describes the personal care services which will be provided, frequency of provision, and expected outcomes;

(c) Ordered by the client's attending physician.

(13) "Physician" means a doctor of medicine, osteopathy or podiatry, as defined under WAC 388-80-005(54), or the client's Christian Science practitioner.

(14) "Physician's order" means written approval by the client's attending physician of the specific personal services to be provided to the client.

(15) "Qualified agency provider" means a community agency which applied for licensing as a home care agency or home health agency.

(16) "Qualified individual provider" means a person meeting the individual provider qualifications established by the department.

(17) "Supervision" means being available to:

(a) Help the client with personal care tasks that cannot be scheduled (toileting, ambulation, transfer, positioning, some medication assistance); and/or

(b) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment.

AMENDATORY SECTION (Amending Order 2856, filed 8/29/89, effective 9/29/89)

WAC 388-15-870 MEDICAID PERSONAL CARE SERVICES—SERVICE PROVISION SYSTEM. (1) Area agencies on aging shall contract with qualified agency providers to perform Medicaid personal care services at the department-established rate.

(2) Area agencies on aging shall provide or contract for registered nurse oversight for personal care services.

(3) The department shall contract with area agencies on aging to assume the above responsibilities.

(4) The department shall contract with qualified individual providers to perform Medicaid personal care services at the department-established rate.

(5) Agency providers shall deliver services to adult clients in the clients' own residences unless the personal care service plan exceeds eighty-five hours per month.

Individual providers may deliver services to children in

the child's own residence regardless of the hours authorized. Clients shall have freedom of choice in selecting a qualified agency provider.

(6) Individual providers under contract with the department shall deliver services to clients in the clients' own residence when the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified individual provider.

(7) Adult family home (AFH) sponsors or licensed boarding home staff shall provide services to clients in an AFH or licensed boarding home. Foster parents or group care facility staff shall provide services to children in a foster family home or group care facility. Clients shall have freedom of choice in selecting a licensed AFH or boarding home, provided the AFH or boarding home can meet their personal care needs.

AMENDATORY SECTION (Amending Order 2856, filed 8/29/89, effective 9/29/89)

WAC 388-15-880 PAYMENT AND AUTHORIZATION. Payment and authorization.

(1) In the individual provider program, the department pays an hourly rate directly to the service provider. No in-home personal care service plans shall authorize services by an individual provider unless the service need exceeds eighty-five hours per month.

(2) In the contracted program, the department pays the contractor who pays the service provider.

(3) The department pays an hourly rate of five dollars and thirty-six cents for actual hours worked in providing Medicaid personal care services.

(4) No contractor shall pay service providers performing Medicaid personal care services less than five dollars and fifteen cents per hour.

(5) Authorizations for ~~((in-home))~~ contracted Medicaid personal care services shall not exceed ~~((seven))~~ eight hundred ~~((seventy-two))~~ four dollars and ~~((ten))~~ ninety-five cents per month.

(6) Authorizations for in-home Medicaid personal care services by an individual provider shall not exceed seven hundred seventy-two dollars and ten cents per month.

(7) Authorizations for Medicaid personal care in an adult family home shall not exceed sixty hours of service per month.

~~((7))~~ (8) Authorizations for Medicaid personal care in a licensed boarding home under department contract shall not exceed thirty hours per month.

~~((8))~~ (9) Payment shall not be made for services provided exceeding the department's authorization.

WSR 90-06-039

NOTICE OF PUBLIC MEETINGS

**DEPARTMENT OF COMMUNITY DEVELOPMENT
(Public Works Board)**

[Memorandum—February 27, 1990]

This is to notify you of a change in location for the Public Works Board meeting scheduled for April 3,

1990. The location was previously listed as Pullman. Due to scheduling difficulties in Pullman, the meeting has been changed to the Clarkston Quality Inn.

WSR 90-06-040

PERMANENT RULES

**OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES**

[Filed March 1, 1990, 3:08 p.m.]

Date of Adoption: March 1, 1990.

Purpose: MWBE participation goals are evaluated on a yearly basis. In the goal setting review process, OMWBE considers a variety of information to use in deciding an appropriate set of goals. The purpose of this rule is to further refine OMWBE's goal setting process.

Citation of Existing Rules Affected by this Order: WAC 326-30-030 Procedure for setting overall annual goals.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to notice filed as WSR 89-24-045 on December 1, 1989.

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

March 1, 1990

James A. Medina

Director

AMENDATORY SECTION (Amending Order 83-7, filed 1/5/84)

WAC 326-30-030 PROCEDURE FOR SETTING OVERALL ANNUAL GOALS. The director of the office of minority and women's business enterprises will establish overall annual goals for participation in state contracts by qualified MBEs and WBEs for all state agencies and educational institutions. The annual period shall be the state fiscal year. The goals will be a percentage of the reporting base, all contracts awarded each year for public works, personal services, and for procurement of goods and services by state agencies and educational institutions that are not specifically excluded or generally excluded from the reporting base.

(1) Time for establishment of goals. The overall annual goals will be adopted each year by June 15.

(2) Distribution. The overall annual goals will be distributed to the head of each agency and educational institution on or before June 30 each year.

(3) Process used to establish goals. The director will review the overall annual goals each year and establish goals for the upcoming year. ~~((Factors to be considered in establishing the new goals shall include: The number of certified minority and women's businesses, the success in attaining goals over the last year, the population of women and minorities in the state,))~~ In establishing the new goals, the director shall consider the following categories of information, to the extent that such data is reasonably obtainable: (1) The number of certified minority and women's businesses available to perform work in each class of contract; (2) the success in attaining goals over the last year; (3) information regarding the

percentage of available MBEs and WBEs as compared to the percentage of dollars awarded to MBEs and WBEs, per class of contract; (4) information indicating discrimination against MBEs and WBEs in each class of contract; (5) and such other relevant information as may be available.

WSR 90-06-041
PERMANENT RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed March 1, 1990, 3:11 p.m.]

Date of Adoption: March 1, 1990.

Purpose: This rule implements chapter 39.19 RCW by promoting minority and women's business participation in state contracting opportunities. Goals are reviewed and implemented annually, to ensure that they are consistent with current information about contracting opportunities and availability of MWBEs.

Citation of Existing Rules Affected by this Order: WAC 326-03-03902 Goals for 1989-90.

Statutory Authority for Adoption: RCW 39.19.030(7).

Pursuant to notice filed as WSR 89-24-046 on December 1, 1989.

Effective Date of Rule: Thirty-one days after filing.
March 1, 1990
James A. Medina
Director

NEW SECTION

WAC 326-30-03902 GOALS FOR 1989-90. The annual overall goals for each state agency and educational institution for each of the following classes of contracts for the period July 1, 1989 through June 30, 1990, should be:

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods and Services	8% MBE	4% WBE
Other Consultants	10% MBE	4% WBE

These MWBE participation goals are based on the state agency's or educational institution's total contracts subject to this chapter within each of the above noted classes of contracts, less excluded contracts.

WSR 90-06-042
PROPOSED RULES
DEPARTMENT OF FISHERIES

[Filed March 1, 1990, 3:26 p.m.]

Continuance of WSR 90-02-112.

Title of Rule: Personal use rules—Wenatchee River.

Purpose: Provide season on Wenatchee River.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Sets season for salmon fishing on Wenatchee River.

Reasons Supporting Proposal: Harvestable surplus available.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 115 General Administration Building, Olympia, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, 753-5012; and Enforcement: James McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 90-02-112.

Proposal does not change existing rules.

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

Date of Intended Adoption: March 1, 1990.
February 27, 1990
Judith Merchant
Deputy
for Joseph R. Blum
Director

WSR 90-06-043
PROPOSED RULES
DEPARTMENT OF FISHERIES

[Filed March 1, 1990, 3:30 p.m.]

Continuance of WSR 90-02-111.

Title of Rule: Commercial fishing rules.

Purpose: Amend commercial fishing rules; this continuance sets the adoption one day later than the notice.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: See WSR 90-02-111.

Reasons Supporting Proposal: See WSR 90-02-111.

Name of Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, 586-2429; Implementation: Gene DiDonato, 115 General Administration Building, Olympia, 753-5012; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 90-02-111.

Proposal Changes the Following Existing Rules: See WSR 90-02-111.

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

Date of Intended Adoption: February 28, 1990.
February 27, 1990
Judith Merchant
Deputy
for Joseph R. Blum
Director

WSR 90-06-044

PERMANENT RULES

DEPARTMENT OF FISHERIES

[Order 90-14—Filed March 1, 1990, 3:36 p.m.]

Date of Adoption: March 1, 1990.

Purpose: Personal use rules—Wenatchee River salmon season.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 90-02-112 on January 3, 1990; and WSR 90-06-042 on March 1, 1990.

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

March 1, 1990

Judith Merchant

Deputy

for Joseph R. Blum

Director

NEW SECTION

WAC 220-57-497 WENATCHEE RIVER. Special Bag Limit: 2 salmon per day - May 16 through June 15. Downstream from the mouth of the Icicle River to the Highway 2 Bridge at Leavenworth.

WSR 90-06-045

PERMANENT RULES

DEPARTMENT OF FISHERIES

[Order 90-15—Filed March 1, 1990, 3:39 p.m.]

Date of Adoption: February 28, 1990.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-020 and 220-20-025.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 90-02-111 on January 3, 1990; and WSR 90-06-043 on March 1, 1990.

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

February 28, 1990

Judith Merchant

Deputy

for Joseph R. Blum

Director

AMENDATORY SECTION (Amending Order 80-69, filed 7/18/80)

WAC 220-20-020 GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—FOOD FISH OTHER THAN SALMON. (1) It ~~((shall be))~~ is unlawful to ~~((take;))~~ fish for or possess for commercial purposes any round, undressed sturgeon less than 48 inches or greater than 72 inches in length.

(2) It ~~((shall be))~~ is unlawful to ~~((take;))~~ fish for or possess for commercial purposes or possess aboard a commercial fishing vessel for any purpose any species of halibut (*Hippoglossus*) unless permitted by the current regulations of the International Pacific Halibut Commission.

(3) It ~~((shall be))~~ is unlawful to ~~((take;))~~ fish for or possess for commercial purposes sturgeon ~~((in))~~ taken from any of the waters of Puget Sound or tributaries

~~((thereof for commercial purposes with any type of commercial gear)), and any sturgeon taken with any type of commercial gear incidental to a lawful fishery shall immediately be returned to the water unharmed.~~

(4) It ~~((shall be))~~ is unlawful to ~~((take or))~~ fish for food fish for commercial purposes ~~((with any type of commercial gear))~~ in the waters of Shilshole Bay inland and inside a line projected in a southwesterly direction from Meadow Point to West Point.

(5) It ~~((shall be))~~ is unlawful to ~~((take;))~~ fish for ~~((;))~~ or possess for commercial purposes any starry flounder less than 14 inches in length taken by any commercial gear, in all Puget Sound Marine Fish-Shellfish Areas.

(6) It shall be unlawful to harvest for commercial purposes herring eggs naturally deposited on marine vegetation or other substrate.

(7) It is unlawful to fish for or possess food fish other than salmon taken for commercial purposes from the San Juan Islands Marine Preserve, except that it is lawful to take herring.

AMENDATORY SECTION (Amending Order 80-123, filed 9/17/80)

WAC 220-20-025 GENERAL PROVISIONS—SHELLFISH. (1) It ~~((shall be))~~ is unlawful to drive or operate any motor-propelled vehicle, land any airplane or ride or lead any horse on the razor clam beds of the state of Washington, as defined in WAC 220-16-257.

(2) It ~~((shall be))~~ is unlawful to possess any soft-shelled crab for any purpose.

(3) It ~~((shall be))~~ is unlawful to possess in the field any crab from which the back shell has been removed.

(4) It ~~((shall be))~~ is unlawful to use any irritant chemicals when taking or fishing for octopus.

(5) It ~~((shall be))~~ is unlawful to ~~((willfully))~~ willfully damage crab or other shellfish. Any crab taken incidentally to a net fishery must be immediately returned to the water with the least possible damage to the crab.

(6) It is unlawful to fish for or possess shellfish taken for commercial purposes from the San Juan Islands Marine Preserve, except it is lawful to fish for crab in Parks Bay.

WSR 90-06-046

PERMANENT RULES

MARINE EMPLOYEES' COMMISSION

[Filed March 2, 1990, 10:50 a.m.]

Date of Adoption: February 28, 1990.

Purpose: Chapter 316-85 WAC, governs proceedings before the Marine Employees' Commission relating to fact-finding surveys of compensation, benefits, and conditions of employment.

Statutory Authority for Adoption: RCW 47.64.280.

Pursuant to notice filed as WSR 90-03-040 on January 12, 1990.

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

March 2, 1990
Louis O. Stewart
Commissioner
Rules Coordinator

Chapter 316-85 WAC
SURVEYS—COMPENSATION—BENEFITS—EMPLOYMENT

NEW SECTION

WAC 316-85-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the marine employees' commission relating to fact-finding surveys of compensation, benefits, and conditions of employment. This chapter does not contemplate, and does not provide procedures for, investigation and/or settlement of contested cases between parties. Therefore, hearings held in reaching conclusions in the fact-finding required by RCW 47.64.220 are not deemed to be adjudicatory in nature and not governed by RCW 34.05.425 or 34.12.020 or chapter 10-08 WAC. However, insofar as additional fact-finding may be requested by parties involved in dispute or impasse in accordance with RCW 47.64.220, the provisions of this chapter should be read in conjunction with the provisions of:

- (1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission;
- (2) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system;
- (3) Chapter 316-55 WAC, which contains rules relating to the resolution of impasses occurring in ferry system collective bargaining; and
- (4) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

NEW SECTION

WAC 316-85-010 POLICY—PURPOSE. Prior to collective bargaining between the Washington state ferry system and the ferry employee organizations, the commission shall conduct certain fact-finding surveys as hereinafter described. Such surveys shall be used to guide generally but not to define or limit collective bargaining between the parties.

NEW SECTION

WAC 316-85-020 FACT-FINDING SURVEYS—CONTENT—COVERAGE. In conducting its prebargaining survey, and publishing the findings, the commission shall make comparisons of wages, hours, employee benefits, and conditions of employment of Washington state ferry employees with those of public and private sector employees doing directly comparable but not necessarily identical work. In making its comparisons between and among employers, the commission shall recognize the principle that the greater the degree

of comparability between work requirements and conditions of employment, the greater will be the validity of comparisons of wages and employee benefits. The commission shall give consideration to factors peculiar to the area and the classifications involved.

In determining the scope of the survey and in selecting the ferry systems or other employers to be included in the survey, the commission shall consider the size, tonnage, and horsepower of the vessels operated by the Washington state ferry system and by the employers to be included in the survey. The commission shall not include those classifications of employees exempted pursuant to RCW 41.06.079.

NEW SECTION

WAC 316-85-030 FACT-FINDING SURVEYS—GEOGRAPHIC LIMITS. The commission shall limit its prebargaining fact-finding surveys to ferry systems and other employers located in states along the west coast, including Alaska, and in British Columbia.

NEW SECTION

WAC 316-85-040 FACT-FINDING SURVEYS—TIMING. (1) No later than September 10 of each even-numbered year the commission shall notify the department of transportation and the ferry employee organizations that the commission is starting a fact-finding survey required by RCW 47.64.220.

(2) No later than the following October 1, the department and the ferry employee organizations shall each inform the commission of any particular personnel positions or classifications which may be expected to receive extraordinary attention during the next renewal of agreements.

NEW SECTION

WAC 316-85-050 WASHINGTON STATE FERRY SYSTEM EMPLOYEE DATA REQUIRED. In order to assure maximum effectiveness and minimal error in its fact-finding surveys, no later than October 1 of each even-numbered year, the department shall also provide the commission with the following data:

- (1) A complete and current set of specifications for each position classification occupied by ferry employees except those exempted pursuant to RCW 41.06.079. Each classification specification shall include as a minimum:
 - (a) Classification title;
 - (b) General definition;
 - (c) Typical duties and responsibilities;
 - (d) Special or extraordinary but recurring conditions of employment, if any;
 - (e) Direction/supervision received;
 - (i) Degree of closeness and frequency;
 - (ii) Source of direction/supervision;
 - (f) Direction/supervision exercised;
 - (i) Over which classifications;
 - (ii) Number(s) of personnel;
 - (g) Minimum requirements for initial appointment;
 - (i) Licensure or certificate;
 - (ii) Education;

- (iii) Work experience;
- (h) Additional desirable qualifications, knowledge abilities;
- (2) Wages/salaries currently paid to personnel described in foregoing specifications for regular hours worked;
- (3) Current premium pay;
 - (a) Overtime;
 - (b) Other irregular hours;
 - (c) Hazards;
- (4) Employee benefits currently paid or furnished by the department and, where appropriate, the proportion paid by the employee by payroll deduction or by reduction of compensation pursuant to RCW 47.64.270.

NEW SECTION

WAC 316-85-060 FACT-FINDING SURVEY—CONDUCT. (1) After receiving the information required in WAC 316-85-040(2) and 316-85-050, the commission shall make inquiry of other ferry systems and other employers by mail or in person, conduct such field audits or desk audits as deemed necessary for valid comparisons, and analyze salary and benefit data thus accumulated.

(2) In conducting its survey and in analyzing its data, the commission shall consider factors peculiar to the areas from which the data were accumulated pursuant to RCW 47.64.220 and 47.64.240 (9)(b) and WAC 316-85-020, including but not limited to:

- (a) Comparison of rates of monetary exchange;
- (b) Differential costs of living in each area compared with the Seattle cost of living index, and employer compensation therefor, if any;
- (c) The cost effect of universal health care coverage provided by British Columbia or a state, if any, as compared with the fee for service and/or health maintenance organization health care coverage provided by the state of Washington.

(3) The commission shall not include in its survey any employer who is involved in a strike or lockout or whose wage-benefit package is indeterminate for any other known reason.

(4) No later than December 15 the commission shall compile a preliminary draft of findings regarding wages, employee benefits, and other compensation being paid to other employees as compared with wages, employee benefits, and other compensation being paid by the Washington state ferry system. The preliminary draft of findings shall be distributed to the department and to the ferry employee organizations.

NEW SECTION

WAC 316-85-070 FACT-FINDING PRELIMINARY FINDINGS—HEARINGS. (1) No later than January 10 of each odd-numbered year, the commission shall conduct a public review of its preliminary findings, after soliciting comments and suggestions for improvement of validity of said preliminary survey findings from the department and from the ferry employee organizations.

(2) The commission shall immediately thereafter investigate and/or reanalyze all comments and questions raised by the department or ferry employee organizations. If necessary to resolve doubts raised about validity, the commission shall perform such additional field or desk audits as may be necessary and feasible.

NEW SECTION

WAC 316-85-080 FACT-FINDING SURVEY—FINAL REPORT. No later than March 1 of each odd-numbered year, the commission shall publish and distribute to all parties its final prebargaining fact-finding survey report.

NEW SECTION

WAC 316-85-090 ADDITIONAL FACT-FINDING. In addition to the prebargaining surveys described in this chapter, the commission shall make such other findings of fact as the parties may request during bargaining or impasse.

NEW SECTION

WAC 316-85-100 FACT-FINDING REPORTS—PUBLIC DOCUMENTS. All fact-finding reports issued by the commission shall be in writing and shall be public documents.

WSR 90-06-047**PERMANENT RULES****MARINE EMPLOYEES' COMMISSION**

[Filed March 2, 1990, 10:52 a.m.]

Date of Adoption: February 28, 1990.

Purpose: Chapter 316-55 WAC, governs activities of and proceedings before the Marine Employees' Commission relating to the resolution of impasses occurring in collective bargaining between Washington State Ferries' management and units certified as representing ferry system employees.

Citation of Existing Rules Affected by this Order: Repealing WAC 316-55-520; and amending WAC 316-55-001, 316-55-010, 316-55-020, 316-55-030, 316-55-050, 316-55-070, 316-55-110, 316-55-160, 316-55-500, 316-55-505, 316-55-515 and 316-55-525.

Statutory Authority for Adoption: RCW 47.64.280.

Pursuant to notice filed as WSR 90-03-039 on January 12, 1990.

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

March 2, 1990
 Louis O. Stewart
 Commissioner
 Rules Coordinator

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs activities of and proceedings before the marine employees' commission

relating to the resolution of impasses occurring in collective bargaining. This chapter does not contemplate, and does not provide procedures for, direct involvement of the commission in the investigation and/or settlement of contested cases between parties. The assistance rendered by the commission to the parties at impasse during collective bargaining, and the commission's review of compliance with fiscal limitations are not adjudicatory in nature and are not governed by RCW 34.05.425 or 34.12.020 or chapter 10-08 WAC. Such assistance and/or review of compliance are deemed to be ministerial acts prescribed by RCW 47.64.170 through 47.64.240. However, insofar as the collective bargaining process is related to bargaining unit recognition and clarification, to fair representation of ferry employees, to alleviation of ferry employee grievances, and to fact-finding survey procedures and requests, the provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 316-02 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(2) Chapter 316-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(3) Chapter 316-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which contains rules relating to determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

(7) Chapter 316-85 WAC, which contains rules relating to fact-finding surveys of compensation, benefits, and conditions of employment.

NEW SECTION

WAC 316-55-005 IMPASSE PROCEDURES—DUTY TO ADOPT. As the first step in the performance of their duty to bargain, the ferry system management and the ferry employee organization shall endeavor to agree upon impasse procedures. Said agreement shall provide for implementation of those impasse procedures not later than July 1st in each odd-numbered year following enactment of the biennial budget. If the parties fail to agree upon impasse procedures by July 1st, the impasse procedures provided in WAC 316-55-010 through 316-55-600 shall apply.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-010 RESOLUTION OF IMPASSES—REQUEST FOR MEDIATION. In the absence of

an impasse agreement between parties, or the failure of either party to utilize the procedures of such impasse agreement by August 1st in each odd-numbered year, either party may make a request in writing to the marine employees' commission for mediation. A copy of such request shall be served upon the other party.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-020 MEDIATION REQUEST—INFORMATION REQUIRED. The party or parties requesting mediation shall provide the following information to the commission:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in the negotiations;

(2) The name and address of the employee organization and the name, address and telephone number of the employee organization's principal representative in the negotiations;

~~(3) ((The name and address of the association or other organization, if any, filing the request on behalf of the employer or exclusive representative seeking mediation;~~

~~(4))~~ (4) Clear and concise statement of the disputed issues and the parties' positions in relation thereto;

~~((5))~~ (4) A description of the size and composition of the bargaining unit involved;

~~((6))~~ (5) The expiration date of any collective bargaining agreement then in effect or recently expired;

~~((7))~~ (6) Any other relevant information; and

~~((8))~~ (7) The name, signature, and capacity of each officer, agent, attorney, or other individual acting for the filing party or parties.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-030 IMPASSE RESOLUTION—APPOINTMENT OF MEDIATOR. Upon the filing of a request for mediation, the commission shall appoint a ~~((mediator from the list of))~~ qualified, impartial, and disinterested person ~~((s maintained by the commission for that purpose))~~ to act as mediator. If the parties have stipulated the names of one or more persons who are acceptable to both parties as mediator, then the commission shall consider their desires.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-050 IMPASSE RESOLUTION—MEDIATION—SUBMISSION OF WRITTEN PROPOSALS. Parties requesting the mediation services of the commission are encouraged to file with the appointed mediator, in advance of scheduled meetings, copies of their latest written proposals on each issue in dispute.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-070 IMPASSE RESOLUTION—FUNCTION OF MEDIATOR. It is the function of the mediator to bring the parties together to effectuate a

settlement of the dispute. The mediator shall meet with the parties or their representatives, or both, either jointly or separately, and shall take such steps as the mediator deems appropriate in order to aid the parties in voluntarily resolving their differences and effecting an agreement. The mediator shall not compel the parties to agree.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-55-090 IMPASSE RESOLUTION—CONFIDENTIAL NATURE OF FUNCTION. Information disclosed by the parties to the mediator in confidence during the course of mediation shall not be divulged by the mediator. Mediation meetings shall be of an executive, private or nonpublic nature.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-110 IMPASSE RESOLUTION—DISPUTE RESOLUTION PANEL. (1) The commission shall establish and maintain a panel of qualified ((persons)) mediators/arbitrators and shall make a list of members of that panel available to parties for their use in selecting a mediator, a neutral chairman for an arbitration panel, a grievance arbitrator, a fact-finder or an ad hoc interest arbitrator.

(2) Any person may apply for membership on the panel ((and, upon acceptance by the commission, shall be placed under contract pursuant to RCW 39.29.010)); but the commission, in compiling and maintaining a panel of arbitrators, shall require each applicant to submit a resume, which includes but is not limited to:

(a) A complete list of the applicant's cases in the most recent five-year period, with dates, names and addresses of parties, issues involved, whether the applicant acted as advocate, mediator, or arbitrator and other pertinent information;

(b) Whether or not and in what capacity, within the past five years the applicant has been employed by the department of transportation or by an organization representing employees in the department;

(c) Whether or not and in what capacity within the past five years a close relative of the applicant has been employed by the department or by an organization representing employees in the department.

(3) The commission shall require members of the panel to update their resumes biennially.

(4) When referring mediators/arbitrators from its dispute resolution panel to the parties, the commission shall provide the parties with the background data submitted by the respective mediators/arbitrators in accordance with subsection (2) of this section. However, the commission shall not be responsible for the validity or accuracy of the data so provided.

(5) The commission shall maintain a log of those persons referred to the parties as a possible mediator or arbitrator or chairman of an arbitration panel under WAC 316-55 515(5), including dates, parties involved in the dispute, issues, whether or not the person was acceptable

to the parties, was used as mediator or arbitrator, or was rejected. The log shall be available for public inspection.

NEW SECTION

WAC 316-55-120 IMPASSE RESOLUTION—EXPENSES. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The fees and expenses of a single arbitrator or of the chairman of a panel of arbitrators shall be shared equally by the parties. Fees and expenses of witnesses shall be paid by the party for whom they testify. Fees and expenses of persons called or subpoenaed by a single arbitrator or a chairman of a panel shall be shared equally by the parties. Costs of meeting in a neutral site, of recording and transcription of proceedings, and of other necessary joint activities shall be shared equally by the parties.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-55-130 IMPASSE RESOLUTION—DISCLOSURE. Prior to accepting the appointment, or as soon thereafter as information giving rise to a problem of appearance of fairness becomes known, a person serving in an impartial capacity in a dispute resolution proceeding under the jurisdiction of the commission shall disclose to the parties any circumstances likely to create an appearance of bias or which might disqualify him or her from serving in the impartial capacity. Employment of the person or any member of his or her immediate family by any party shall be disqualifying. Each party to the proceeding shall immediately notify the commission and the appointee or selectee whether it is willing to waive disqualification. If either party declines to waive the disqualification, the appointment shall be vacated.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-55-150 IMPASSE RESOLUTION—VACANCIES. If any person serving in an impartial capacity in dispute resolution proceedings under the jurisdiction of the commission should resign, die, withdraw, refuse or be unable to serve, or should be or become disqualified to perform the duties of the office, the commission or its designee shall declare the office vacant. The vacancy shall be filled as provided in these rules.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-160 FACT-FINDING. Prior to collective bargaining, the commission shall conduct a salary survey ((comparing wages, hours, employee benefits, and conditions of employment of involved ferry employees with those of private sector employees within the state and Washington state employees doing directly comparable work, giving consideration to factors peculiar to the area and the classifications involved)) as required by RCW 47.64.220 in the manner and procedure described in chapter 316-85 WAC. The commission shall make such other findings of fact as the parties may request

during bargaining or impasse. The obtained salary survey data shall be a public document.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-55-170 WAIVER OF MEDIATION AND FACT-FINDING. By mutual agreement, the parties may waive mediation and fact-finding and proceed with binding arbitration. Such waiver shall be in writing and signed by the representatives of the parties. If the parties waive mediation or fact-finding, impasse resolution shall be continued as provided in WAC 316-55-500 et seq.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-500 BINDING ARBITRATION. If impasse persists fourteen days after the mediator has been appointed, or beyond any other date mutually agreed to by the parties, all impasse items shall be submitted to arbitration ~~((by giving written notice))~~. That arbitration shall be binding upon the parties in accordance with RCW 47.64.240. The parties shall notify the commission in writing. Such notice shall contain:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in the negotiations;

(2) The name and address of the ~~((employee or))~~ employee organization party to the ~~((labor dispute))~~ impasse and the name, address and telephone number of that party's principal representative in the negotiations;

(3) ~~((The name and address of the organization, if any, filing the request on behalf of the employee, employee organization or department seeking arbitration;~~

~~(4))~~ A clear and concise statement of the disputed issues and the parties' positions in relation thereto;

~~((5))~~ (4) A description of the size and composition of the bargaining unit involved;

~~((6))~~ (5) The expiration date of any collective bargaining agreement then in effect or recently expired;

~~((7))~~ (6) Any other relevant information; and

~~((8))~~ (7) The name, signature and capacity of each officer, agent, attorney or other representative acting for the filing party or parties.

The original ~~((and three copies of the))~~ notice shall be filed with the commission at its Olympia office. The party filing the notice shall serve a copy on each of the other parties to the ~~((labor dispute))~~ impasse. Amendments to notices shall be filed and served in the same manner as the original notice in the proceeding.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-505 FINAL OFFER. In addition to the information required in WAC 316-55-500, each party shall submit to the other party and to the arbitrator, if said arbitrator has been selected or impanelled, and to the commission, within four days of arbitration request, a final offer on the impasse items ((shall be submitted to the commission or its designee,)) with proof of service of a copy to the other party. Each party shall

also submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached and the name of its selected arbitrator. The parties may continue to negotiate all offers until an agreement is reached or a decision rendered by an arbitrator or panel of arbitrators. Unless clearly indicated otherwise by context, the word arbitrator shall mean a single arbitrator or a panel of arbitrators impanelled in accordance with RCW 47.64.240 (4) and (5) and WAC 316-55-515.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-55-510 SINGLE ARBITRATOR. The two parties may agree to submit their dispute to a single arbitrator. The full costs of arbitration under this procedure shall be shared equally by the parties to the dispute.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-515 ARBITRATION PANEL. If the parties cannot agree on an arbitrator within four days, a panel consisting of three members shall be appointed in the following manner:

(1) One member shall be appointed by the secretary of transportation;

(2) One member shall be appointed by the ferry employee organization;

(3) One member shall be appointed mutually by the members appointed by the secretary of transportation and the employee organization. The last member appointed shall be the chairman of the panel of arbitrators;

(4) If the third member has not been selected within four days of notification as provided in subsection (3) of this section, the parties shall notify the commission in accordance with WAC 316-55-500. A list of seven arbitrators shall be submitted to the parties by the marine employees' commission immediately. The two arbitrators selected by ferry system management and the ferry employee organization shall determine by lot which arbitrator shall remove the first name from the list submitted by the commission. The second arbitrator and the first arbitrator shall alternately remove one additional name until only one name remains. The person whose name remains shall become the chairman of the panel of arbitrators and shall call a meeting within thirty days, or at such time mutually agreed to by the parties, at a location designated by him or her. All contacts and/or arrangements between the parties and an arbitrator selected under this rule will be the responsibility of the parties. In lieu of a list of seven nominees for the third member being submitted by the marine employees' commission, the parties may mutually agree to have either the Federal Mediation and Conciliation Service or the American Arbitration Association submit a list of seven nominees.

(5) ~~((Ferry system management and the employee organization shall each pay the fees and expenses incurred by the arbitrator each selected. The fee and expenses of~~

~~the chairman of the panel shall be shared equally by each party.~~

~~(6) If a vacancy occurs on the panel of arbitrators, the selection for replacement of that member shall be in the same manner and within the same time limits as the original member was chosen.~~

~~(7)) No person shall serve as an arbitrator in any proceeding in which he/she has any financial or personal interest in the result of the arbitration, unless the parties, in writing, waive such disqualification.~~

~~(6) No final award may be made by the panel until three arbitrators have been chosen.~~

NEW SECTION

WAC 316-55-517 ARBITRATION PANEL CHAIRMAN—QUALIFICATIONS—REPLACEMENT. When submitting names of persons to the parties from which the chairman of a panel of arbitrators will be selected under RCW 47.64.240 and WAC 316-55-515, the commission shall furnish biographical information, background, qualifications and experience, including references and a list of cases wherein the person acted as advocate, or as mediator or arbitrator within the most recent five-year period, for each of the seven names supplied to the parties. If one or more of those named is unavailable to accept appointment as chairman of the arbitration panel, or must be disqualified, a substitute name(s) will be provided upon the joint request of the parties. If all of those persons named by the commission are rejected by the parties, a second list will be provided upon the joint request of the parties.

AMENDATORY SECTION (Amending Resolution No. 84-01, filed 3/20/84)

WAC 316-55-525 CONDUCT OF INTEREST ARBITRATION. (1) The submission of the impasse items to the arbitrators shall be limited to those issues upon which the parties have not reached agreement. With respect to each such item, the arbitration panel award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitration board on each impasse item.

(2) The panel of arbitrators shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in ~~((section 15, chapter 15, Laws of 1983))~~ chapter 47.64 RCW.

(3) From the time of appointment until such time as the panel of arbitrators makes its final determination, there shall be no discussion concerning recommendations for settlement of the dispute by the members of the panel of arbitrators with parties other than those who are direct parties to the dispute. The panel of arbitrators may conduct formal or informal hearings to discuss offers submitted by both parties.

(4) The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

(a) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

(b) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees ((within the state and Washington state employees)) in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable work but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(c) The interests and welfare of the public, the ability of the ferry system to finance economic adjustments, and the effect of the adjustments on the normal standard of services;

(d) The right of the legislature to appropriate and to limit funds for the conduct of the ferry system; and

(e) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature.

(5) The chairman of the panel of arbitrators may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the panel of arbitrators. The chairman of the panel of arbitrators may petition the superior court in Thurston county, or any county in which any hearing is held, to enforce the order of the chairman compelling the attendance of witnesses and the production of records.

(6) A majority of the panel of arbitrators shall within thirty days after its first meeting select the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.

(7) The selections by the panel of arbitrators and items agreed upon by the ferry system management and the employee organization shall be deemed to be the collective bargaining agreement between the parties.

(8) The determination of the panel of arbitrators shall be by majority vote and shall be final and binding, subject to ~~((sections 9 and 10, chapter 15, Laws of 1983))~~ RCW 47.64.180 and 47.64.190. The panel of arbitrators shall give written explanation for its selection and inform the parties of its decision.

(9) Two copies of the final award, including the written explanation required by subsection (8) of this section shall be filed with the commission.

READOPTED SECTION (Readopting Resolution No. 84-01, filed 3/20/84)

WAC 316-55-600 CENTRAL FILING OF AGREEMENTS. The parties to collective bargaining agreements entered into as a result of collective bargaining pursuant to chapter 47.64 RCW shall file with the commission two complete copies of their agreement.

NEW SECTION

WAC 316-55-700 RESULT OF COLLECTIVE BARGAINING AGREEMENTS—IF BUDGET OR FARES EXCEEDED. If the secretary of transportation finds that the cumulative fiscal requirements of all bargaining agreements and arbitration orders will exceed the budgetary and fare restrictions imposed by RCW

47.64.180, and so notifies the commission in accordance with RCW 47.64.190(3), the commission shall review all negotiated agreements and arbitration orders, and may take written or oral testimony from the parties, regarding compliance with RCW 47.64.180. The commission shall determine, within fifteen days of receiving the secretary's request for review, by majority vote, whether or not the cumulative effect of all such agreements and orders exceeds the limitations of RCW 47.64.180.

NEW SECTION

WAC 316-55-710 COLLECTIVE BARGAINING AGREEMENTS STAYED. Whenever the secretary of transportation requests commission review under RCW 47.64.190, the effect of all agreements and arbitration orders shall be stayed, pending the commission's final determination.

NEW SECTION

WAC 316-55-730 COMMISSION ACTION. If the commission determines that the budget and fare limitations imposed by RCW 47.64.180 would be exceeded if all agreements and arbitration orders were given full force and effect, the commission shall order the minimum percentage reduction in straight time wage provisions applied equally across the board to all agreements or arbitration orders which will result in compliance with RCW 47.64.180.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 316-55-520 INTERVENTION AND CONSOLIDATION OF PROCEEDINGS.

WSR 90-06-048
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed March 2, 1990, 1:43 p.m.]

Date of Adoption: March 2, 1990.

Purpose: Provide procedures for administration of the property tax exemption for nonprofit homes for the aging.

Statutory Authority for Adoption: RCW 82.08.010 and 84.36.865.

Other Authority: RCW 84.36.041.

Pursuant to notice filed as WSR 90-03-059 on January 17, 1990.

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

March 2, 1990
William N. Rice
Assistant Director

NEW SECTION

WAC 458-16-265 NONPROFIT HOMES FOR THE AGING. (1) DEFINITIONS:

(a) "Home for the aging" (home) means a residential housing facility that:

(i) provides a housing arrangement chosen voluntarily by the resident, the resident's guardian or conservator, or another responsible person;

(ii) has only residents who are at least sixty-two years of age or who have needs for care generally compatible with persons who are at least sixty-two years of age; and

(iii) provides varying levels of care and supervision, as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal.

(b) "Eligible resident" means a person who:

(i) is sixty one years of age or older or disabled on January 1st of the year in which a claim for exemption is filed and is a resident of the home on January 1st of the year in which a claim for exemption is filed; and

(ii) has annual income, including the income of all cotenants, not exceeding the amounts contained in RCW 84.36.381 for the prior year, Provided; That only one resident per unit must satisfy the age or disability requirement.

A surviving spouse of an eligible resident who is at last fifty seven years of age at the time of their spouse's death shall qualify as an eligible resident so long as the surviving spouse meets all other qualifications.

(c) "Reasonably necessary" means all property which is:

(i) operated and used by a home, and

(ii) the use of which is restricted to residents, guests or employees of a home.

(d) "Occupied dwelling unit" means a living unit which is occupied on January 1 of the year the claim for exemption is filed.

(2) GENERALLY.

(a) The tax exemption created by RCW 84.36.041 is claimed by and benefits the non-profit entity, not the residents of the home.

(b) if a claim for exemption is filed on behalf of a home under RCW 84.36.041, no resident of that home may receive a personal exemption under RCW 84.36.381.

(c) Applicants who do not provide varying levels of care and supervision shall not receive an exemption.

(3) APPLICATIONS.

(a) A listing of the varying levels of care and supervision provided or coordinated by the home shall accompany all initial applications submitted on behalf of the home. Examples of varying levels of care and supervision include but are not limited to the following:

(i) conducting routine room checks;

(ii) arranging for or providing transportation;

(iii) arranging for or providing meals;

(iv) on site medical personnel;

(v) monitoring of medication; or

(vi) housekeeping services.

(b) Homes which have property which is used for purposes other than as a home, for example property used by a facility which is licensed as a nursing home, shall provide the department with a floor plan identifying the square footage devoted to each different exempt and nonexempt use.

(c) The exemption under RCW 84.36.041 shall not be approved unless the applicant provides proof of recognition by the Internal Revenue Service as a 501(c) organization at the time the application is filed.

(4) SEGREGATION.

(a) Property which by its use qualifies for exemption under a statute other than RCW 84.36.041 shall be segregated and exempted pursuant to the applicable statute.

(b) Common areas which are used for more than one exempt purpose shall be exempted under RCW 84.36.041.

(c) Property which is not reasonably necessary for an exempt use shall be segregated and taxed.

(d) Occupied dwelling units which are not occupied by residents who meet the age or disability requirements of RCW 84.36.381 shall be segregated and taxed.

(5) HOUSING AND URBAN DEVELOPMENT (HUD) PROGRAMS.

(a) Homes which are subsidized by a HUD program shall initially and annually thereafter by March 31st provide the department with a letter of certification from HUD of continued HUD subsidy.

(b) Homes which are subsidized by HUD which do not qualify for a total exemption shall receive exemption on those units occupied on January 1st of the year the claim is filed by persons age sixty one or older or disabled. The percentage of the entire parcel which is exempt shall be the same percentage as that of exempt units to the total number of units.

(6) HOMES WHICH ARE NOT SUBSIDIZED BY HUD.

(a) Homes which are not subsidized by HUD must qualify for exemption on a unit by unit basis under the provisions of RCW 84.36.041 and 84.36.385. Form REV 64-0043 shall be used for this purpose and shall be filed by residents with the county assessor between January 1st and July 1st of the year preceding the year in which the tax is due. If two or more residents occupy one unit, only one cotenant is required to file verification of combined disposable income, as defined in WAC 458-16-013, with the assessor.

(b) Residents shall notify the assessor prior to July 1st if the combined disposable income, as defined in WAC 458-16-013, of persons residing in the unit exceeds the maximum allowable amount under RCW 84.36.381.

(c) Form REV 64-0043 shall not be accepted by the assessor if postmarked after July 1st.

(d) Homes which are not subsidized by HUD shall by March 31st of each year file with the department a listing of the total number of dwelling units in their complex, the number of occupied dwelling units in their complex as of January 1st, and the number of previously qualified dwelling units in their complex which are no longer occupied by the same eligible residents.

(e) Residents whose financial status has not changed do not have to annually complete Form REV 64-0043, however assessors or the department may conduct audits to ensure continued eligibility.

(7) ASSESSORS' RESPONSIBILITIES.

(a) Assessors shall determine the age or disability and income eligibility of all residents who have filed and

shall forward a copy of Form REV 64-0043 to the department by July 15th each year for residents who have met the eligibility requirements.

(8) DEPARTMENT OF REVENUE.

(a) The department shall make its determination of exempt status by August 31st.

(9) APPEALS.

(a) Residents may appeal the assessor's determination of non-eligibility to the board of equalization. Appeals must be filed within thirty days of notice from the assessor.

(b) Denial of exemption under RCW 84.36.041, including denial of a partial exemption, may be appealed to the state board of tax appeals.

(10) CALCULATING THE AMOUNT OF THE EXEMPTION.

(a) To calculate the amount of the partial exemption, the number of units occupied on January 1st shall be used as the denominator of the fraction specified in RCW 84.36.041. The numerator of the fraction shall be the number of units approved by the county assessor multiplied by two. The resulting fraction shall not exceed one.

(b) In 1991, two-thirds of the assessed value which would otherwise be subject to tax is exempt. In 1992, one-third of the assessed value which is otherwise taxable is exempt.

EXAMPLE

Presume a home with fifty units with an assessed value of \$1,000,000. On January 1st of 1990, forty five units were occupied. On July 15th the assessor certifies to the department that ten units qualify for exemption. Under this hypothetical the following calculations would be made:

Assessed value multiplied by the number of qualifying units multiplied by two divided by the number of occupied units. The result is subtracted from the assessed value to arrive at the amount of taxable value of the property.

For taxes levied for collection in 1991, the amount of taxable value of the property is multiplied by one third, and the result is the amount to be placed on the tax roll.

For taxes levied for collection in 1992, two thirds of the taxable value of the property shall be placed on the tax roll.

For taxes levied for collection in 1993, the entire taxable value of the property will be placed on the tax roll.

Mathematically, the formula is expressed as follows:

$$\$1,000,000 \left(\frac{(10 \times 2)}{45} \right) = \$444,444.$$

$$\$1,000,000 - \$444,444 = \$555,556.$$

$$\$555,556 \times \frac{1}{3} = \$185,185 \text{ taxable value in 1991.}$$

$$\$555,556 \times \frac{2}{3} = \$370,370 \text{ taxable value in 1992.}$$

$$\$555,556 \text{ taxable value in 1993.}$$

Note: The example presumes that all figures remain static over the three year period. Also, figures have been rounded for the purpose of this example.

WSR 90-06-049
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Health)

[Order 040—Filed March 2, 1990, 2:23 p.m., effective March 2, 1990]

Date of Adoption: February 15, 1990.

Purpose: To conform rules on adjudicative proceedings to the new Administrative Procedure Act.

Citation of Existing Rules Affected by this Order: Amending WAC 248-63-025, 248-97-130 and 248-144-031.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: See below.

Pursuant to notice filed as WSR 90-01-129 on December 20, 1989.

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 2, 1990. This is less than thirty days from their filing. The reason for the shorter period is so the Department of Health can meet its statutory requirements and to prevent imminent peril to the public safety or welfare.

<u>WAC</u>	<u>STATUTORY AUTHORITY</u>	<u>REASON FOR VARIATION FROM MODEL RULES</u>
248-58-085 (new)	69.30.030	Required by sections 95 and 125, chapter 175, laws of 1989.
248-63-025 (amend)	43.20.050	Housekeeping
248-97-130 (amend)	70.90.120	Adjudicative proceeding procedures moved to WAC 248-97-135 and changed to comply with new statutory law
248-97-135 (new)	same	Required by section 95, 96, and 130, chapter 175, laws of 1989
248-144-031 (amend)	42.20.050	Required by section 95, chapter 175, laws of 1989

Effective Date of Rule: March 2, 1990.

February 15, 1990
 Sylvia Beck
 Executive Director

NEW SECTION

WAC 248-58-085 NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. (1) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.205, as applicable to the department of health under RCW 43.70.900. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(2) The department's notice of imposition of a civil fine shall be consistent with RCW 43.20A.215, as applicable to the department of health under RCW 43.70.900. A person upon whom the department imposes a civil fine has the right to an adjudicative proceeding to contest the decision.

(3) A license applicant or holder or a person upon whom the department imposes a civil fine, contesting a department decision, shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) A specific statement of the issue or issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the contested department decision.

(4) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 309, filed 5/2/88)

WAC 248-63-025 PERMIT—ADMINISTRATION—ENFORCEMENT—EXEMPTIONS. (1) The operator shall:

(a) Submit a completed application to the department at least forty-five days prior to use of the temporary-worker housing;

(b) Have a permit from the department or health officer prior to initial occupancy;

(c) Produce the permit upon request of workers, representatives of workers, or representatives of governmental agencies; and

(d) Notify the department of a transfer of ownership.

(2) The operator may:

(a) Allow the use of temporary-worker housing without a permit when:

(i) More than forty-five days have passed since a completed application was submitted and received by the department or health officer as evidenced by the post mark; and

(ii) The department or health officer has not inspected or issued a permit; and

(iii) Other local, state, or federal laws, rules, or codes do not prohibit use of the temporary-worker housing.

(b) Request in writing an exemption from the Washington state board of health; and

(c) Appeal decisions of the department (~~((according))~~) to (~~((chapter 34.04 RCW))~~) an adjudicative proceeding governed by the Administrative procedure(s)) Act (chapter 34.05 RCW) and chapter 388-08 WAC.

(3) The department may establish an agreement with a health officer whereby the health officer assumes responsibility for inspections, issuing permits, and enforcing chapter 248-63 WAC excluding exemptions.

(4) The department or health officer shall:

(a) Survey each premises of temporary-worker housing to ensure standards of this chapter are met, including inspection:

(i) Prior to issuance of initial permit;

(ii) Upon request of operator or occupant; and

(iii) At least once every year or more frequently as determined by the department or health officer.

(b) Respond to complaints;

(c) Issue a permit to the operator when an on-site inspection reveals conditions meet or exceed the requirements in chapter 248-63 WAC;

(d) Include on each permit the duration for which the permit is valid not to exceed two years;

(e) Take appropriate enforcement action including any one or combination of the following:

(i) Develop corrective action including a compliance schedule;

(ii) Notify the operator concerning violations; and

(iii) Suspend or revoke the permit.

(f) Allow the operator to use temporary-worker housing without a permit as specified in subsection (2) of this section.

(5) The department or health officer may:

(a) Issue a provisional permit when temporary-worker housing fails to meet the standards in this chapter if:

(i) A written corrective action plan including a compliance schedule is approved by the department or health officer; or

(ii) Pending the Washington state board of health's decision regarding an exemption request.

(b) Establish and collect fee as authorized in chapter 43.20A RCW or RCW 70.05.060.

AMENDATORY SECTION (Amending Order 311, filed 6/22/88)

WAC 248-97-130 ENFORCEMENT. (1) The department or, if enforcement responsibility has been assigned under a joint plan of operation, the local health officer:

(a) Shall enforce the rules of chapter 248-97 WAC; or

(b) May refer cases within their jurisdiction to the local prosecutor's office or office of the attorney general, as appropriate.

(2) When a RWCF is in violation of provisions of chapter 70.90 RCW or the rules of chapter 248-97 WAC, appropriate enforcement action may be initiated by the department, local health officer, local prosecutor's office, or office of the attorney general. Enforcement actions may include any one or a combination of the following:

(a) Informal administrative conferences, convened at the request of the department, local health officer, or owner, to explore facts and resolve problems;

(b) Orders directed to the owner and/or operator of the RWCF and/or the person causing or responsible for the violation of the rules of chapter 248-97 WAC;

(c) Imposition of civil penalties of up to five hundred dollars per violation per day as authorized under RCW 70.90.200;

(d) Denial, suspension, or revocation of operating permits; and

(e) Civil or criminal action initiated by the local prosecutor's office or by the office of the attorney general.

(3) Orders authorized under this section include, but are not limited to, the following:

(a) Orders requiring corrective measures necessary to effect compliance with chapter 248-97 WAC or chapter 70.90 RCW. Such orders may or may not include a compliance schedule; and

(b) Orders to stop work and/or refrain from using any RWCF or portion thereof or improvement thereto until all permits, certifications, and approvals required by statute or rule are obtained.

(4) An order issued under this section shall:

(a) Be in writing;

(b) Name the facility and the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting a violation of chapter 70.90 RCW or the rules of chapter 248-97 WAC;

(d) Specify any required corrective action or forbearance together with a schedule for completing such corrective action, if applicable;

(e) Provide notice, as appropriate, that continued or repeated violation may subject the violator to:

(i) Civil penalties of up to five hundred dollars;

(ii) Denial, suspension, or revocation of the facilities operating permit; or

(iii) Referral to the office of the county prosecutor or attorney general.

(f) Provide the name, business address, and phone number of an appropriate staff person who may be contacted in regard to an order.

(5) Service of an order shall be made:

(a) Personally, unless otherwise provided by law; or

(b) By certified mail return receipt requested.

(6) Under such rules or policies as the department or local health officer may adopt, civil penalties of up to five hundred dollars per violation per day may be assessed against any person violating the provisions of chapter 70.90 RCW or chapter 248-97 WAC.

(7) The department or local health officer shall have cause to deny the application or reapplication for an operating permit or to revoke or suspend a required operating permit of any person who has:

(a) Previously had:

(i) An operating permit suspended or revoked; or

(ii) An application for an operating permit denied for any reason whether in this state or any other state.

(b) Failed or refused to comply with the provisions of chapter 70.90 RCW, chapter 248-97 WAC, or any other statutory provision or rule regulating the construction or operation of a RWCF; or

(c) Obtained or attempted to obtain an operating permit or any other required certificate or approval by fraudulent means or misrepresentation.

(8) For the purposes of subsection (7) of this section, a person shall be defined to include:

(a) Applicant;

(b) Reapplicant;

(c) Permit holder; or

(d) Any individual associated with subsection (8)(a),

(b), or (c) of this section including, but not limited to:

(i) Board members,

(ii) Officers,

(iii) Managers,

(iv) Partners,

(v) Association members,

(vi) Employees,

(vii) Agents, and in addition

(viii) Third persons acting with the knowledge of such persons.

(9) ~~((Any person aggrieved by the department's or local health officer's denial, suspension, or revocation of an operating permit may request an administrative hearing.~~

~~(a) A hearing requested to contest a department action (departmental hearing) shall be governed by chapters 10-08 and 388-08 WAC. If any provision of this section conflicts with chapter 388-08 WAC, the provision in this section applies. The decision-making procedure shall be the initial decision, petition for review, and review decision procedure.~~

~~(b) A request for a department hearing must be in writing and:~~

~~(i) State the issue and law on which the appeal relies;~~

~~(ii) State the grounds for contending the denial, suspension, or revocation is erroneous;~~

~~(iii) Contain the appellant's current address and telephone number, if any; and~~

~~(iv) Have a copy of the order or notice of denial, suspension, or revocation attached.~~

~~(c) A request for a department hearing must be made within thirty days of the date the order or notice of denial, suspension, or revocation was received by the person.~~

~~(d) The request for a department hearing shall be made by personal service to the Office of Hearings, Olympia, or certified mail addressed to the Office of Hearings at P.O. Box 2465, Olympia, Washington 98504-2465. When the request is mailed, it shall be treated as having been made on the date it was post-marked provided it is received by the Office of Hearings properly addressed and with no postage due.~~

~~(e) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.~~

~~((10)) The department or local health officer may summarily suspend an operating permit, other required permit, license, or certification without a prior hearing if the department or local health officer:~~

~~(a) Finds that public health, safety, or welfare imperatively requires emergency action; and~~

~~(b) Incorporates a finding to that effect in its notice or order.~~

~~((11) The department or local health jurisdiction shall give priority to the scheduling and determination of any appeal from any notice or order issued under subsection (10) of this section.))~~

NEW SECTION

WAC 248-97-135 NOTICE OF DECISION—ADJUDICATIVE PROCEEDING. (1) A hearing requested to contest a local health officer's action shall be governed by the local health jurisdiction's rules for hearings.

(2)(a) The department's notice of a denial, suspension, modification, or revocation of a license shall be consistent with RCW 43.20A.205, as applicable to the department of health under RCW 43.70.900. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A department notice of imposition of a civil fine shall be consistent with RCW 43.20A.215, as applicable to the department of health under RCW 43.70.900. A person the department imposes a civil fine on has the right to an adjudicative proceeding to contest the decision.

(c) A license applicant or holder or a person the department imposes a fine on contesting a department decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(d) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

AMENDATORY SECTION (Amending Order 328, filed 5/17/89)

WAC 248-144-031 LICENSING, ADMINISTRATION, ENFORCEMENT, EXEMPTION. (1) Licensees or prospective licensees shall:

(a) Complete and submit an application along with the appropriate fee at least thirty days before:

- (i) Opening a new transient accommodation;
- (ii) Adding new units to an existing transient accommodation; or
- (iii) Changing the license of a transient accommodation.

(b) Request the department to complete a feasibility survey before applying for a license whenever an existing structure or property was not previously used or licensed as a transient accommodation;

(c) Secure a valid license issued by the department before initially opening and by January 1 each year thereafter;

(d) Submit a license renewal with the annual fee by December 10 of each year;

(e) Conspicuously display the license in the lobby or office;

(f) Comply with a plan of corrective action if issued by the department; and

(g) Allow the department to inspect the transient accommodation at any reasonable time.

(2)(a) Licensees may request, in writing, an exemption from the department if:

(i) The health and safety of the occupant is not jeopardized;

(ii) Strict enforcement of this chapter will create undue hardship for the licensee.

(b) ~~((Appeal decisions of the department related to)) Exemption((s to the board under chapter 34.04 RCW, Administrative Procedure Act)) decisions shall be treated as licensing decisions under subsection (5) of this section.~~

(3) Under chapter 70.62 RCW, the department shall have the authority to:

(a) Inspect transient accommodations including unoccupied lodging units:

- (i) Annually;
- (ii) As needed; and
- (iii) Upon request.

(b) Issue licenses annually upon receipt of the appropriate fee;

(c) Issue a license for the person and premises named in the application when the applicant or licensee is in compliance with:

- (i) Chapter 70.62 RCW and this chapter;

(ii) The rules and regulations of the state director of fire protection; and

(iii) All applicable local codes and ordinances.

(d) Respond within thirty days to application requests;

(e) Respond to complaints;

(f) Charge fees, authorized under chapters 43.20B and 70.62 RCW, to recover all or a portion of the costs of administering this chapter.

(4) The department shall have the authority to:

(a) Deny, revoke, or suspend the license of a transient accommodation which fails to comply with chapter 70.62 RCW and this chapter;

(b) Take one or more of the following enforcement actions:

- (i) Notify the licensee of violations;
- (ii) Establish a corrective action plan and compliance schedule;
- (iii) Issue a department order;
- (iv) Revoke or suspend the license; and/or
- (v) Initiate legal action.

(c) Issue a provisional license when a transient accommodation does not meet the standards in this chapter under the following conditions:

(i) The department has approved a written correction action plan, including a compliance schedule; or

(ii) An application for change of licensure of an existing, currently licensed transient accommodation is pending; or

(iii) The licensee is awaiting the board's decision regarding an exemption request; or

(iv) The licensee is awaiting the ~~((department's decision regarding))~~ final order in an ~~((administrative decision))~~ adjudicative proceeding under chapter ~~((34.04))~~ 34.05 RCW.

(d) Grant an exemption under subsection (2)(a)(i) and (ii) of this section.

(5)(a) The department's notice of a denial, suspension, modification, or revocation of a license or a request for an exemption under subsection (2) of this section shall be consistent with RCW 43.20A.205, as applicable to the department of health under RCW 43.70.900. An applicant or license holder has the right to an adjudicative proceeding to contest the decision.

(b) A license applicant or holder contesting a department license or exemption decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(c) The proceeding is governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 248-08 WAC. If a provision in this chapter conflicts with chapter 248-08 WAC, the provision in this chapter governs.

WSR 90-06-050
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed March 2, 1990, 3:16 p.m.]

Original Notice.

Title of Rule: Chapter 16-462 WAC, rules relating to certification of grape nursery stock.

Purpose: The addition of a new rule to begin a technique of aseptic shoot tip culture for propagating certified grape nursery stock.

Statutory Authority for Adoption: Chapter 15.14 RCW.

Statute Being Implemented: Chapter 15.14 RCW.

Summary: Provide for additional method to produce certified grape nursery stock.

Reasons Supporting Proposal: To provide a technique for a rapid increase in numbers of plants available to establish registered mother blocks and to increase the probability of producing disease-free plants.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South First Street, Yakima, WA 98903, (509) 575-2750.

Name of Proponent: Department of Agriculture, Plant Services Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is intended to establish a technique to propagate large numbers of certified grape plants from hard or softwood cuttings taken from the foundation grape blocks grown and maintained by Washington State University, Irrigated Agriculture Research and Extension Center, Prosser, Washington. It is expected to make available certified grape plants having no disease or a very low incidence of disease.

Proposal does not change existing rules.

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

Hearing Location: Agricultural Service Center Conference Room, 2015 South First Street, Yakima, WA 98903, on April 12, 1990, at 1:15 p.m.

Submit Written Comments to: Max Long, 2015 South First Street, Yakima, WA 98903, by April 12, 1990.

Date of Intended Adoption: April 27, 1990.

March 2, 1990
 William E. Brookreson
 Assistant Director

NEW SECTION

WAC 16-462-060 CERTIFIED GRAPE NURSERY STOCK—ASEPTIC SHOOT TIP PROPAGATION. "Aseptic shoot tip propagation" means aseptically removing a vegetative shoot tip from growth arising from dormant cuttings, or from green growth (softwood) during the growing season, from Washington State University foundation plants and subsequently aseptically transferring these shoot tips to a suitable vessel containing an appropriate culture media. Plants derived from these shoot tips (first generation), when maintained under greenhouse conditions, may serve as a source of softwood cuttings (second generation), which may be used to establish a registered grape mother block suitable for the production of Washington certified grape nursery stock when managed in accordance with all other provisions of WAC 16-462-010 through 16-462-055 inclusive. First generation plants produced from original foundation material, those derived from aseptic

shoot tip culture and maintained under greenhouse conditions, as well as second generation plants which will constitute the registered grape mother blocks, are all subject to Washington state department of agriculture inspection.

WSR 90-06-051
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed March 2, 1990, 3:53 p.m.]

Date of Adoption: March 2, 1990.

Purpose: Establish new fees.

Citation of Existing Rules Affected by this Order: Amending WAC 460-90A-005 Organization; 460-90A-018 Material events that are amendments requiring notice; 460-90A-032 The public offering statement—Delivery to prospective purchasers; 460-90A-035 Purchaser cancellations of contracts; 460-90A-090 Operation of impound condition; 460-90A-115 Renewals; 460-90A-122 Salesperson registrations; 460-90A-145 Fees and charges; and 460-90A-017 Reporting events that shall require that the operator keep written disclosures current.

Statutory Authority for Adoption: RCW 43.24.086.

Pursuant to notice filed as WSR 90-03-106 on January 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 460-90A-005 Organization, reflect current address from: Westside Plaza Building, Bristol Court, Olympia, Washington; to: 2424 Bristol Court, Olympia, WA 98504.

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

March 2, 1990
 Marsha Tadano Long
 Assistant Director
 Professional Licensing Services

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-005 ORGANIZATION. The administrator, ~~((real estate))~~ business and occupations division, ((business and professions administration)) professional licensing services, department of licensing, administers the Camping Club Act for the director of licensing. Information regarding the regulation of camp resort offerings and salespersons may be obtained by writing to: Administrator, ~~((Real Estate))~~ Business and Occupations Division, Department of Licensing, P.O. Box ((247)) 2445, Olympia, Washington 98504. Persons desiring to visit the ~~((real estate))~~ business and occupations division on matters relating to camp resort offerings or camp resort salespersons may do so at the ~~((real estate))~~ business and occupations division offices located on the ~~((Third))~~ 2nd Floor, ((Eastside)) ((Plaza Building)), ((1300 Quince Street)) 2424 Bristol Court, Olympia, Washington 98504.

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 133 R, filed 9/18/85)

WAC 460-90A-017 REPORTING EVENTS THAT SHALL REQUIRE THAT THE OPERATOR KEEP WRITTEN DISCLOSURES CURRENT. (1) Not exclusive of others, the following are events that shall require that the operator provide the agency with notice and amendment to the public offering statement, pursuant to the provisions of RCW 19.105.420 for the purpose of keeping the public offering statement current:

(a) Any change or event causing information then in the public offering statement to be out-dated, incorrect, incomplete or deceptive.

(b) Any damage to the property or facilities of a camp resort which limits the use of the properties or facilities by the contract purchasers.

(c) Any hazard threatening the properties or facilities which presents a danger to the contract purchasers of injury or limitation on their use of properties or facilities.

(d) Any order or action by a local, state or federal regulatory agency in the granting, denial, revocation, or suspension of a permit or authorization affecting the camp resort properties or facilities which limits the use of the camp resort properties or facilities by the contract purchasers.

(e) The completion of promised facilities or the failure to complete promised facilities on a date or at the occurrence of an event, as promised.

(f) A bulk sale of the project or a significant portion of the project to another person.

(g) Changes in the provisions of instruments or documentation utilized to establish the camp resort program or a common-interest association involved in the camp resort operations.

(h) Any change in the provisions or content of a purchase contract, deed, membership certificate or members handbook.

(i) Lawsuits filed or served, which name the operator, its affiliates or the project's common-interest association and which are concerned with the provisions of the Camping Club Act (chapter 19.105 RCW) and rules or the financial condition of the operator or its affiliates, the project or a common-interest association.

(j) Changes in management, if the project or its amenities are managed by a common-interest association.

(k) Any new contract, change in a contract or termination of a contract with an outside reciprocal-use or exchange entity.

(l) Any proposed change in the ratio of contracts to be sold relative to the number of camp sites available.

(2) It shall be a violation of chapter 19.105 RCW and these rules for a registrant to have knowledge or cause the occurrence of an event specified in subsection (1) of this section, without providing timely notice of the event to the agency as required in RCW 19.105.420 and ~~((19.105.360(3) [19.105.360(3)]))~~ 19.105.360(3).

(3) Notice for the purpose of keeping the public offering statement current shall be accomplished by providing the agency with:

(a) Copies or prototypes of documents or other materials pertinent to the event.

(b) A cover letter explaining the event.

(c) A redraft of the public offering statement ~~((by submitting the amended pages which show))~~ identifying the proposed corrections, deletions, or additions to the existing information.

AMENDATORY SECTION (Amending Order 133 R, filed 9/18/85)

WAC 460-90A-018 MATERIAL EVENTS THAT ARE AMENDMENTS REQUIRING NOTICE AND A FILING FEE. (1) Not exclusive of others, the following shall be events that will have a material effect on the conduct of the operation of a camp resort ~~((, pursuant to RCW 19.105.420))~~ and require both notice to the agency and the submission of a ~~(((\$100.00))~~ filing fee.

(a) Any proposed sale or transfer, of an interest in the project or shares of stock of the registrant which results in a change of voting, management or ownership control.

(b) Any removing, substituting, leasing, optioning, selling or withdrawing of existing properties, resorts, or facilities from the camp resort program.

(c) Any adding, deleting, or rearranging of camping sites or facilities within an existing camp resort in a manner that would reduce the size or change the number or quality of sites.

(d) Any adding of camp resorts, facilities or properties to any existing camp resort program and any purchase or acquisition of other camp resorts, facilities or properties by an operator or its affiliates.

(e) Any new encumbrances, liens ~~((f,))~~ or loans that affect the camp resort properties.

(f) A change in the status, provisions, or conditions of an escrow, trust, impound, reserve account or other security device being utilized to protect the interests of purchasers, whether or not impound or reserve accounts are required as a condition to registration under chapter 19.105 RCW.

(g) The filing by any person of any bankruptcy, receivership, or trustee action that involves any of the camp resort properties, the registrant, a common-interest association or an affiliate, as a party to the action.

(h) The operator makes an initial offering of stock to the public.

(i) The refinancing of all or any part of the operator's debts affecting the project.

(j) Any change in the financial condition of the registrant, an affiliate, or a common-interest association, if such change could result in an inability to provide promised sites, facilities, or services.

(2) Filing an amendment and reporting events that might have a material affect shall be accomplished by providing the agency with the following:

(a) ~~((The one hundred dollar amendment filing fee as required by RCW 19.105.410.~~

~~((b))~~ Copies or prototypes of documents or other materials pertinent to the event.

~~((c))~~ (b) A cover letter explaining the event and any proposed amendment.

~~((d))~~ (c) A redraft of the public offering statement ~~((by submitting the amended pages which show))~~ identifying the proposed corrections, deletions, or additions to the existing information.

AMENDATORY SECTION (Amending Order 133 R, filed 9/18/85)

WAC 460-90A-032 THE PUBLIC OFFERING STATEMENT—DELIVERY TO PROSPECTIVE PURCHASERS. (1) The operator or its agents shall provide all prospective purchasers with the agency-registered Part I of the public offering statement prior to the completion of a sales presentation or a camp resort tour whether or not such persons purchase a camp resort contract.

(2) Part II of the public offering statement shall be provided actual purchasers.

(3) Any person who requests of ~~(([an] [any]))~~ an operator or its agents, a public offering statement, shall be provided ~~(([with]))~~ Part I of the public offering statement, whether or not such person has received a solicitation.

(4) Any prospective purchaser who attends a sales presentation or tour of a camp resort, upon request of the prospective purchaser, shall be given permanently a copy or prototype of the operator's camp resort contract, which the prospective purchaser may retain, whether or not there has been an actual purchase made. No fee shall be charged for this document.

(5) No fee may be charged for the initial copy of the Part I of the public offering statement provided persons. A fee covering the operator's actual costs for production of the document may be charged for additional copies.

AMENDATORY SECTION (Amending Order 133 R, filed 9/18/85)

WAC 460-90A-035 PURCHASER CANCELLATIONS OF CONTRACTS—PROMPT REFUND OF FUNDS AND CONSIDERATION. (1) "Promptly" with reference to the refund and return of a person's funds and consideration, referred to in RCW 19.105.390 shall be as follows:

(a) For cash, cashiers checks, money orders, credit card slips held and not processed and other similar consideration, the operator or its agents shall make refunds within ten business ~~((day[s]))~~ days of a demand.

(b) For credit card purchases where the operator has processed the credit card slip(s) to the care of the credit card company, the operator shall notify the credit card company of a credit to the account of the purchaser within three business days of a demand.

(c) Promissory notes and similar evidences of debt shall be voided and returned within three business days of demand.

(d) Within ten business days after demand, the operator or it[s] agents shall give the purchaser evidence that the purchase commitment has been voided.

(2) No purchaser camp resort contract, promissory note or other evidences of debt may be sold, transferred, hypothecated or pledged by an operator until at least

five business days after the termination of the statutory-prescribed cancellation term.

(3) No fees or charges may be made of a purchaser by an operator for use of written materials or camp resort facilities offered gratuitously prior to the cancellation request; however, nothing in this statement shall preclude an operator from requiring return of materials in the custody of a purchaser not constituting either Part I or Part II of the public offering statement.

AMENDATORY SECTION (Amending Order 133 R, filed 9/18/85)

WAC 460-90A-090 OPERATION OF IMPOUND CONDITION. When an impound condition is imposed in connection with the registration of camp resort contracts, 100% of the proceeds and ~~(([an])~~ other funds ~~((paid by any purchaser after))~~ as specified by the impound conditions ~~((is imposed))~~ shall, ~~(([within 48 hours or the next banking day, whichever is later,]))~~ be placed with the depository within 48 hours after the cancellation periods prescribed in WAC 460-90A-035 or the next banking day after the cancellation periods prescribed in WAC 460-90A-035, whichever is later, until the director takes further action pursuant to WAC 460-90A-100.

AMENDATORY SECTION (Amending Order 133 R, filed 9/18/85)

WAC 460-90A-115 RENEWALS. (1) Pursuant to RCW 19.105.420 an application for renewal shall be made not less than ~~((sixty))~~ thirty days prior to the expiration date of a registration, on a form to be provided by the agency.

(2) It shall be the applicant's responsibility to procure forms and file them with the agency.

(3) The renewal application shall include the following:

(a) Affidavits by the operator stating whether or not there have been any changes in the information and documentation previously submitted for purposes of registration.

(b) Copies or prototypes of all amended, altered, or new documentation evidencing changes with the changes being underlined or referred to by footnotes.

~~((Affidavits by the operator stating whether or not there have been any changes in the information required in the public offering statement.~~

~~((d))~~ A draft of a proposed amended public offering statement evidencing changes, with the changes being underlined or referred to by a cover letter calling the agency's attention to the proposed changes, additions to or deletions from the public offering statement previously accepted by the agency.

~~((e))~~ (d) A copy of all camp resort contract forms marked and underscored to reflect changes, additions or deletions.

~~((f))~~ (e) Financial statements and information as provided for in WAC 460-90A-045.

~~((g))~~ (f) Payment of fees provided for in RCW 19.105.410.

(4) Failure of the renewal applicant to renew in a timely manner on or before the date of permit expiration, shall mean that the registration and permit has expired. Upon expiration of registration the camping club contracts are deemed not registered and the operator must register as a new applicant pursuant to the provisions of RCW 19.105.320 and WAC 460-90A-025 and 460-90A-027.

(5) Registrants applying for renewals shall be required by the agency to submit any of the documents, information or exhibits required in WAC 460-90A-025 if deemed necessary for the protection of purchasers.

AMENDATORY SECTION (Amending Order RE 131, filed 5/29/85)

WAC 460-90A-122 SALESPERSON REGISTRATIONS. (1) Each applicant for registration as a camp resort salesperson shall register on a form prescribed by the agency and pay a filing fee (~~(of thirty dollars)~~) as provided by the director.

(2) Registration as a camp resort salesperson shall be renewed annually or at the time the salesperson obtains employment by a camp resort operator subsequent to a termination of a former employment by a camp resort operator, whichever event occurs first, by the filing of a form prescribed by the agency and payment of ~~((a))~~ the proscribed fee (~~(of thirty dollars)~~).

(3) The following information shall be provided on the original application or renewal of a camp resort salesperson's registration:

(a) The applicant's date and place of birth.

(b) Proof of identity.

(c) Information covering employment for the prior five years.

(d) Information concerning any administrative action taken against permits, licenses or registrations in other professions, businesses or occupations.

(e) An affidavit concerning knowledge of the Camping Club Act (chapter 19.105 RCW) and agency rules (chapter 460-90A WAC).

(f) Completion of an affidavit by applicants that they have read the public offering statement covering any registered project whose camp resort contracts they are offering or selling.

~~(4) ((Persons applying for a salesperson registration for the first time shall submit fingerprint identification on a form provided by the agency. Persons applying for a renewal of a salesperson registration shall submit fingerprint cards if there has been no prior submission.~~

~~(5))~~ Upon the occurrence of any material change in the information contained in the registrant's file, each salesperson registrant shall promptly file with the agency an amendment to the salesperson registration file stating the change(s). The following shall be material changes requiring notice to the agency:

(a) Any termination of employment with a camp resort operator.

(b) Upon being named a defendant or a party in any administrative, civil or criminal proceeding involving theft, fraud or dishonesty or violation of any act designed to protect consumers, or involving unethical or dishonest practices in any industry involving sales to

consumers or violations of chapter 19.105 RCW, the salesperson applicant shall promptly provide to the agency a notice of the proceeding and a copy of the complaint.

(c) A change of name.

(d) A change of residence or mailing address.

~~((6))~~ (5) Each operator of a camp resort whose camp resort contracts are registered with the agency, shall ((notify the agency on a form prepared by the agency, of the employment or termination of employment of any camp resort contract salesperson at the time of such employment or termination of employment)) upon the termination of employment of a camp resort salesperson provide the department with a notice of termination and to return to the department the salesperson registration within 10 days of such happening. In the event the notice and salespersons registration are not postmarked within the 10-day period disciplinary action may be taken against the operator.

(6) It shall be the operators responsibility to cause the posting of the salespersons registration form in a conspicuous location on the premises where the salesperson is employed.

(7) As a condition of continued registration the salesperson registrant shall comply with the following:

(a) During the entire term of the registration the registrant is to be employed or engaged by an operator that is registered with the agency as an offeror of camp resort contracts, and the salesperson shall be offering contracts on behalf of or in the employment of such operator-registrant.

~~(b) ((Upon termination of employment with a registered camp resort operator, the camp resort salesperson registration is deemed to have expired. At such time it shall be the salesperson's responsibility to provide the agency with notice of termination and to return to the agency the salesperson registration.~~

~~(c) It shall be the salesperson's responsibility to cause the posting of the salesperson registration form in a conspicuous location on the premises where employed and where contact with the public for purposes of making sales most often occurs.~~

~~(d))~~ The salesperson shall clearly identify himself or herself by full name, by means of a business card, lapel pin or by other means, upon contact with any prospective purchaser.

~~((e))~~ (c) The salesperson shall cooperate fully with the agency in any investigation of alleged violations by the registrant, salesperson, or others, of the Camping Club Act or these rules.

(d) It shall not be represented to any prospective purchaser that there is any form of a membership resale program for membership contracts being offered by the operator of the camp resort.

(8) Applications for registration or renewal that are for any reason defective or that are not legible shall be returned and the application shall be deemed not filed until the form is received by the agency with the deficiencies corrected.

(9) An application for renewal of a salesperson registration not filed in a timely manner or not received or acted upon by the agency prior to the expiration date

shall be deemed by the agency as having expired. The salesperson must thereafter register as a new applicant for registration. Salespersons who have failed to make timely renewal applications shall not engage in camp resort salesperson activities. It is the salesperson's responsibility to secure the necessary forms and renew a registration in a timely manner. Applications for renewal should be forwarded to the agency by registered mail at least thirty days prior to expiration of the current registration. The agency shall not be responsible for applications lost in the mail or not timely received for other reasons.

AMENDATORY SECTION (Amending Order PM 807, filed 12/20/88)

WAC 460-90A-145 FEES AND CHARGES. The following fees shall be paid under the provisions of chapter 19.105 RCW:

(1) **REGISTRATION FEES:** Applicants filing an original registration shall pay a basic fee of ~~((fifteen hundred dollars))~~ three thousand dollars for one resort. For each additional resort in this state a fee of \$500.00 will be paid.

(2) **CONTRACT FEES:** In addition to the registration fees, registrants shall pay fees for each grouping of contracts in the registration as provided in the following schedule:

(a) One to five hundred contracts - \$500.00.

(b) Each additional 500 contracts, or fraction thereof \$100.00 will be paid.

(1 -	500	\$	350.00
501 -	1000		450.00
1001 -	1500		550.00
1501 -	2000		650.00
2001 -	2500		750.00
2501 -	3000		850.00
3001 -	3500		950.00
3501 -	4000		1050.00
4001 -	4500		1150.00
4501 -	5000		1250.00
5001 -	5500		1350.00
5501 -	6000		1450.00
6001 -	6500		1550.00
6501 -	7000		1650.00
7001 -	7500		1750.00
7501 -	8000		1850.00
8001 -	8500		1950.00
8501 -	9000		2050.00
9001 -	9500		2150.00
9501 -	10000		2250.00
10001 -			2350.00)

(3) **RENEWAL FEES:** Each application for an annual renewal shall be accompanied by a fee of ~~((five hundred fifty dollars))~~ one thousand dollars for one resort plus three hundred fifty dollars for each additional resort in this state, plus the prescribed contract fees in section (2) of this rule for each grouping of contracts authorized ((m)) for sale during the period of the permit to market. A late fee of eight hundred dollars will be assessed.

(4) **FEES FOR AMENDING REGISTRATION AND PUBLIC OFFERING STATEMENTS:** (a) For each amendment of registration or the public offering statement, pursuant to RCW 19.105.420, not requiring an examination of documentation for adding campgrounds or additional contracts to the registration, a fee of fifty dollars shall be paid. (b) Amendment for the establishment of an additional campground into the registration, for which an examination of documentation is required, there shall be paid, exclusive of any other fees owed under this rule, a fee of ~~((two))~~ one thousand five hundred ((fifty)) dollars. A penalty fee of one hundred dollars shall be assessed and paid for failure to file an amendment within 30 days of the occurrence of a material change as defined in WAC 460-90A-017 or 460-90A-018.

(5) **FEES FOR IMPOUNDS, ESCROWS, TRUSTS AND DEPOSITORIES:** For each impound, escrow, trust, or other arrangement requiring agency monitoring for purposes of satisfying the provisions of RCW 19.105.340, 19.105.350, section 7, chapter 159, Laws of 1988 and section 12, chapter 159, Laws of 1988, the initial fee for establishing the impound, escrow, trust or other arrangement shall be two hundred fifty dollars and the fee for each required periodic report shall be twenty dollars.

(6) **FEES AND ADVERTISEMENT FILINGS:** (a) For each individual advertisement filed with the department, there shall be a fee of ~~((thirty))~~ fifty dollars paid at the time of the initial submission of the advertisement to the department. Should a registrant fail to submit a required filing of an advertisement or advertisements in a timely manner, the thirty dollar fee for each advertisement shall be collected from the registrant, even if the advertisement or advertisements at issue are no longer in use or being disseminated. (b) Registrants or applicant submitting an advertisement or advertisements involving no examination of campground instruments and which are for the purpose of marketing surveys or feasibility studies shall pay a fee of seventy-five dollars.

(7) **INSPECTION FEES:** Applicants and registrants shall pay the costs of inspections conducted pursuant to section 18, chapter 159, Laws of 1988. The inspection fee shall be paid within 30 days of request subsequent to the inspection. The inspection fee shall be determined by the actual cost to the department for conducting the inspection. The inspection fees must be paid prior to the processing of a registration, a renewal of registration or amendment seeking addition of a campground to a program.

(8) **SALESPERSON FEES:** Applicants for registration as camp resort salesperson shall pay an initial application and renewal fee of ~~((sixty))~~ one hundred dollars and a fee of ~~((sixty))~~ one hundred dollars for each transfer of the salespersons registration. Failure to renew a salesperson registration within 30 days after expiration shall result in termination of the registration and a new application for registration must be made. Duplicate licenses can be issued after payment of a \$35.00 fee.

(9) **FEES FOR EXEMPTIONS AND EXEMPTION APPLICATIONS:** For a review of an application for exemption under RCW 19.105.320(3), the applicant shall submit a fee of one hundred fifty dollars. If the exemption request is denied, the registrant shall be given credit for the one

hundred fifty dollars fee submitted toward the registration fee under section (1) of this rule.

(10) All fees are nonrefundable after application has been received.

(11) All fees shall be paid to the order of the Washington state treasurer.

WSR 90-06-052
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed March 2, 1990, 3:54 p.m.]

Date of Adoption: March 2, 1990.

Purpose: Establish new fees.

Citation of Existing Rules Affected by this Order:
 Amending 308-11-030 Auctioneer fees; 308-29-045
 Collection agency fees; 308-33-105 Employment agency
 fees; 308-32-090 Debt adjuster fees; and 308-30-100
 Notaries public fees.

Statutory Authority for Adoption: RCW 43.24.086.

Pursuant to notice filed as WSR 90-03-107 on Janu-
 ary 24, 1990.

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

March 2, 1990
 Marsha Tadano Long
 Assistant Director
 Professional Licensing Services

AMENDATORY SECTION (Amending Order PM
 650, filed 5/1/87)

WAC 308-11-030 AUCTIONEER FEES. The fol-
 lowing fees shall be charged by the professional licensing
 division of the department of licensing:

Title of Fee	Fee
Auctioneer:	
Initial application	((\$100.00)) \$110.00
Renewal	((75.00)) 110.00
Late renewal penalty	((50.00)) 100.00
Duplicate license	15.00
Certification	25.00
Auction company:	
Initial application	((+50.00)) 250.00
Renewal	((+25.00)) 250.00
Late renewal penalty	((+25.00)) 200.00
Duplicate license	15.00

AMENDATORY SECTION (Amending Order PM
 650, filed 5/1/87)

WAC 308-29-045 COLLECTION AGENCY
 FEES. The following fees shall be charged by the pro-
 fessional licensing division of the department of
 licensing:

Title of Fee	Fee
Collection agency—Main office:	
Original application	((\$-350.00)) \$ 650.00
Investigation (nonrefundable)	250.00
Renewal	((525.00)) 600.00
Late renewal penalty	((300.00)) 400.00
Reregistration fee after 30 days	((+425.00)) 1,650.00
Duplicate license	15.00
((Certification	25.00))
Branch office:	
Original application	((300.00)) 350.00
Renewal	((300.00)) 350.00
Late renewal penalty	((+50.00)) 200.00
Reregistration fee after 30 days	((750.00)) 900.00
Duplicate license	15.00
((Certification	25.00))

AMENDATORY SECTION (Amending Order PM
 650, filed 5/1/87)

WAC 308-33-105 EMPLOYMENT AGENCY
 FEES. The following fees shall be charged by the pro-
 fessional licensing division of the department of
 licensing:

Title of Fee	Fee
Agencies:	
Original application and license	((\$250.00)) \$725.00
Renewal	((225.00)) 600.00
Transfer of license	150.00
Duplicate license	15.00
New/amended contract or fee schedule review	50.00
Branch office:	
Original application and license	((+00.00)) 500.00
Renewal	((+25.00)) 500.00
Transfer of license	25.00
Duplicate license	15.00
General manager exam fee	((65.00)) 150.00

AMENDATORY SECTION (Amending Order PL
 446, filed 11/2/83)

WAC 308-32-090 FEES. The following fees shall
 be charged by the professional licensing division of the
 department of licensing:

Title of Fee	Fee
2 Agencies:	
Investigation fee	((\$100.00)) \$300.00
Original application	((200.00)) 300.00
Renewal	((250.00)) 500.00
Late renewal penalty	((250.00)) 300.00
<u>Duplicate license</u>	<u>15.00</u>
Debt adjuster:	
Investigation fee	((100.00)) 300.00
Exam or reexam	((150.00)) 300.00
Original application	300.00
Renewal	((300.00)) 500.00
Duplicate license	((5.00)) 15.00
Late renewal penalty	300.00

AMENDATORY SECTION (Amending Order PL 571, filed 11/26/85, effective 1/1/86)

WAC 308-30-100 FEES. The following fees shall be charged by the director of the department of licensing:

Title of Fee	Fee
Application for notary appointment	((\$15.00)) \$20.00
Renewal of notary appointment	((15.00)) 20.00
Duplicate certificate of appointment	((5.00)) 15.00
(including change of name)	
Evidence of verification of notarial commission	((5.00)) 15.00
Apostille	((5.00)) 15.00

WSR 90-06-053
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
[EO 90-03]

ESTABLISHING THE OFFICE OF CRIME VICTIMS' ADVOCACY

As a result of several recent striking brutal crimes in Washington State, the Governor's Task Force on Community Protection was created to review the current criminal justice and mental health systems.

During its public hearings around the state, the Task Force heard a strong desire to coordinate and enhance services to victims of violent crime. Legislation recommended by the Task Force would have created an office

of crime victims advocacy in the Department of Community Development, along with a grant program to enhance community-based services. This recommendation was not adopted by the Legislature.

NOW, THEREFORE, I Booth Gardner, Governor of the State of Washington, by virtue of the power vested in me, do hereby establish the Office of Crime Victims' Services in the Department of Community Development (DCD), as follows:

- A. The director of DCD shall appoint an executive administrator for the office.
- B. The office shall have the following responsibilities:
 - 1. Administer grant programs authorized by section 1203 of Engrossed Second Substitute Senate Bill No. 6259;
 - 2. Solicit communities for suggestions on state practices, policies, and priorities that would help communities treat victims of sex offenders; and
 - 3. Review the organization of crime victims' services in state and local government.
- C. The office shall submit recommendations to the Governor for future crime victims' programs and their organizational location.
- D. Consistent with Engrossed Second Substitute Senate Bill No. 6259, the office shall expire on July 1, 1991.
- E. This Executive Order is effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 28th day of February, A.D. nineteen hundred and ninety.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

Reviser's note: The spelling error in the above material appeared in the original copy of the Executive Order and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 90-06-054
NOTICE OF PUBLIC MEETINGS
BOARD FOR VOCATIONAL EDUCATION
[Memorandum—February 27, 1990]

MEETING NOTICE
MARCH 21-22, 1990

Work study session, March 21, 1990, 10:00 a.m., L.H. Bates VTI, South Campus, Tacoma, Washington, members of the Washington State Board for Vocational Education will meet in a work study session to discuss the job skills program.

Public hearing, March 22, 1990, 8:00 a.m., New Market Vocational Skills Center, Room B-1, Tumwater, Washington, the State Board for Vocational Education will hold a public hearing on the "federal" state plan for vocational education (FY 1991-1992). By law, two public hearings must be held on the federal plan. Reauthorization of the Perkins Vocational Education Act is currently before congress for consideration and amendments to plan requirements are expected shortly. The United States Department of Education has indicated that the prior two-year plan may be resubmitted without update for the interim period. Therefore, no changes or revisions to the 1989-90 plan are anticipated at this time.

Regular meeting, March 22, 1990, 9:30 a.m., New Market Vocational Skills Center, Room B-1, Tumwater, Washington, the regular business meeting of the state board will convene at 9:30 a.m. Primary agenda items include: Consideration of job skills program applications, adoption of the two-year state plan for vocational education (FY 1991-1992), budget presentations by the Office of the State Superintendent of Public Instruction and the state board for Community College Education, and a presentation of the final report on the Washington Institute of Applied Technology (WIAT) study.

People needing special accommodations, please call Patsi Justice at (206) 753-5660 or 234-5660 scan.

WSR 90-06-055

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed March 5, 1990, 10:50 a.m.]

Date of Adoption: March 5, 1990.

Purpose: To specify the types and breaking strength of safety chains and other devices used to secure and protect loads on motor vehicles.

Citation of Existing Rules Affected by this Order: Amending chapter 204-44 WAC.

Statutory Authority for Adoption: RCW 46.37.005.

Pursuant to notice filed as WSR 90-01-088 on December 19, 1989.

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

March 5, 1990

George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 7303, filed 12/19/73)

WAC 204-44-010 PROMULGATION. Under authority of RCW 46.37.005 and 46.37.490, the state (~~commission on equipment~~) patrol hereby adopts the following rules pertaining to the use of safety chains or other devices on vehicles to secure and protect the loads thereon.

AMENDATORY SECTION (Amending Order 7303, filed 12/19/73)

WAC 204-44-030 APPROVAL OF LOAD FASTENING DEVICES. The (~~following~~) types of binder devices listed below are hereby approved by the state (~~commission on equipment~~) patrol, provided that they (~~meet~~) have a minimum breaking strength of at least 15,000 pounds(-:), or meet or exceed federal standards contained in CFR 393.102:

1. (~~3/8-inch high test~~) Steel chain.
2. (~~1/2-inch diameter~~) Steel cable.
3. Steel strapping ((not less than two inches by fifty one-thousands (-050) inches in dimension)).
4. Fiber webbing.

(~~Any other load binder device, prior to use on public highways, shall be submitted to the state commission on equipment for approval.~~)

WSR 90-06-056

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed March 5, 1990, 10:51 a.m.]

Date of Adoption: March 5, 1990.

Purpose: Clarify definition of emergency tow truck.

Citation of Existing Rules Affected by this Order: Amending chapter 204-88 WAC.

Statutory Authority for Adoption: RCW 46.37.005, 46.37.190, 46.37.194 and 46.37.280.

Pursuant to notice filed as WSR 90-01-087 on December 19, 1989.

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

March 5, 1990

George B. Tellevik
Chief

AMENDATORY SECTION (Amending Order 88-07-ESR, filed 7/18/88)

WAC 204-88-030 DEFINITIONS. (1) "Authorized emergency vehicle" shall mean any vehicle of any fire department, police department, sheriff's office, coroner, prosecuting attorney, Washington state patrol, ambulance service public or private licensed by the department of social and health services or operated by any of the agencies named above, or any other vehicle authorized in writing by the state patrol.

(2) "Law enforcement vehicle" shall mean a publicly owned or leased vehicle operated by a law enforcement agency and which is used for the law enforcement functions of the agency.

(3) "Law enforcement agency" shall mean any municipal, port district or tribal police department, county police department or sheriff's office, the Washington state patrol, or any other state or federal agency which is publicly authorized to carry out law enforcement duties which include the authority to stop and detain motor vehicles on the public highways of this state.

(4) "Flashing" lamps shall mean those lamps which emit a beam of light which is broken intermittently and regularly by use of an electronic or electric switch, or a lamp which emits a steady beam of light which is intermittently and regularly directed away from any viewer by means of a rotating or oscillating reflector or lamp assembly. Flashing lamps are not to be confused with modulated lamps which intermittently and regularly decrease the power to the lamp filament so as to dim the light output but do not cause a total break in the light beam.

(5) "Emergency tow truck" shall mean a motor vehicle (especially) that has been issued a "tow truck permit" by the department of licensing and is especially designed and constructed principally for the purpose of recovery and/or towing of disabled, abandoned or damaged vehicles and not otherwise generally used in transporting goods or persons.

WSR 90-06-057

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF NATURAL RESOURCES (Forest Fire Advisory Board)

[Memorandum—March 1, 1990]

FOREST FIRE ADVISORY BOARD MEETING

The next scheduled meeting of the Forest Fire Advisory Board is Thursday, April 12, 1990. The meeting will begin at 9:00 a.m. and will be held in fire control's first floor conference room, located in Building 5 of the Rowsix Complex in Lacey.

WSR 90-06-058

EMERGENCY RULES DEPARTMENT OF FISHERIES

[Order 90-16—Filed March 5, 1990, 3:46 p.m.]

Date of Adoption: March 2, 1990.

Purpose: Classify atlantic salmon and amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-12-010 and 220-56-350.

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: Atlantic salmon are appearing in commercial catches and classification is needed to provide for reporting requirements. This will allow for management of the resource: Bywater Bay, Point Whitney and Eagle Creek closures take effect April 1,

1990, this is an interim measure for consistency and resource protection; and Twanoh Park has transferred effort from oyster closures that is endangering the small number of clams present.

Effective Date of Rule: Immediately.

March 2, 1990
Judith Merchant
Deputy
for Joseph R. Blum
Director

NEW SECTION

WAC 220-12-01000B *FOOD FISH—CLASSIFICATION*. Notwithstanding the provisions of WAC 220-12-010, effective immediately until further notice the following fish is classified as a food fish under RCW 75.08.080, and is subject to the provisions of this title:

Atlantic Salmon - Salmo salar (except in its landlocked form)

NEW SECTION

WAC 220-56-35000I *HARDSHELL CLAMS—AREAS AND SEASONS*. Notwithstanding the provisions of WAC 220-56-350, effective immediately:

(1) Until further notice it is unlawful to take or possess hardshell clams taken for personal from the tidelands of Bywater Bay State Park, state-owned tidelands at Point Whitney, or state-owned tidelands at Eagle Creek.

(2) Until June 30, 1990 it is unlawful to take or possess hardshell clams taken for personal use from the tidelands at Twanoh State Park, except it is lawful to take clams Thursday through Sunday of each week.

WSR 90-06-059

PERMANENT RULES DEPARTMENT OF ECOLOGY

[Order 88-57A—Filed March 6, 1990, 9:52 a.m.]

I, Fred Olson, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology Headquarters, Lacey, Washington, the annexed rules relating to chapter 173-158 WAC, Floodplain Management; amending WAC 173-158-030 Definitions and 173-158-060 Additional state requirements.

This action is taken pursuant to Notice No. WSR 89-01-109 filed with the code reviser on December 21, 1988. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 86.16.061 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED March 6, 1990.

By Fred Olson
Deputy Director

READOPTED SECTION (Readopting Order 88-57,
filed 3/7/89)

WAC 173-158-030 DEFINITIONS. For the purposes of this chapter the following definitions shall apply:

(1) "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "one hundred year flood."

(2) "Best available information" means in the absence of official flood insurance rate map data, communities can use data from other federal, state, or other sources provided this data has either been generated using technically defensible methods or is based on reasonable historical analysis and experience.

(3) "Critical facility" means a facility for which even a slight chance of flooding would be too great. Critical facilities include but are not limited to schools, hospitals, police, fire and emergency response installations, nursing homes, installations which produce, use, or store hazardous materials or hazardous waste.

(4) "Designated floodway" means the regulatory floodway which has been delineated on the flood insurance rate map (FIRM) or the flood boundary/floodway map (FBFM) of a community's flood insurance study and is included in the community's flood damage prevention ordinance.

(5) "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

(6) "Flood insurance rate map (FIRM)" means the official map on which the federal insurance administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

(7) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(8) "Flood protection elevation" means one foot above the base flood elevation.

(9) "New construction" means structures for which the "start of construction" commenced on or after the effective date of the local ordinance.

(10) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of the state or local governmental unit however designated.

(11) "Special flood hazard area" means an area subject to a base or one hundred year flood; areas of special flood hazard are shown on a flood hazard boundary map or flood insurance rate map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, or V.

(12) "Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally

above ground. Manufactured homes are considered structures.

(13) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(14) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(c) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(d) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(15) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(16) "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands have one or more of the following three attributes: (a) At least periodically, the land supports predominantly hydrophytes; (b) the substrate is predominantly undrained hydric soil; and (c) the substrate is nonsoils and is saturated with water or covered by shallow water at some time during the growing season of each year.

READOPTED SECTION (Readopting Order 88-57,
filed 3/7/89)

WAC 173-158-060 ADDITIONAL STATE REQUIREMENTS. The following state requirements are established in accordance with RCW 86.16.031(7):

(1) Critical facilities. Critical facilities should be afforded additional flood protection due to their nature. Communities therefore shall impose minimum standards which are in addition to those used for other types of development.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the one hundred year floodplain as identified on the community's FIRM. Construction of new critical facilities shall be permissible within the one hundred year frequency floodplain if no feasible alternative site is available. Critical facilities constructed within the one hundred year frequency floodplain shall have the lowest floor elevated to three or more feet above the level of the one hundred year frequency flood. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

Access routes elevated to or above the level of the one hundred year frequency flood shall be provided to all critical facilities to the extent possible.

(2) Flood protection elevation. In order to account for the impacts of future development on flood depths, and in order to ensure the least expensive insurance rates for floodplain occupants, all development within special flood hazard areas which requires elevation or floodproofing shall be elevated or flood proofed to or above the flood protection elevation (base flood elevation plus one foot).

WSR 90-06-060
PERMANENT RULES
LOTTERY COMMISSION
 [Filed March 6, 1990, 9:59 a.m.]

Date of Adoption: March 2, 1990.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 53 and 54 and of on-line game, Quinto.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 90-03-109 on January 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: Game 53, "Aces Wild," was adopted as WAC 315-11-530, 315-11-531 and 315-11-532, but was proposed as Game 54, WAC 315-11-540, 315-11-541 and 315-11-542; Game 54, "Two for the Money," was adopted as WAC 315-11-540, 315-11-541 and 315-11-542, but was proposed as Game 53, WAC 315-11-530, 315-11-531 and 315-11-532. The play symbols for "Two for the Money" were changed from "\$1.00, \$2.00, \$4.00, \$12.00, \$50.00 and \$2,500" to "8, 9, 10, J, Q, K" with corresponding captions "EGT, NIN, TEN, JAC, QUE, KNG." The adopted rule provides that the ticket shall have a legend listing the winning play symbols and their corresponding prizes; the proposed rules for chapter 315-33 WAC stated the name of the game to be New Game 90. The game is named Quinto pursuant to the adopted rules; and the proposed term "selected" has been replaced with "holds" or "hold" in the adopted version to clarify that a player does not select

his/her own sets, but holds those which the random number generator produces.

Effective Date of Rule: Thirty days after filing.

March 5, 1990
 Evelyn Y. Sun
 Director

NEW SECTION

WAC 315-11-530 DEFINITIONS FOR INSTANT GAME NUMBER 53 ("ACES WILD"). (1) Play symbols: The following are the "play symbols": " @ "; "K"; "Q"; "J"; "10"; and "9." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket.

(2) Captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 53, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
@	ACE
K	KNG
Q	QUE
J	JAC
10	TEN
9	NIN

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

(4) Pack-ticket number: The eleven-digit number of the form 05300001-000 printed on the front of the ticket. The first eight digits of the pack-ticket number for Instant Game Number 53 constitute the "pack number" which starts at 05300001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 and less. For Instant Game Number 53, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$1.00
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTF	\$24.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-531 CRITERIA FOR INSTANT GAME NUMBER 53. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any 3 of 6 spots beneath the removable covering on the front of the ticket shall win the following prize:

Three 9's	- Win	\$1.00
Two 9's and one [Q] symbol	- Win	\$2.00
Three 10's	- Win	\$5.00
Two 10's and one [Q] symbol	- Win	\$10.00
Three J's	- Win	\$24.00
Three Q's	- Win	\$50.00
Two Q's and one [Q] symbol	- Win	\$100.00
Three K's	- Win	\$5,000.00
Two K's and one [Q] symbol	- Win	\$10,000.00

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 53 set forth in WAC 315-11-532, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 53; and/or

(b) Vary the number of tickets sold in Instant Game Number 53 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-532 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 53. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 53 all of the following validation requirements apply.

(a) Exactly one play symbol must appear in each of the six play spots under the latex covering on the front of the ticket.

(b) Each of the six play symbols must have a caption underneath, and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-530(1) and each of the captions must be exactly one of those described in WAC 315-11-530(2).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-540 DEFINITIONS FOR INSTANT GAME NUMBER 54 ("TWO FOR THE MONEY"). (1) Play symbols: The following are the "play symbols": "8"; "9"; "10"; "J"; "Q"; "K."

One of these symbols appears in each of the twelve play spots under the latex covering on the front of the ticket. The twelve play spots are divided into two separate sets of six adjoining play spots. Each set of six adjoining play spots shall be known as a playfield. Each ticket shall have two playfields.

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

(3) Pack-ticket number: The eleven-digit number of the form 05400001-000 printed on the front of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 54 constitute the "pack number" which starts at 05400001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 54, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
8	EGT
9	NIN
10	TEN
J	JAC
Q	QUE
K	KNG

(5) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$25 or less. For Instant Game Number 54, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations in both playfields. At least one

letter of the three-letter code shall be in each playfield. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$1.00
TWO	\$2.00 (\$1 and \$1)
FOR	\$4.00 (\$2 and \$2)
EGT	\$8.00 (\$4 and \$4)
TLV	\$12.00
TTF	\$24.00 (\$12 and \$12)

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

NEW SECTION

WAC 315-11-541 CRITERIA FOR INSTANT GAME NUMBER 54. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three spots within a playfield beneath the removable covering on the front of the ticket shall win the following prize:

Three 8's - Win	\$ 1.00
Three 9's - Win	\$ 2.00
Three 10's - Win	\$ 4.00
Three J's - Win	\$ 12.00
Three Q's - Win	\$ 50.00
Three K's - Win	\$ 2,500

(b) Play symbols from one playfield may not be mixed, combined or intermingled with play symbols from the other playfield.

(c) The bearer of a ticket having a winning set of symbols in both playfields shall win the total amount of the prizes won in each playfield. The ticket shall bear a legend which lists the winning play symbols and their corresponding prizes.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 54 set forth in WAC 315-11-542, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 54; and/or

(b) Vary the number of tickets sold in Instant Game Number 54 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-542 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER

54. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 54 all of the following validation requirements apply:

(a) Exactly one play symbol must appear in each of the twelve play spots under the removable latex covering on the front of the ticket.

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

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retail Verification Code	Validation Font

(d) Each of the play symbols and its caption, the validation number, pack-ticket number and retailer verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-540(1) and each of the captions must be exactly one of those described in WAC 315-11-540(4).

(2) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

WAC 315-33

WAC 315-33-010	DEFINITIONS FOR QUINTO
WAC 315-33-020	PRICE OF QUINTO TICKET
WAC 315-33-030	PLAY FOR QUINTO
WAC 315-33-040	PRIZES FOR QUINTO
WAC 315-33-050	TICKET PURCHASES
WAC 315-33-060	DRAWINGS
WAC 315-33-070	SUSPENSION/TERMINATION OF QUINTO

NEW SECTION

WAC 315-33-010 DEFINITIONS FOR QUINTO. (1) Card suit: Heart, diamond, club or spade symbol.

(2) Number: Any integer from 2 through 10 inclusive and jack, queen, king or ace.

(3) Set: One number and one card suit.

NEW SECTION

WAC 315-33-020 PRICE OF QUINTO TICKET. The price of each Quinto ticket shall be \$1.00 and shall contain one five (5) set play.

NEW SECTION

WAC 315-33-030 PLAY FOR QUINTO. (1) Type of play: Each play is a selection of five sets. A winning play is achieved only when 3, 4 or 5 of the sets selected match, in any order, the five winning sets drawn by the lottery.

(2) Method of play: An on-line computer system will make all set selections with the use of a random number

generator, a method commonly referred to as "quick play".

NEW SECTION

WAC 315-33-040 PRIZES FOR QUINTO. (1) The prize amount to be paid to each Quinto player who holds a winning combination of sets in the first prize category shall be \$100,000. The prize amounts to be paid to each Quinto player who holds a winning combination of sets in the second and third prize categories vary due to the parimutuel calculation of prizes. The prize amounts in the second and third prize categories are based on the total in the prize pool minus the prize amount(s) in the first prize category for that Quinto drawing distributed over the number of winning tickets in each category.

WINNING COMBINATIONS	PRIZE CATEGORIES	ODDS OF WINNING (ONE PLAY)
All five winning sets in one play	First Prize: \$100,000.00	1:2,598,960
Any four but not five winning sets in one play	Second Prize	1:11,059
Any three but not four or five winning sets in one play	Third Prize	1:240

(2) Prize allocation.

(a) The prize allocation consists of a minimum of fifty percent of Quinto revenue. The prize allocation will be divided between the prize pool and the prize reserve as follows: Prize pool—a minimum of forty-eight percent of Quinto revenue and prize reserve—a minimum of two percent of Quinto sales.

(b) Prize allocation, prize pool, and prize reserve percentages may be increased above their minimum levels at the discretion of the director.

(3) Prize amounts.

(a) First prize. A \$100,000.00 prize is to be paid to each player who holds all five winning sets in one play in any sequence.

(b) Second prize. (i) Where there is no winner of the first prize, seventy percent of the prize pool shall be divided equally among all players who hold four of the five winning sets in one play in any sequence.

(ii) Where there are one or more winners of the first prize, seventy percent of the prize pool which remains after payment of one first prize shall be divided equally among all players who hold four of the five winning sets in one play in any sequence, except where sales for the drawing were less than \$300,000, then seventy percent of thirty percent of the prize pool shall be divided equally among all players who hold four of the five winning sets in one play in any sequence.

(c) Third prize. (i) Where there is no winner of the first prize, thirty percent of the prize pool shall be divided equally among all players who hold three of the five winning sets in one play in any sequence.

(ii) Where there are one or more winners of the first prize, thirty percent of the prize pool which remains after payment of one first prize shall be divided equally

among all players who hold three of the five winnings sets in one play in any sequence; except where sales for the drawing were less than \$300,000, then thirty percent of thirty percent of the prize pool shall be divided equally among all players who hold three of the five winning sets in one play in any sequence.

(d) Prize reserve. The prize reserve will be held for payment of prizes at the discretion of the director.

(e) All prizes will be rounded to nearest dollar. The remainder or shortages, if any, from the rounding process shall be placed in or taken from the prize reserve.

(f) The holder of a winning ticket may win only one prize per play in connection with the winning sets drawn and shall be entitled only to the highest prize amount won by those sets.

(g) In the event any player who holds three, four or five of the five winning sets does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for use, pursuant to RCW 67.70.190.

(4) Prize enhancement feature.

(a) If no player holds four of the five winning sets for any given drawing, the second prize allocation will be added to the third prize allocation for that drawing.

(b) If no player holds three of the five winning sets for any given drawing, the third prize allocation will be added to the second prize allocation or placed in the prize reserve for future consideration at the discretion of the director.

(5) Prize payments will be made in accordance with WAC 315-30-030(6). Each prize shall be paid in a single payment. Federal income tax shall be withheld from prize payments as required by law.

NEW SECTION

WAC 315-33-050 TICKET PURCHASES. (1) Quinto tickets may be purchased or redeemed no less than seventeen (17) hours each day in accordance with a schedule to be determined by the director, provided that on-line retailers shall sell and redeem tickets only during their normal business hours.

(2) Quinto tickets may be purchased only from a lottery retailer authorized by the director to sell on-line tickets.

(3) Quinto tickets shall, on the front of the ticket, contain the quick-play selection of sets, amount, drawing date and validation and reference numbers. The back of the ticket shall contain player instructions, player information and signature area, and the ticket serial number. The overall odds of winning shall appear on the ticket.

NEW SECTION

WAC 315-33-060 DRAWINGS. (1) The Quinto drawing shall be held once each Saturday evening, except that the director may change the drawing schedule if Saturday is a holiday.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall determine, at random, five winning sets with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn sets are not declared winners until the drawing is certified by the lottery. The winning sets shall be used in determining all Quinto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

NEW SECTION

WAC 315-33-070 SUSPENSION/TERMINATION OF QUINTO. (1) At the discretion of the director, Quinto may be suspended or terminated at any time, to be effective prior to the beginning of sales for any future drawing. The director may suspend or terminate sales and a drawing only where no sales have been made for the drawing.

WSR 90-06-061

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed March 6, 1990, 11:11 a.m.]

Original Notice.

Title of Rule: New section WAC 460-24A-040 Use of certain terms; and amendatory section WAC 460-24A-205 Notice of changes by investment adviser.

Purpose: Identifies certain terms which are defined as similar to "financial planner" for the purposes of RCW 21.20.040(2). Eliminates applicant photograph requirement for investment adviser salesperson applications.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: RCW 21.20.040(2).

Summary: Takes up legislative invitation of RCW 21.20.040(2) to specify by rule terms similar to "financial planner." Eliminates applicant photograph requirement of investment adviser salesperson registration.

Reasons Supporting Proposal: Provides guidance to affected persons about who must register as an investment adviser. Simplifies investment adviser salesperson registration process.

Name of Agency Personnel Responsible for Drafting: Suzanne Sarason, Securities Examiner, 7240 Martin Way, Olympia, 753-6928; Implementation: Ken Mark, Assistant Director, 405 Black Lake Boulevard, Olympia, 753-1749; and Enforcement: Jack L. Beyers, Securities Administrator, 7240 Martin Way, 753-6928.

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: Lists some of the terms that are similar to "financial planner." RCW 21.20.040(2) provides that use of "financial planner" or similar terms requires the user to

register as an investment adviser or investment adviser salesperson. The proposed rule is intended to provide guidance about who must register. Elimination of applicant photograph requirement for investment adviser salesperson applications is intended to simplify the registration process.

Proposal Changes the Following Existing Rules: Eliminates the present requirement for applicant photograph for investment adviser salesperson registration applicants.

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

Hearing Location: Securities Division Conference Room, 7240 Martin Way, Olympia, WA 98506, on April 11, 1990, at 10 a.m.

Submit Written Comments to: Jack L. Beyers, Securities Administrator, P.O. Box 648, Olympia, WA 98504, by April 10, 1990.

Date of Intended Adoption: April 24, 1990.

March 5, 1990

Mary Faulk

Director

NEW SECTION

WAC 460-24A-040 USE OF CERTAIN TERMS. (1) For the purposes of RCW 21.20.040(2), terms that are deemed similar to "financial planner" and "investment counselor" include, but are not limited to, the following:

- (a) Certified financial planner or its abbreviation, CFP;
- (b) Financial consultant;
- (c) Investment consultant;
- (d) Money manager;
- (e) Investment manager;
- (f) Investment planner; or
- (g) Chartered financial consultant or its abbreviation, ChFC.

(2) A licensed insurance agent who is not registered as a securities salesperson and is not required to be so registered, and who indicates in writing in all communications with customers or potential customers and in all advertising that his business is limited to insurance products, does not hold himself out as a financial planner merely because he uses the abbreviation ChFC.

AMENDATORY SECTION (Amending Order SDO-220-85, filed 11/19/85)

WAC 460-24A-205 NOTICE OF CHANGES BY INVESTMENT ADVISER. (1) Each licensed investment adviser shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) With respect to any investment adviser registered under the Investment Advisers Act of 1940, it shall be a sufficient compliance with subsection (1) of this section if a copy of an amendment to Form ADV, of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

(3) Each licensed investment adviser shall notify the administrator of the employment of any new representative in Washington by submitting a completed NASD Form U-4 ((with a photograph)) to the administrator or the administrator's designee, within 10 days after the event occurs.

(4) Each licensed investment adviser shall notify the administrator of the termination of employment of any representative in Washington, by submitting a complete NASD Form U-5 to the administrator or the administrator's designee, within 30 days after the event occurs.

WSR 90-06-062
PERMANENT RULES
DEPARTMENT OF ECOLOGY
 [Filed March 6, 1990, 3:00 p.m.]

Date of Adoption: March 6, 1990.

Purpose: Chapter 173-422 WAC is being amended to meet the requirements of 1989 SHB 1104 relating to the motor vehicle emission inspection and maintenance.

Citation of Existing Rules Affected by this Order: Amending chapter 173-422 WAC, Motor vehicle emission inspection.

Statutory Authority for Adoption: Chapter 70.120 RCW.

Pursuant to notice filed as WSR 89-24-060 on December 5, 1989.

Changes Other than Editing from Proposed to Adopted Version: Minor vehicle test procedure revisions.

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

March 6, 1990
 Fred Olson
 Deputy Director

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-020 DEFINITIONS. Unless a different meaning is clearly indicated by context, the following definitions will apply:

(1) "Accuracy" means the degree of correctness by which the true value of a measured sample is determined.

(2) "Calibration gases" mean a blend of hydrocarbon (propane), carbon monoxide (CO), and carbon dioxide using nitrogen as carrier gas. The concentrations are to be traceable to within two percent of NBS standards.

(3) "Certificate of acceptance" means an official form, issued by someone authorized by the department, which certifies that all of the following conditions have been met: The recipient's vehicle initially failed to comply with applicable emission standards, the recipient has provided original receipts proving that more than fifty dollars or one hundred fifty dollars on a 1981 or later model motor vehicle were spent after the first test and before the final test on repairs ((and/or parts)) performed by a "certified emission specialist" solely to meet emission standards, the vehicle on final reinspection again failed to meet such standards, and the repair information section of the test report has been completed and the vehicle has been in use for more than five years or fifty thousand miles, and any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

(4) "Certificate of compliance" means an official form, issued by someone authorized by the department, which certifies that the ~~((following conditions have been met. The))~~ recipient's vehicle on inspection complied with applicable emission standards ~~((and inspection fees have been paid)).~~

(5) "Certified emission specialist" means an individual who has been issued a certificate of instruction by the department as authorized in RCW 70.120.020 (2)(a)

and has maintained the certification by meeting requirements of WAC 173-422-190(2).

~~((6))~~ (7) "Dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

~~((6))~~ (7) "Department" means the department of ecology.

~~((7))~~ (8) "Drift" means the change in the reading of the analyzer to a given sample over a period of time with no adjustment to the analyzer having been made between the initial and final measurements.

~~((8))~~ (9) "Emission contributing area" means a land area within whose boundaries are registered motor vehicles that contribute significantly to the violation of motor vehicle related air quality standards in a noncompliance area. (The inspection program implemented by this chapter applies only to vehicles registered in emission contributing areas.)

~~((9))~~ (10) "Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies, and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another.

~~((10))~~ (11) "Fleet" means a group of twenty-five or more motor vehicles owned or leased concurrently by one person.

~~((11))~~ (12) "Gaseous fuel" means liquefied petroleum gases and natural gases in liquefied or gaseous forms.

~~((12))~~ (13) "Gross vehicle weight (GVW)" means the manufacturer stated gross vehicle weight rating.

~~((13))~~ (14) "HC and CO emissions" means the concentration of hydrocarbons (measured as n-hexane) and carbon monoxide in the engine exhaust.

~~((14))~~ (15) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

~~((15))~~ (16) "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.

~~((16))~~ (17) "NBS" means National Bureau of Standards.

~~((17))~~ (18) "Noncompliance area" means a land area within whose boundaries any air quality standard for any air contaminant from the emissions of motor vehicles will probably be exceeded ~~((after December 31, 1982)).~~

~~((18))~~ (19) "PPM" means parts per million by volume.

~~((19))~~ (20) "Repeatability" means the ability of an analyzer to report the same value for successive measurements of the same sample.

~~((20))~~ (21) "Response" means how quickly there is a change in reading following a change in concentration at the sample probe inlet.

~~((21))~~ (22) "Sensitivity" means the smallest change in the value of a measured sample that can be detected by the analyzer.

~~((22))~~ (23) "Zero calibration gases" means air or nitrogen in which total impurities do not exceed 0.01 percent.

NEW SECTION

WAC 173-422-035 REGISTRATION REQUIREMENTS. (1) Persons residing in emission contributing areas as defined under WAC 173-422-050 shall register their motor vehicles within that area, unless business reasons require registration outside of the area.

(2) Any person who violates this section is subject to a civil penalty not to exceed one hundred dollars.

(3) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control hearings board as provided for in chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-040 NONCOMPLIANCE AREAS. The following areas are designated noncompliance areas for the air contaminants specified ~~((these areas are set forth on maps on file with the department))~~:

- (1) Carbon monoxide
 - (a) ~~Parts of the city of Seattle.~~
 - (b) ~~Parts of the city of Bellevue.~~
 - (c) ~~Parts of the city of Spokane.~~
- (2) Ozone
 - The central Puget Sound basin): Carbon monoxide
 - (1) The city of Seattle.
 - (2) The city of Bellevue.
 - (3) The city of Spokane.
 - (4) The city of Tacoma.
 - (5) The city of Vancouver.
 - (6) The city of Yakima.
 - (7) The city of Everett.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-060 EMISSION STANDARDS. Motor vehicles subject to this chapter shall meet the following emission standards prior to receiving a certificate of compliance.

((STANDARDS

CO(%) ————— HC(ppm)

Model Year	4 or less* Cyl.	More Than 4 Cyl.	
71-74	6.0	5.0	1000
75-78	3.0	3.0	800
79 and later	3.0	3.0	600

~~When 1979 and later model vehicles were manufactured with a catalytic converter the standards are:~~

2.0	1.5	300
-----	-----	-----

*Includes all rotary engines))

STANDARDS

Model Year	CO(%)	HC (ppm)
68-74	6.0	1000
75 and later	3.0	600

Except 1981 and later model vehicles manufactured with a catalytic converter the standards are:

1.2	220
-----	-----

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-070 TEST PROCEDURES. All persons certified by, or under contract to, the department to conduct motor vehicle emission inspections shall use the following test procedures. Variations to the procedures specified may be used if approved by the department after receipt of evidence that such changes will not interfere with the validity of the test.

(1) ~~((An idle mode))~~ A two-speed (idle and 2500 rpm) test with the transmission in neutral or park shall be used to measure vehicle exhaust emissions for carbon monoxide, hydrocarbons, and carbon dioxide. A vehicle with an automatic transmission may be tested in drive for the idle test if the idle rpm in neutral or park exceeds 1200 rpm. However, the idle rpm as tested cannot exceed 1200 rpm unless allowed to do so by the vehicle manufacturer's specifications.

(2) The engine shall be at normal operating temperature during the emission test with all accessories off.

(3) Any vehicle causing an unsafe condition, such as the continuous leaking of any fluid onto the floor, may be rejected from the inspection site.

(4) Vehicles shall be approximately level during the test.

(5) Vehicles with more than one exhaust pipe shall be tested by sampling each tail pipe and averaging the results, unless the exhaust pipes originate from a common point in the exhaust system. Simultaneous sampling from multiple exhaust pipes may also be used.

(6) The following steps shall be taken to prevent excessive dilution. The exhaust sample probe must be inserted at least ten inches into the tail pipe. If this is not possible, an extension boot shall be used. The exhaust emission test results shall not be recorded if the carbon dioxide concentration does not meet or exceed five percent.

(7) If the engine stalls during the test, the engine shall be restarted and one additional attempt will be made to complete the test.

(8) If a vehicle is capable of being operated with either gasoline or gaseous fuels, the vehicle shall be tested using the fuel it is operating on when it enters the testing facility.

(9) If a multiple range analyzer is used, the exhaust analyzer range shall be selected so that the standard for the vehicles being tested is between twenty-five percent and seventy-five percent of full scale, if possible.

(10) Before testing a 1981 and later model Ford Motor Company vehicle with a gross vehicle weight of 8500 pounds or less, or a 1984-85 Honda Prelude, the engine shall be turned off and then restarted.

(11) ~~((For all vehicles;)) Increase the engine ((shall be accelerated to one-third to one-half throttle (about 2500 rpm), with the transmission in neutral or park, and held there for fifteen seconds)) speed to 2500 ± 300 rpm.~~

(12) ~~((With)) Insert the probe into the tailpipe. After at least thirty seconds record the exhaust emissions averaged over the last five seconds.~~

(13) ~~Slowly reduce the engine ((idling, insert the probe into the tailpipe for)) speed to idle (less than 1200 rpm). After at least thirty seconds(:) or when the readings have stabilized at a level meeting the emission standards record the exhaust emissions averaged over the last five seconds ((shall then be recorded. A shorter testing time may be used if the emission stabilization procedure in WAC 173-422-110 (2)(d) is used)).~~

(14) When readings from multiple exhaust pipes are averaged, steps 10, 11, ~~((and))~~ 12, and 13 shall be repeated for all exhaust pipes.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-090 EXHAUST ANALYZER SPECIFICATIONS. Only exhaust analyzers meeting the following specifications at the time of certification testing may be used for certification testing. ~~((The department will maintain a list of analyzers that have been certified by the manufacturers as meeting the specifications at the time of manufacture. The department does not require the use of these analyzers or guarantee the performance of these analyzers.))~~ Any person authorized by the department to certify vehicles is solely responsible for insuring that the testing equipment is operating within the following specifications at the time of certification testing.

(1) Accuracy: The readings or the printed test results of the exhaust analyzers compared to the true value of a measured sample shall have the following accuracy tolerances.

HC - Measured as n - hexane	
200 to 220 ppm	±15 ppm
0 to 1000 ppm	±30 ppm
1000 to 2000 ppm	±100 ppm
CO	
1.0 to 1.2%	±0.1%
0 to 5%	±0.2%
5 to 10%	±0.5%
CO ₂	
4 to 6%	±1%

(2) Calibration: The analyzer shall have the capability of being calibrated electronically and by gas.

(3) Drift: The drift of the zero reading or any calibration reading of each analyzer shall not exceed ~~((20))~~ 15 ppm HC, 0.1% CO or 0.5% CO₂ in one hour.

(4) Flow restriction indicator: The analyzer shall be operated within manufacturer's specifications for sample

flow. The sampling system shall be equipped with a visual and/or audible warning that sample flow is not within operating requirements.

(5) Interference effects: Sampling the following concentrations of noninterest gases shall not cause the HC reading to change ±10 ppm: 15% CO₂ in N₂, 10% CO in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO reading to change ±0.05%: 15% CO₂ in N₂, 1600 ppm HC in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO₂ reading to change ±0.5%: 1600 ppm HC in N₂, 10% CO in N₂, 3000 ppm NO in N₂, 10% O₂ in N₂, and 3% H₂O vapor in air.

(6) Repeatability: The repeatability of the exhaust analyzers used shall be within 10 ppm HC, 0.05% CO and 0.2% CO₂ during five successive measurements of the same sample.

(7) Response: The response of the exhaust analyzers shall be at least ninety-five percent of the final value within fifteen seconds.

(8) Sensitivity: The sensitivity of each analyzer shall be equal to or less than 10 ppm HC, 0.05% CO and 0.2% CO₂.

(9) Range of measurement: The analyzer shall have a range equal to or greater than 0-2000 ppm HC (n-Hexane), 0 to 10% CO, and 0 to 6% CO₂.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-100 TESTING EQUIPMENT MAINTENANCE AND CALIBRATION. (1) Unless alternative procedures have been approved or required by the department all equipment used in the inspection shall be calibrated and maintained according to the manufacturer's specifications and recommendations. Complete logs as approved by the department shall be kept for maintenance, repair, and calibration.

(2) The following procedures shall be followed by all testing facilities unless equivalent procedures have been approved by the department. Exhaust analyzers and all electronic components that could affect the gas concentration results shall be warmed up for at least thirty minutes prior to performing any test on equipment, calibration, span, or zero checks:

(a) Each test. Before each test can start, the exhaust analyzer readings must be less than ~~((20))~~ 10 ppm HC, 0.1% CO and 0.5% CO₂. If during a test the sampling system flow restriction indicator becomes activated, the test shall be stopped and restarted after the necessary repairs to the analyzer have been completed.

(b) Hourly check. The exhaust analyzer shall not be used to test vehicles unless within an hour prior to the test it was spanned with a calibration gas. The following procedure shall be used:

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using a calibration gas of approximately twenty to forty percent of each range.

(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090.

(c) Weekly check. ~~((The exhaust analyzer shall not be used to test vehicles unless within one week prior to the test it was spanned with a calibration gas. The following procedure shall be used:~~

~~(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.~~

~~(ii) Adjust the exhaust analyzer using the electronic span.~~

~~(iii) Check the calibration of the exhaust analyzer using a calibration gas with a CO concentration of 0.6 to 2.4%, a HC concentration of 110 to 440 ppm measured as n-hexane, and a CO₂ concentration of 4.0 to 6.0%.~~

~~(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090.~~

~~(d) Monthly check.)) The exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within the last ~~((thirty))~~ seven days. The following procedure shall be used:~~

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using calibration gases of approximately twenty, forty, sixty, and eighty percent for each range. (CO₂ must be present at concentrations of at least 2.0%.)

(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090 at each calibration point.

~~((~~+~~))~~ (v) Check the calibration of the exhaust analyzer using a calibration gas with a CO concentration of 1.2 to 2.4%, a HC concentration of 150 to 300 ppm measured as n-hexane, and a CO₂ concentration of 4.0 to 6.0%.

(vi) Adjust and repair as necessary to insure the accuracy of the exhaust analyzer is within .05% CO and 6 ppm HC.

(d) Repair check. A multipoint calibration as specified in ~~((WAC 173-422-100(d)))~~ (c) of this subsection shall be performed before the analyzer is used for certification testing following the replacement of an optical or electronic component that can cause a variation in the analyzer reading.

The manufacturer's recommended procedures to determine any change in the correction factor from the propane calibration gas to n-hexane readings shall be followed.

~~((~~+~~))~~ (e) Leak check. The exhaust analyzer shall not be used to test vehicles unless within one week prior to the testing, CO readings have been taken while introducing calibration gas through the calibration port and through the probe. Discrepancies of over 3% in the readings shall require repair of leaks. No analyzer adjustments shall be permitted during this check. Other leak check procedures may be used if it can be shown to the department's satisfaction that the method identifies leaks as well as the method in this subsection.

AMENDATORY SECTION (Amending Order DE 86-32, filed 1/7/87, effective 4/1/87)

WAC 173-422-130 INSPECTION FEES. ~~((A fee of nine dollars shall be collected))~~ The fee for the first emission test on each vehicle applicable to ~~((each))~~ a vehicle license year shall be sixteen dollars. If the vehicle fails, one retest will be provided free of charge at any inspection station operated under contract to the state, provided that the retest is ~~((requested within sixty days of the initial test))~~ applicable to the same vehicle license year. Any additional retests of a failed vehicle applicable to the same vehicle license year will require the payment of ~~((the same fee charged for the initial test))~~ sixteen dollars.

Inspection station operators shall forward to the ~~((department))~~ state treasurer within ten working days, the amount of fees due to the state for inspections conducted during the previous month.

The department or its designee shall have the right to audit any inspection station operator's or contractor's records and procedures to substantiate that the operator or contractor is properly collecting and accounting for such fees.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-140 INSPECTION FORMS AND CERTIFICATES. All inspection stations shall use inspection forms and certificates provided or approved by the department. Additional ~~((diagnostic))~~ information or materials may be provided to the vehicle operator ~~((Other materials may be given the vehicle operator))~~ only if approved by the department.

(1) Vehicle inspection report: The driver of each vehicle tested shall be given a vehicle inspection report on a form to be provided or approved by the department. The inspection station operator shall ~~((provide))~~ record the following information.

(a) Station number (lane number).

(b) Date and time of test ~~((~~+~~))~~.

(c) Who conducted the test ~~((~~+~~))~~ (name or identification number).

(d) Vehicle identification number (VIN).

(e) Odometer reading in thousands of miles.

(f) Vehicle license number.

(g) Vehicle model year.

(h) Make of the vehicle.

(i) ~~((Number of cylinders.~~

~~+~~)) Whether or not the vehicle was manufactured with a catalytic converter. (1981 and later model vehicles only)

~~((~~+~~))~~ (j) Gross vehicle weight class.

~~((~~+~~))~~ (k) Emission test results.

~~((~~+~~))~~ (l) Applicable standards.

~~((~~+~~))~~ (m) Whether the vehicle has passed or failed the appropriate emission standards.

(n) The engine speed while the emission readings were taken.

(o) Carbon dioxide reading.

~~((When and who issued a certificate of compliance or acceptance (name or identification number):~~

~~(q))~~ First test or retest.

~~((r) All other information required on the form.))~~ (q)

If available at a retest the identification number of an ecology authorized emission specialist who repaired the vehicle following the first test.

(2) Certificate of compliance: The driver of a vehicle meeting the appropriate emission standards shall be issued a certificate of compliance. ~~((A vehicle failing the initial test shall be allowed one free retest within sixty days of the initial test.))~~

(3) Certificate of acceptance: If a vehicle has failed to pass the emission test applicable to any vehicle license year, the vehicle owner may request a certificate of acceptance, if the vehicle has been in use for more than five years or fifty thousand miles, and any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative. To receive the certificate of acceptance the vehicle owner must provide original receipts totalling at least fifty dollars, for 1980 and earlier model year vehicles or at least one hundred fifty dollars for 1981 and later model year vehicles, dated on or between the date of the first test and the final retest, for costs of repairs ((and/or parts)) performed by a "certified emission specialist" solely devoted to meeting the emission standards. ((Guidelines for obtaining a certificate of acceptance are on file with the department and printed on the emission test report.))

(4) Form storage: Copies of each certificate of compliance/acceptance, and all vehicle inspection reports shall be kept on file by the contractor and be available for the department's review for one year after they are issued. This requirement includes forms that are voided for any reason.

(5) Reporting: The inspection station operator shall forward to the department within ten working days after the end of each month (a) an approved storage device containing all data collected from each inspection conducted that month, and (b) a copy of all certificates of acceptance issued that month along with the related vehicle inspection reports and repair and/or parts receipts.

Before the storage device is forwarded to the department, a backup bulk storage device shall be in the possession of the contractor. The backup bulk storage device shall be retained for one year and be available to the department upon request.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-145 FRAUDULENT CERTIFICATES OF COMPLIANCE/ACCEPTANCE. (1)(a) Obtaining or attempting to obtain a certificate of compliance by (i) providing false information or (ii) any fraudulent means; or

(b) Obtaining or attempting to obtain a certificate of acceptance (i) through the use of receipts or other documentation containing false information, or (ii) ~~((without having expended more than fifty dollars after the first test and before the final test for repairs or parts solely devoted to meeting the emission standards, or (iii)))~~ any fraudulent means shall be construed as a violation of

these rules implementing chapter 70.94 RCW as supplemented by chapter 70.120 RCW.

(2) Any person who commits such violation or who aids or abets another in committing the same shall be subject to a civil penalty not to exceed two hundred fifty dollars for each violation.

(3) For the purposes of this section the term "expended" refers to the net actual cost to the vehicle owner in the purchase of repairs or parts derived after the amount of any rebate, discount or cash-return has been subtracted.

(4) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control hearing board as provided for in chapter 43.21B RCW.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-160 FLEET AND GOVERNMENT VEHICLE TESTING REQUIREMENTS.

Self-inspection of vehicles by a fleet or government agency operator may be authorized by the department. The department may also authorize emission inspection of fleet vehicles by an automotive service or testing facility engaged ~~((by the fleet))~~ for such activity. Authorizations to conduct emission tests and issue certificates of compliance under this section are limited to vehicles within the fleet or fleets requesting such authorization. Any person or facility conducting fleet tests under authorization of this section must meet all requirements of this section.

(1) The exhaust analyzers used for certification testing shall meet the specifications in WAC 173-422-090 except for those that pertain to CO₂. (CO₂ does not need to be measured.)

~~((In order to utilize existing equipment as much as possible, the department may allow testing facilities to use analyzers that do not meet all the specifications of WAC 173-422-090 if the analyzers were purchased prior to December 31, 1981.~~

~~To qualify for this exception, the test facility must request a waiver for each analyzer, demonstrate to the satisfaction of the department that the analyzer and procedures being used will provide satisfactory emission tests, and obtain approval from the department prior to using the analyzer for certification testing. Any analyzer model that has been approved by the State of California Bureau of Automotive Repair will qualify for this exception.))~~

(2) All persons engaged in testing of fleet vehicles must comply with all provisions of this chapter except WAC 173-422-080, 173-422-100 (2)~~((d))~~ (b)(iii) and (iv) and (c)(iii) and (iv), 173-422-110, 173-422-130, 173-422-140, and 173-422-150. ~~((The check specified in WAC 173-422-100 (2)(b)(i) and (ii) shall be performed within one hour prior to the test. The complete check specified in WAC 173-422-100 (2)(c) shall have been performed within one week prior to the test.))~~ The checks specified in WAC 173-422-100 (2)(c) except (c)(iii) and (iv), in addition to being required weekly, shall be performed after each relocation of the analyzer.

(3) All persons conducting tests for the purpose of issuing certificates for fleets shall ~~((demonstrate to the satisfaction of the department the knowledge and capability to calibrate and operate emission testing equipment, and perform an emission test according to WAC 173-422-070))~~ be ecology certified emission specialists.

(4) The department will provide test forms upon request. Legibly completed forms with appropriate signature(s) will constitute certificates of compliance for licensing purposes. Any person conducting testing under this section shall forward to the department within ten working days after the end of each month, a copy of each certificate of compliance issued during that month. Copies of each certificate of compliance shall be retained by the person issuing the certificate for at least two years from date of issuance. Alternative arrangements for providing and storing this information using automated data storage devices may be required by the department after one year's notice.

Forms must be purchased from the department in advance of issuance through payment of ~~((one dollar fifty cents))~~ sixteen dollars to the department for each certificate requested. Refunds or credit may be given for unused certificates returned to the department.

Payment for fleet forms is waived for government fleets.

Test forms provided under this section are official documents. Persons receiving the forms from the department are accountable for each form provided.

Voided forms must be handled the same as certificates of compliance. One copy shall be sent to the department within ten days after the end of the month in which the form was voided and one copy shall be retained by the person accountable for the forms for at least two years after date of voiding. Refunds will not be made for voided forms.

(5) All persons authorized to conduct fleet or government vehicle inspections under this section shall be subject to performance audits and compliance inspections by the department, during normal business hours.

(6) Fleet vehicles may be inspected any time between their scheduled license renewals.

(7) Certificates of acceptance may not be issued under this section.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-170 EXEMPTIONS. The following motor vehicles are exempt from the inspection requirement:

(1) Vehicles proportionally registered pursuant to chapter 46.85 RCW.

(2) Vehicles whose model year ~~((when subtracted from the calendar year equals or exceeds fourteen))~~ is 1967 or earlier.

(3) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale; this does not exempt motor vehicles that are or have been leased.

(4) Motor vehicles that use propulsion units powered exclusively by electricity.

(5) Motor-driven cycles as defined by RCW 46.04.332.

(6) Motor vehicles powered by diesel engines or two-cycle engines.

(7) Farm vehicles as defined by RCW 46.04.181.

(8) Vehicles exempted from licensing pursuant to RCW 46.16.010.

(9) Mopeds as defined by RCW 46.04.304.

(10)~~((a))~~ Vehicles garaged and operated out of the emission contributing area ~~((and not returning prior to six months following the registration renewal date, may be exempted provided the registered owner/authorized agent provides a signed statement which includes:~~

(i) The registered owner's name and address.

(ii) The vehicle license number.

~~(iii) A statement that the vehicle is now garaged and operated outside the emission contributing area and will not be returning to the emission contributing area prior to six months following the registration renewal date.~~

~~(b) Vehicles garaged and operated out of the emission contributing area and returning to the emission contributing area within six months after the registration renewal date may postpone the emission testing requirements provided the registered owner/agent provides a signed exemption statement which includes:~~

~~(i) The registered owner's name and address.~~

~~(ii) The vehicle license number.~~

~~(iii) A statement that the vehicle will not be returning to the emission contributing area prior to the registration renewal date.~~

~~(iv) A statement that within thirty days of returning to the emission contributing area the vehicle will be tested and a valid certificate of compliance or a certificate of acceptance will be obtained and forwarded to the department:~~

~~(v) The date of departure from the emission contributing area.~~

~~(vi) The anticipated date of return to the emission contributing area).~~

(11) Vehicles registered with the state but not for highway use.

(12) Used vehicles ~~((which are offered for sale))~~ whose licenses have expired or will expire within thirty days when sold by a Washington licensed motor vehicle dealer ~~((as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW)).~~

(13) Motor vehicles fueled exclusively by propane, compressed natural gas, or liquid petroleum gas.

NEW SECTION

WAC 173-422-190 EMISSION SPECIALIST CERTIFICATION. (1) To become a certified emission specialist an individual shall:

(a) Pass a course of study, approved by the department, on motor vehicle maintenance, engine and exhaust analysis equipment usage, and emission control system repair and maintenance; and

(b) Agree in writing to meet the requirements of subsection (2) of this section.

(2) To maintain certification, a certified emission specialist shall:

(a) Successfully complete a department approved course on emission repair within the second year after the date of certification, and within each second year thereafter;

(b) Sign, including the specialist identification number, all receipts for tune-up and emission repairs or adjustments performed;

(c) Record on all receipts the vehicle's emission readings after the work is completed when an exhaust analyzer is available;

(d) Not tamper with emission control systems, including adjusting an engine outside of the manufacturer's specifications (chapter 173-421 WAC);

(e) Not obtain or attempt to obtain a certificate of acceptance (repair waiver) by providing false information or by any fraudulent means (WAC 173-422-145); and

(f) Not aid or abet any individual in committing a violation of chapter 173-421 WAC or WAC 173-422-145.

(3) The certification of a certified emission specialist may be revoked for a first violation of chapter 173-421 WAC or WAC 173-422-145, for a period of no more than one year, and may be permanently revoked for a second violation of chapter 173-421 WAC or WAC 173-422-145.

The certification of a certified emission specialist may be temporarily revoked for violation of subsection (2) of this section and may be permanently revoked for continued willful violation of subsection (2) of this section.

A certified emission specialist whose certification is revoked permanently or temporarily may appeal to the pollution control hearings board as provided for in RCW 43.21B.310.

(4) A certified emission specialist whose certification has been temporarily revoked may reapply for certification twelve months after the date of revocation by applying to the department and meeting all requirements of subsection (1) of this section. An application for certification by a permanently revoked certified emission specialist will be denied.

NEW SECTION

WAC 173-422-195 LISTING OF CERTIFIED EMISSION SPECIALISTS. (1) A list of certified emission specialists will be available to the public. Specialists will be listed under their employer's shop name when the shop is approved for listing. The list will be updated by the department at least once every six months.

(2) The employer's name and address will be listed by the department, when the employer agrees in writing to:

(a) Use a properly maintained and correctly calibrated exhaust analyzer as a final check for all tune-up and emission repairs or adjustments;

(b) Have all tune-up and emission repairs or adjustments performed by a certified emission specialist;

(c) Require any person performing tune-up and emission repairs or adjustments to sign the customer's receipt for tune-up and emission repairs or adjustments, and to

record the vehicle's emission readings on the receipt after the work is completed;

(d) Require that all employees not aid or abet any person to tamper with emission control systems, including adjusting a vehicle outside of the manufacturer's specifications (chapter 173-421 WAC); and

(e) Require that all employees not aid or abet any person to obtain a fraudulent certificate of compliance (repair waiver) (WAC 173-422-145).

(3) An employer may be removed from the certified emission specialist list for a first violation of chapter 173-421 WAC or WAC 173-422-145 for a period of no more than one year and may be permanently removed after a second violation of chapter 173-421 WAC or WAC 173-422-145.

An employer may be temporarily removed from the certified emission specialist list when failing to comply with the requirements of subsection (2) of this section and may be permanently revoked for continued and willful violation of subsection (2) of this section.

(4) An employer who has been temporarily removed from the certified emission specialist list may reapply for listing twelve months after the date of removal from the listing by applying to the department and meeting all requirements of subsection (2) of this section. An application for listing from an employer permanently removed from the certified emission specialist list will be denied.

(5) An employer who is removed from a certified emission specialist list or denied listing in a certified emission specialist list may appeal to the pollution control hearings board as provided for in RCW 43.21B.310.

(6) A certified emission specialist whose employer is not listed may request to be placed on a separate list available to the public. The employer's name will not be listed. The specialist may specify an address and phone number to be included in the list.

(7)(a) An employer approved for listing may display the "state certified emission specialist" sign available from the department. Any employer advertising or providing of information to the public based on the department's certification of a certified emission specialist must be able to be discontinued immediately upon revocation of the employer's listing or certification of the certified emission specialist.

(b) An employer violating (a) of this subsection shall be subject to a civil penalty not to exceed two hundred fifty dollars for each violation.

(c) A civil penalty imposed by the department may be appealed to the pollution control hearings board as provided for in RCW 43.21B.310.

WSR 90-06-063
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Health)
[Filed March 6, 1990, 3:48 p.m.]

Original Notice.

Title of Rule: Amendments to State Board of Health rules, chapter 248-100 WAC, Communicable and certain other diseases and conditions: Special condition—Pesticide poisoning, WAC 248-100-217.

Purpose: Implement physician reporting of cases or suspected cases of pesticide poisoning to Department of Health.

Statutory Authority for Adoption: Chapter 70.104 RCW.

Statute Being Implemented: Chapter 70.104 RCW.

Summary: The Board of Health is to adopt rules setting forth when, what and how physicians are to report cases of pesticide illness as well as Department of Health response times to physician notification and to PIRT.

Reasons Supporting Proposal: It is required by legislation, HB 2222, passed during 1989 legislative session, chapter 380, Laws of 1989.

Name of Agency Personnel Responsible for Drafting: Karen VanDusen, Airdustrial Park, Building 4, 586-5379; Implementation and Enforcement: Lynden Baum, Airdustrial Park, Building 4, 753-5965.

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: The rule will put into place the requirements by which physicians report cases or suspected cases of pesticide poisoning to Department of Health. In addition to the responsibilities of Department of Health to respond to physicians, conduct investigations in a timely fashion and report to the pesticide incident review and tracking panel are set forward. The rule is intended to provide the first reliable data base for the determination of the impact pesticide poisonings have to the state.

Proposal Changes the Following Existing Rules: It amends WAC 248-100-021 and 248-100-086 and adds a new section, WAC 248-100-217, specific to reporting cases of pesticide poisoning.

Small Business Economic Impact Statement: As a result of HB 2222 passed during the 1989 legislative session, chapter 70.104 RCW now requires that any attending physician or other health care provider, recognized as primarily responsible for the diagnosis and treatment of a patient or for initiating diagnostic testing or therapy for a patient, shall report a case or suspected case of pesticide poisoning to the Department of Health. Chapter 248-100 WAC is being amended to prescribe the manner in which such reporting is done and the time periods for such reporting. The law states that the time periods established by the Board of Health shall range from immediate reporting to reporting within seven days, depending on the severity of the case of pesticide poisoning. Reporting requirements are to be patterned after other board rules establishing requirements for reporting of diseases or conditions.

I. REQUIREMENTS

The amended sections of chapter 248-100 WAC include WAC 248-100-021 and 248-100-086. The former details the responsibilities and duties of health care providers with respect to reportable diseases and

conditions. The latter sets forth the conditions under which reporting is done directly to the state health department. The proposed amendments extend the provisions of these sections to the reporting of cases or suspected cases of pesticide poisoning.

A new section, WAC 248-100-217, has been added detailing the specific reporting responsibilities and process to be used by health care providers when reporting cases or suspected cases of pesticide poisoning. It also outlines the responsibility of the state Department of Health to respond to health care provider notification and conduct investigations.

As part of the rule making process, four public meetings have been held and health care providers have been notified of and sent copies of the proposed State Board of Health rules. No comments have been received from private sector physicians relative to concerns for economic impact.

II. PROFESSIONAL SERVICES NEEDED

Since this reporting requirement expands, by one condition, the notification requirement that is currently done for other reportable diseases and conditions in the state, it is not anticipated that any additional professional services would be required. The diagnosis, laboratory analyses, sampling, treatment, or other patient interactions regarding a pesticide poisoning occur whether or not reporting occurs. The implementation of the rule, per se, does not require any additional professional services.

III. COST ANALYSIS

Health care providers currently are required to notify the local and/or state health departments of several reportable conditions. Thus, the requirement to report is not new. The condition is a new addition to an existing system. This condition (pesticide poisoning) is to be reported directly to the state health department.

Costs could conceivably arise in two areas: Reporting to the agency; and physician orientation to the new requirement.

(A) COST OF REPORTING

The major economic impact takes the form of indirect costs. Reporting requires recording information for the patient's record and notifying the state agency of the case. Thus, the major "cost" will be time to complete the form, call and/or mail the required information to the agency. Cost is minimized by:

- (a) Keeping the form short;
- (b) Providing a toll-free telephone number;
- (c) Having the agency provide the physicians with forms; and
- (d) Allowing the agency to waive the requirement for a written individual case report form if pertinent information is provided by phone.

The data needed for notification would be part of the routine information gained from a patient on entry or examination, with the addition of one question specific to pesticides (see sample form). Thus, no increase in patient contact time is anticipated.

The form itself is short, requiring less than five minutes to complete. That information can also be transmitted within a few minutes. Thus, the time and staff cost to implement the requirement is minimal per case.

Each case must be reported. However, it can be assumed that clinics, hospitals, or group practices see more patients, and hence, more potential cases, than do small offices. Therefore, a small medical practice would likely have to do less reporting than a large practice. Thus, the work required by the rule is anticipated to be proportional to the size of practice. The burden of compliance does not fall more heavily on small businesses.

(B) COST OF ORIENTATION

Health care providers will need to be made aware of this new reporting requirement. Certainly, many have been notified via the WSMA's involvement in passage of the original legislation in 1989. Furthermore, information about the proposed rules and public meetings have been sent to target groups.

In addition, notifications will be sent directly to physicians and published in materials they regularly receive from the state Department of Health. Thus, the cost to the health care providers for orientation is minimal.

Continuing medical education directed toward pesticide information and reporting will be provided several times. Since this will provide credits and information applicable to professional continuing education requirements, as well as be dependent on voluntary attendance, the rule, per se, does not cause excess or disproportionate cost burdens to the health care industry.

No significant equipment costs, supplies, labor or increased administrative costs are anticipated for health care providers. There may be some telephone interview time involved for a health care provider should a state investigator need additional case information. This time could be a minimum of 15-30 minutes/case over several weeks.

IV. COST OF COMPLIANCE FOR SMALL VS. LARGE BUSINESS

As noted in Section III, the cost of compliance is based on the number of cases seen. Costs will likely be proportional to the size of business. Figure 1.0 indicates some basic assumptions which can be made to estimate the cost of time likely to be dedicated to this new reporting requirement.

If all reported cases were seen by and distributed over the large business, each business would see approximately two cases, for an annual cost for reporting averaging about twenty dollars.

Since there are so many small businesses, less than one case/year might be the maximum anticipated. This would mean a maximum expenditure of about ten dollars.

V. DECLARATION OF MINOR OR NEGLIGIBLE IMPACT BASED ON ANNUAL COST AND LACK OF SUBSTANTIVE CHANGE

Based on this analysis, the rules have a minor or negligible economic impact on health care providers and/or facilities. The total gross business income for all such facilities is over two billion dollars in this state alone. (See Figure 2.0) An annual worst case impact for all

cases could project a statewide cost as high as \$6,000.00. Spread out among a two-billion dollar industry, this is negligible.

This rule has no substantive change over existing reporting requirements found in chapter 248-100 WAC. Its impact is also considered negligible from this perspective.

Furthermore, there are no mitigations possible that could modify reporting requirements for small businesses without changing legal intent. The law sets forth who reports, as well as the maximum time limits allowable for such reporting of pesticide incidents.

FIGURE 1.0

ASSUMPTIONS UNDERLYING COST ESTIMATES	
• Hourly rate for health care provider (HCR):	\$15-100/hr.
• Minutes to complete reporting form, call and/or mail to DOH:	10 minutes
• Compliance cost HCP/Report:	\$2.50-20.00
• Total Estimated Cases Reported in State:	300
• # of Potential Businesses >50 employees:	162
• # of Potential Businesses <50 employees:	4,253
• Estimated Average Annual Impact for Any Business:	Minimal (\$10-20.00)

FIGURE 2.0 FACILITIES/PROVIDERS POTENTIALLY IMPACTED BY WAC 248-100 AMENDMENT

SIC Codes

- 801 - Offices of Physicians
- 803 - Offices of Osteopathic Physicians
- 804 - Offices of Other Health Care Practitioners
- 806 - Hospitals
- 808 - Outpatient Care Facilities

	Gross Bus. Inc.	# of Taxpayers	# of Bus. <50 empl.	# of Bus. >50 empl.	# of Bus. No Empl.	TOTAL Employees
801	1,893,495,031	4342	2656	40	132	2828
803	11,295,630	47	101	0	5	106
804	445,498,688	4144	1340	5	107	1452
806	193,200,614	113	25	71	5	101
808	119,928,653	149	131	46	9	186

Hearing Location: West Coast Sea-Tac Hotel, Pacific Highway South, Seattle, on April 11, 1990, at 9:00 a.m.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by April 9, 1990.

Date of Intended Adoption: April 11, 1990.

March 5, 1990
 Sylvia Beck
 Executive Director
 State Board of Health

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-021 RESPONSIBILITIES AND DUTIES—HEALTH CARE PROVIDERS. Every health care provider, as defined in chapter 248-100 WAC, shall:

- (1) Provide adequate, understandable instruction in control measures designed to prevent the spread of disease to:
 - (a) Each patient with a communicable disease under his or her care,
 - (b) Family of a patient with a communicable disease,
 - (c) Contacts and others as appropriate to prevent spread of disease.
- (2) Ensure notification of the local health officer or local health department regarding:
 - (a) Cases of reportable diseases and conditions. See WAC 248-100-071, 248-100-076, and 248-100-081;
 - (b) Outbreaks or suspected outbreaks of disease. See WAC 248-100-071, 248-100-076, and 248-100-081;

- (c) Known barriers which might impede or prevent compliance with orders for infection control or quarantine; and
 - (d) Name, address, and other pertinent information for any case or carrier refusing to comply with prescribed infection control measures.
- (3) Cooperate with public health authorities during investigation of:
- (a) Circumstances of a case or suspected case of a reportable disease or condition or other communicable disease, and
 - (b) An outbreak or suspected outbreak of illness.
- ((f*)) Comply with requirements in WAC 248-100-206 ((and)), 248-100-211, and 248-100-217.

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-086 REPORTING DISEASES AND CONDITIONS DIRECTLY TO DEPARTMENT. (1) Health care providers and health care facilities shall telephone reports directly to the department for diseases and conditions under WAC 248-100-076 when:

- (a) A local health department is closed at the time a case or suspected case of a category A reportable disease occurs, and
 - (b) A local health department is closed at the time an outbreak or suspected outbreak occurs (see WAC 248-100-076).
- (2) The twenty-four hour department telephone number for reporting diseases or conditions under WAC 248-100-076 is (206) 361-2914 or SCAN 245-2914.

(3) Health care providers and health care facilities shall telephone reports of pesticide poisoning cases or suspected pesticide poisoning cases under RCW 70.104.055 directly to the department of health by dialing the twenty-four hour toll-free telephone number 1-800-356-2323.

NEW SECTION

WAC 248-100-217 SPECIAL CONDITION—PESTICIDE POISONING. (1) Definitions. For the purposes of this section, the following words and phrases have the following meanings unless the context clearly indicates otherwise:

- (a) "Case of pesticide poisoning" means a person, alive or dead, having been diagnosed as poisoned by any pesticide with the diagnosis based on clinical and/or laboratory evidence.
- (b) "Pesticide" means any pesticide defined in RCW 70.104.020, as now stated and as may be amended in the future.
- (c) "Pesticide applicator" means any person applying pesticides under the authority of the licensing provisions of chapter 15.58 RCW, as a pesticide applicator and/or operator and any person applying pesticides to more than one acre of land in a calendar year.
- (d) "Pesticide poisoning" means the disturbance of function, damage to structure, or illness in humans resulting from the inhalation, absorption, ingestion of, or contact with any pesticide.
- (e) "PIRT" means the pesticide incident reporting and tracking review panel established under the provisions of RCW 70.104.080 with responsibilities as described in RCW 70.104.090.
- (f) "Suspected case of pesticide poisoning" means a case in which the diagnosis is thought more likely than not to be pesticide poisoning.

(2) Any attending physician or other health care provider recognized as primarily responsible for the diagnosis and treatment of a patient or, in the absence of a primary health care provider, the health care provider initiating diagnostic testing or therapy for a patient shall:

- (a) Notify the department of any case or suspected case of pesticide poisoning, using the toll-free pesticide reporting telephone number (1-800-356-2323), within the following time limits:
 - (i) Immediately, when:
 - (A) A hospital admission is due to pesticide poisoning or suspected pesticide poisoning;
 - (B) A death is due to pesticide poisoning or suspected pesticide poisoning; or
 - (C) A threat to public health, such as multiple cases, is perceived;
 - (ii) Within four days for all other cases or suspected cases;
 - (b) Within seven days, submit to the department on a department-approved form, an individual case report for each case or suspected case of pesticide poisoning (unless the department of health waives the requirement to submit an individual case report because pertinent information was provided by phone);
 - (c) Comply with the same confidentiality requirements established for other reportable diseases or conditions in WAC 248-100-016; and
 - (d) Respond to department inquiries regarding reported cases.
- (3) Health care providers notifying the department shall provide:
- (a) Name of patient;
 - (b) Patient's home and/or mailing address;

- (c) Patient's home and/or work telephone number;
- (d) Age;
- (e) Sex;
- (f) Race/ethnicity;
- (g) Diagnosis or suspected diagnosis, including:
- (i) Name of pesticide, if known;
- (ii) Date of exposure; and
- (iii) Date of onset;
- (h) Name, address, and telephone number of the principal health care provider;
 - (i) Name, address, and telephone number of the person reporting; and
 - (j) Occupation and employer's name and address, if occupational exposure.
- (4) The department shall:
 - (a) Initiate an investigation of each report of a case or suspected case of pesticide poisoning and such cases of suspected pesticide poisoning of animals that may relate to human illness to document the incident within the following time limits:
 - (i) Immediately after notification is received from the health care provider of:
 - (A) A hospital admission due to pesticide poisoning or suspected pesticide poisoning;
 - (B) A death due to pesticide poisoning or suspected pesticide poisoning; or
 - (C) A threat to public health, such as multiple cases;
 - (ii) Within forty-eight hours after notification is received for all other cases;
 - (b) Supply case report forms to health care providers for purposes of reporting cases or suspected cases of pesticide poisoning;
 - (c) Document the known environmental, human, and/or other variables associated with the case or suspected case of pesticide poisoning;
 - (d) Report the results of the pesticide investigation to the principal health care provider named in the case report form;
 - (e) Provide a monthly report of cases or suspected cases of pesticide poisoning to the PIRT panel, as required under RCW 70.104.055; and
 - (f) Complete case investigations within ninety days unless extenuating circumstances or surveillance needs require a longer investigation time.

WSR 90-06-064
PROPOSED RULES
DEPARTMENT OF HEALTH
(Podiatry Board)
 [Filed March 6, 1990, 3:50 p.m.]

Original Notice.

Title of Rule: WAC 308-31-210 General provisions; 308-31-220 Mandatory reporting; 308-31-230 Health care institutions; 308-31-240 Podiatric medical associations or societies; 308-31-250 Health care service contractors and disability insurance carriers; 308-31-260 State and federal agencies; 308-31-270 Professional review organizations; and 308-31-280 Malpractice suit reporting.

Purpose: Provides for mandatory report of unprofessional conduct or impairment of podiatrists by health care institutions, associations and others.

Statutory Authority for Adoption: RCW 18.130.170.

Statute Being Implemented: Chapters 18.22 and 18.130 RCW.

Summary: Mandatory reporting requirements will provide the board with information on licensees whose conduct or practice may pose a threat to the public health and safety.

Reasons Supporting Proposal: To provide greater public protection by disciplining licensees who have committed unprofessional conduct.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 1300 Quince Street, Olympia, 586-8438.

Name of Proponent: Washington State Podiatry Board, Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for mandatory reporting of unprofessional conduct or impairment of podiatrists by health care institutions, podiatric medical associations or societies, malpractice insurance carriers and the individual licensees. This information will provide a source of obtaining information on licensees whose conduct or practice may pose a threat to public safety and welfare.

Proposal does not change existing rules.

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

A small business economic impact statement is not required for these rules. The board has reviewed the impact that these rules would have on podiatric physicians and surgeons. The board finds that a statement is not required. Podiatrists are classified in Sic Code 803 Offices of Podiatrists. These rules do not have an economic impact on the industry.

Hearing Location: Nendel's Inn, 1300 North 1st Street, Yakima, WA 98901, on May 4, 1990, at 9:00 a.m.

Submit Written Comments to: Arlene Robertson, Program Manager, Professional Licensing Services, P.O. Box 1099, Mailstop EY-17, Olympia, WA 98507-1099, by May 1, 1990.

Date of Intended Adoption: May 4, 1990.

March 5, 1990
Arlene Robertson
Program Manager

NEW SECTION

WAC 308-31-210 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in these regulations shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" shall mean any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" shall mean any health care institution which comes under chapter 18.51 RCW.

(4) "Board" shall mean the Washington state podiatry board, whose address is:

Department of Health
Professional Licensing Services
P. O. Box 1099
Olympia, WA 98507-1099

(5) "Podiatrist" shall mean a person licensed pursuant to chapter 18.22 RCW.

(6) "Mentally or physically disabled podiatrist" shall mean a podiatrist who has either been determined by a court to be mentally incompetent or mentally ill or who is unable to practice podiatry with reasonable skill and safety to patients by reason of any mental or physical condition.

NEW SECTION

WAC 308-31-220 MANDATORY REPORTING. (1) All reports required by these regulations shall be submitted to the board as soon as possible, but no later than sixty days after a determination is made.

(2) A report should contain the following information if known:

(a) The name, address and telephone number of the person making the report.

(b) The name, address and telephone number of the podiatrist being reported.

(c) The case number of any patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

NEW SECTION

WAC 308-31-230 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer of any hospital or nursing home shall report to the board when any podiatrist's services are terminated or are restricted based on a determination that the podiatrist has either committed an act or acts which may constitute unprofessional conduct or that the podiatrist may be mentally or physically impaired. Said officer shall also report if a podiatrist accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon unprofessional conduct or upon being mentally or physically impaired.

NEW SECTION

WAC 308-31-240 PODIATRIC MEDICAL ASSOCIATIONS OR SOCIETIES. The president or chief executive officer of any podiatric medical association or society within this state shall report to the board when the association or society determines that a podiatrist has committed unprofessional conduct or that a podiatrist may not be able to practice podiatry with reasonable skill and safety to patients as the result of any mental or physical condition and constitutes an apparent risk to the public health, safety or welfare. The report required by this subsection shall be made without regard to whether the license holder appeals, accepts or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 308-31-250 HEALTH CARE SERVICE CONTRACTORS AND DISABILITY INSURANCE CARRIERS. The executive officer of every health care service contractor and disability insurer regulated under chapters 48.20, 48.21, 48.21A and 48.44 RCW, operating in the state of Washington shall report to the board all final determinations that a podiatrist may have engaged in over-utilization of services, has charged fees for services not actually provided, may have engaged in unprofessional conduct, or by reason of mental or physical impairment may be unable to practice the profession with reasonable skill and safety.

NEW SECTION

WAC 308-31-260 STATE AND FEDERAL AGENCIES. The board requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a podiatrist is employed to provide patient care services, to report to the board whenever such a podiatrist has been judged to have demonstrated his/her incompetency or negligence in the practice of podiatry, or has otherwise committed unprofessional conduct, or is mentally or physically impaired.

NEW SECTION

WAC 308-31-270 PROFESSIONAL REVIEW ORGANIZATIONS. Unless prohibited by federal law, every professional review organization operating within the state of Washington shall report to the board any determinations that a podiatrist may have engaged in unprofessional conduct, or by reason of mental or physical impairment may be unable to practice the profession with reasonable skill and safety.

NEW SECTION

WAC 308-31-280 MALPRACTICE SUIT REPORTING. Every licensed podiatrist shall, within sixty days after settlement or judgment, notify the board of any and all malpractice settlements or judgments in excess of twenty thousand dollars as a result of a claim or

action for damages alleged to have been caused by a podiatrist's incompetence or negligence in the practice of podiatric medicine. Every podiatrist shall also report the settlement or judgment of three or more claims or actions for damages during a one-year period as the result of the alleged podiatrist's incompetence or negligence in the practice of podiatry regardless of the dollar amount of the settlement or judgment.

WSR 90-06-065
PROPOSED RULES
DEPARTMENT OF HEALTH
(Dental Disciplinary Board)
 [Filed March 6, 1990, 3:52 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-39-100 Purpose and 308-39-110 Definitions; new sections WAC 308-39-125 Basic life support requirements; 308-39-130 Local anesthesia, 308-39-140 Nitrous oxide/oxygen sedation, 308-39-150 Conscious sedation with an oral agent, 308-39-160 Conscious sedation with multiple oral or parenteral agents, 308-39-170 General anesthesia (including deep sedation), 308-39-180 Mandatory reporting of death or significant complication, 309-39-190 Applications—Permits—Renewals for the administration of conscious sedation with multiple oral or parenteral agents or general anesthesia (including deep sedation), 308-39-200 Application of chapter 18.130 RCW and 308-39-210 Effective date; and repealing WAC 308-39-120 Standards for dental administration of anesthesia.

Purpose: To amend rules contained in chapter 308-39 WAC and to add new sections, all which pertain to the administration of anesthetic agents for dental procedures.

Statutory Authority for Adoption: RCW 18.32.640.

Statute Being Implemented: RCW 18.32.640.

Summary: These rules set forth the requirements for dentists who administer anesthetic agents in dental procedures.

Reasons Supporting Proposal: The current rules concerning the administration of dental anesthesia need to be updated in order to protect the public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Mayo, 1300 Quince Street, Olympia, WA 98504, (206) 753-2461.

Name of Proponent: Dental Disciplinary Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments to chapter 308-39 WAC, including the new sections being proposed are for the express purpose of governing the administration of sedation and general anesthesia by dentists licensed in the state of Washington. Different types of anesthesia are defined, and the rules set forth the various training, administration, equipment and permit requirement for each type of dental anesthesia. The board intends these rules to provide greater protection for patients receiving anesthesia in dental procedures.

Proposal Changes the Following Existing Rules: WAC 308-39-100 is amended to indicate the purpose of

the chapter; WAC 308-39-110 is amended to change the definitions of various terms used throughout the chapter; and WAC 308-39-120 is repealed.

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

Hearing Location: Ramada Inn at Sea-Tac, Salon E, 18118 Pacific Highway South, Seattle, WA 98118, on April 20, 1990, at 9:00 a.m.

Submit Written Comments to: Linda McCue, 1300 Quince Street, Olympia, WA 98504, by April 3, 1990.

Date of Intended Adoption: April 20, 1990.

March 5, 1990

Judy Mayo

Program Administrator

AMENDATORY SECTION (Amending Order PL 373, filed 2/20/81)

~~WAC 308-39-100 PURPOSE. The purpose of this chapter is to ((establish guidelines upon which the safety of administration of anesthetic agents can be measured. The dental laws of the state of Washington permit any licensed dentist to administer such agents. Morbidity and mortality can be associated therewith. Training, experience, adequate equipment and competent staff can minimize such risk. The dental disciplinary board is empowered and directed to identify unsafe practices, equipment and conditions and direct corrective action. These guidelines represent the basis upon which unsafe dental anesthesia practices would be judged. The board therefore, in order to promote the welfare of the state and to protect the health and well-being of the people of this state, finds it necessary to adopt the following definitions and standards)) govern the administration of sedation and general anesthesia by dentists licensed in the state of Washington in settings other than hospitals as defined in WAC 248-18-001(29) and ambulatory surgical facilities as defined in WAC 248-19-220(5), pursuant to the board's authority in RCW 18.32.640(2).~~

AMENDATORY SECTION (Amending Order PL 403, filed 8/4/82)

~~WAC 308-39-110 DEFINITIONS. ((1) "Dental disciplinary board" shall mean the board created by RCW 18.32.560:~~

~~(2) "Dental examining board" shall mean the board created by RCW 18.32.035.~~

~~(3) "Director" shall mean the director of the department of licensing.~~

~~(4) "General anesthesia" is a controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or non-pharmacologic method, or combination thereof.~~

~~(5) "Sedation" is a depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by pharmacologic or non-pharmacologic method, or combination thereof.~~

~~(6) "Regional anesthesia" consists of the use of any drug, element, or other material which results in a state of insensibility of a circumscribed area, or the loss of sensation of some definite, localized area, without inhibition of conscious processes:)) (1) Analgesia is the diminution of pain in the conscious patient.~~

~~(2) Local anesthesia is the elimination of sensations especially pain, in one part of the body by the topical application or regional injection of a drug.~~

~~(3) Conscious sedation is a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and/or verbal command, produced by a pharmacologic method, and that carries a margin of safety wide enough to render unintended loss of protective reflexes unlikely.~~

~~(4) General anesthesia (to include deep sedation) is a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, including the ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.~~

NEW SECTION

WAC 308-39-125 BASIC LIFE SUPPORT REQUIREMENTS. Whenever a licensee administers local anesthesia, nitrous oxide sedation, conscious sedation, or general anesthesia (including deep sedation) in an in-office or out-patient setting, the dentist and his or her staff providing direct patient care must have a current basic life support (BLS) certification. New staff hired will be allowed thirty days from the date they are hired to obtain BLS certification.

NEW SECTION

WAC 308-39-130 LOCAL ANESTHESIA. (1) Procedures for administration: Local anesthesia shall be administered only by a person qualified under this chapter and dental hygienists as provided in chapter 18.29 RCW.

(2) Equipment and emergency medications: All offices in which local anesthesia is administered must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain an appropriate medical history and patient evaluation. Any adverse reactions shall be indicated.

(b) Office facilities and equipment shall include:

(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.

(ii) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched ventilation to the patient.

(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.

(3) Permit of authorization: Not required.

NEW SECTION

WAC 308-39-140 NITROUS OXIDE/OXYGEN SEDATION.

(1) Training requirements: In order to administer nitrous oxide sedation, a dentist must have completed a course containing a minimum of fourteen hours of either predoctoral dental school or postgraduate instruction.

(2) Procedures for administration: Nitrous oxide shall be administered under the close supervision of a person qualified under this chapter and dental hygienists as provided in chapter 18.29 RCW. When administering nitrous oxide sedation, a second individual shall be on the office premises who can immediately respond to any request from the person administering the nitrous oxide. The patient shall be continuously observed while nitrous oxide is administered.

(3) Equipment and emergency medications: All offices in which nitrous oxide sedation is administered must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain an appropriate medical history and patient evaluation. A notation must be made in the chart if any nitrous oxide and oxygen is dispensed and what proportions of nitrous oxide-oxygen the patient was given and the duration of administration.

(b) Office facilities and equipment shall include:

(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.

(ii) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched ventilation to the patient.

(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.

(4) Continuing education: A dentist who administers nitrous oxide sedation to patients must participate in seven hours of continuing education or equivalent every five years. The education must include instruction in one or more of the following areas: Sedation, physiology, pharmacology, nitrous oxide analgesia, patient evaluation, patient monitoring, medical emergencies, basic life support (BLS), or advanced cardiac life support (ACLS).

(5) Permit of authorization: Not required.

NEW SECTION

WAC 308-39-150 CONSCIOUS SEDATION WITH AN ORAL AGENT. Conscious sedation with an oral agent includes the administration or prescription for a single oral sedative agent used alone or in combination with nitrous oxide sedation.

(1) Training requirements: In order to administer oral sedative agents, a dentist must have completed a course containing a minimum of fourteen hours of either predoctoral dental school or postgraduate

instruction in the fields of pharmacology and physiology of oral sedative medications. Dentists must possess a valid United States Department of Justice registration for the prescription of controlled substances.

(2) Procedures for administration: Oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. When nitrous oxide is administered concurrently, a second individual shall be on the office premises who can immediately respond to any request from the person administering the nitrous oxide. The patient shall be continuously observed while nitrous oxide is administered. Any adverse reactions shall be indicated in the records.

(3) Equipment and emergency medications: All offices in which oral sedation is administered or prescribed must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Vital signs, dosage, and types of medications administered should be noted. If nitrous oxide-oxygen is used, proportions and duration of administration should be noted.

(b) Office facilities and equipment shall include:

(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.

(ii) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched patient ventilation.

(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.

(4) Continuing education: A dentist who administers or prescribes oral sedation for patients must participate in seven hours of continuing education or equivalent every five years. The education must include instruction in one or more of the following areas: Sedation, physiology, pharmacology, nitrous oxide analgesia, patient evaluation, patient monitoring, medical emergencies, basic life support (BLS), or advanced cardiac life support (ACLS).

(5) Permit of authorization: Not required.

NEW SECTION

WAC 308-39-160 CONSCIOUS SEDATION WITH MULTIPLE ORAL OR PARENTERAL AGENTS. Conscious sedation with multiple oral or parenteral agents includes the prescription or administration of more than one oral agent to be used concurrently for the purposes of sedation either as a combined regimen or in association with nitrous oxide-oxygen. For purposes of this section, oral agents shall include any nonparenteral agents regardless of route of delivery. This would also include the parenteral administration of medications for the purpose of conscious sedation of dental patients.

(1) Training requirements: In order to administer conscious sedation with parenteral or multiple oral agents, the dentist must have successfully completed a postdoctoral course(s) of sixty clock hours or more which includes training in basic conscious sedation, physical evaluation, venipuncture, technical administration, recognition and management of complications and emergencies, monitoring, and supervised experience in providing conscious sedation to fifteen or more patients.

(2) Procedures for administration: Multiple oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. In the treatment setting, a patient receiving conscious parenteral sedation must have that sedation administered by a person qualified under this chapter. The person administering the medications must be continuously assisted by at least one individual experienced in monitoring sedated patients.

In the treatment setting, a patient experiencing conscious sedation with these agents should have visual and tactile observation as well as continual monitoring of pulse, respiration and blood pressure and blood oxygen saturation. The pulse, blood pressure, respiration, and blood oxygen saturation must be noted and recorded before and after the procedure whenever patient cooperation permits. These same parameters must be taken and recorded at appropriate intervals throughout the procedure. Vital signs and level of consciousness shall be recorded prior to dismissal of the patient and individuals receiving these forms of sedation must be accompanied by a responsible individual upon departure from the treatment facility.

When verbal contact cannot be maintained during the procedure, continuous monitoring of blood oxygen saturation is required. For the administration of intravenous agents, an intravenous infusion should be maintained throughout the procedure. Pulse oximetry is required to assist in the monitoring.

(3) Equipment and emergency medications: All offices in which multi-agent oral or parenteral sedation is administered or prescribed must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Dosage and forms of medications dispensed shall be noted.

(b) Office facilities and equipment shall include:

(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.

(ii) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched patient ventilation and oral and nasal pharyngeal airways of appropriate size.

(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.

(iv) An emergency drug kit with minimum contents of:

-Sterile needles, syringes, and tourniquet

-Narcotic antagonist

-A and B adrenergic stimulant

-Vasopressor

-Coronary vasodilator

-Antihistamine

-Parasympatholytic

-Intravenous fluids, tubing, and infusion set

-Sedative antagonists if available.

(4) Continuing education: A dentist who administers conscious parenteral or multi-agent oral sedation must participate in eighteen hours of continuing education or equivalent every three years. The education must include instruction in one or more of the following areas: Venipuncture, intravenous sedation, physiology, pharmacology, nitrous oxide analgesia, patient evaluation, patient monitoring, medical emergencies, basic life support (BLS), or advanced cardiac life support (ACLS).

(5) Permit of authorization: Required.

NEW SECTION

WAC 308-39-170 GENERAL ANESTHESIA (INCLUDING DEEP SEDATION). Deep sedation and general anesthesia must be administered by an individual qualified to do so under this chapter.

(1) Training requirements for dentists: In order to administer deep sedation or general anesthesia, the dentist must have current and documented proficiency in advanced cardiac life support. One method of demonstrating such proficiency is to hold a valid and current ACLS certificate or equivalent. Additionally, a dentist must meet one or more of the following criteria:

(a) Have completed a minimum of one year's advanced training in anesthesiology or related academic subjects, or its equivalent beyond the undergraduate dental school level, in a training program as outlined in Part 2 of Teaching the Comprehensive Control of Pain and Anxiety in an Advanced Education Program, published by the American Dental Association, Council on Dental Education, dated May, 1987.

(b) Is a Fellow of the American Dental Society of Anesthesiology.

(c) Is a Diplomate of the American Board of Oral and Maxillofacial Surgery, or is eligible for examination by the American Board of Oral and Maxillofacial Surgery.

(d) Is a Fellow of the American Association of Oral and Maxillofacial Surgeons.

Only a dentist meeting the above criteria for administration of deep sedation or general anesthesia may utilize the services of a nurse licensed pursuant to chapter 18.88 RCW to administer deep sedation or general anesthesia under the close supervision of the dentist as defined in WAC 308-38-110(4).

(2) Training requirements for monitoring personnel: In addition to those individuals necessary to assist the practitioner in performing the procedure, a trained individual must be present to monitor the patient's cardiac and respiratory functions. The individual monitoring patients receiving deep sedation or general anesthesia must have received a minimum of fourteen hours of documented training in a course specifically designed to include instruction and practical experience in use of all equipment required in WAC 308-39-170. This must include, but not be limited to, the following equipment:

(a) Sphygmomanometer

(b) Pulse oximeter

(c) Electrocardiogram

(d) Bag-valve-mask resuscitation equipment

(e) Oral and nasopharyngeal airways

(f) Defibrillator

(g) Intravenous fluid administration set.

A course, or its equivalent, may be presented by an individual qualified under WAC 308-39-170 or sponsored by an accredited school, medical or dental association or society, or dental speciality association.

(3) Procedures for administration: Patients receiving deep sedation or general anesthesia must have continual monitoring of their heart rate, blood pressure, and respiration. In so doing, the licensee must utilize electrocardiographic monitoring and pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded at least every five minutes. During deep sedation or general anesthesia, the person administering the anesthesia and the person monitoring the patient, may not leave the immediate area.

During the recovery phase, the patient must be monitored continually by an individual trained to monitor patients recovering from general anesthesia or deep sedation. A discharge entry shall be made in the patient's record indicating the patient's condition upon discharge and the responsible party to whom the patient was discharged.

(4) Equipment and emergency medications: All offices in which general anesthesia (including deep sedation) is administered must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Anesthesia records shall be recorded during the procedure in a timely manner and must include: Blood pressure, heart rate, respiration, blood oxygen saturation, drugs administered including amounts and time administered, length of procedure, any complications of anesthesia.

(b) Office facilities and equipment shall include:

(i) An operating theater large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least three individuals to freely move about the patient.

(ii) An operating table or chair which permits the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support.

(iii) A lighting system which is adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any operation underway at the time of general power failure.

(iv) Suction equipment capable of aspirating gastric contents from the mouth and pharyngeal cavities. A backup suction device must be available.

(v) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate portable backup system.

(vi) A recovery area that has available oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating theater.

(vii) Ancillary equipment which must include the following:

(A) Laryngoscope complete with adequate selection of blades, spare batteries, and bulb.

(B) Endotracheal tubes and appropriate connectors.

(C) Oral airways.

(D) Tonsillar or pharyngeal suction tip adaptable to all office outlets.

(E) Endotracheal tube forceps.

(F) Sphygmomanometer and stethoscope.

(G) Adequate equipment to establish an intravenous infusion.

(H) Pulse oximeter.

(I) Electrocardiographic monitor.

(J) Synchronized defibrillator available on premises.

(c) Drugs. Emergency drugs of the following types shall be maintained:

(i) Vasopressor.

(ii) Corticosteroid.

(iii) Bronchodilator.

(iv) Muscle relaxant.

(v) Intravenous medications for treatment of cardiac arrest.

(vi) Narcotic antagonist.

(vii) Antihistaminic.

(viii) Anticholinergic.

(ix) Antiarrhythmic.

(x) Coronary artery vasodilator.

(xi) Antihypertensive.

(xii) Anticonvulsant.

(5) Continuing education: A dentist granted a permit to administer general anesthesia (including deep sedation) under this chapter, must participate in eighteen hours of continuing education every three years. A dentist granted a permit must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years. The education must be provided by organizations approved by the dental disciplinary board and must be in one or more of the following areas: General anesthesia, conscious sedation, physical evaluation, medical emergencies, monitoring and use of monitoring equipment, pharmacology of drugs and agents used in sedation and anesthesia, or basic life support (BLS), or advanced cardiac life support (ACLS).

(6) Permit of authorization: Required.

NEW SECTION

WAC 308-39-180 MANDATORY REPORTING OF DEATH OR SIGNIFICANT COMPLICATION. If a death or other life-threatening complication or permanent injury which may be a result of the administration of nitrous oxide, conscious sedation, deep sedation or general anesthesia, the dentist involved must submit a written report to the board within thirty days of the incident.

The written report must include the following:

(1) Name, age, and address of the patient.

(2) Name of the dentist and other personnel present during the incident.

(3) Address of the facility or office where the incident took place.

(4) Description of the type of sedation or anesthetic being utilized at the time of the incident.

(5) Dosages, if any, of drugs administered to the patient.

(6) A narrative description of the incident including approximate times and evolution of symptoms.

(7) Additional information which the board may require or request.

NEW SECTION

WAC 308-39-190 APPLICATIONS—PERMITS—RENEWALS FOR THE ADMINISTRATION OF CONSCIOUS SEDATION WITH MULTIPLE ORAL OR PARENTERAL AGENTS OR GENERAL ANESTHESIA (INCLUDING DEEP SEDATION). (1) In order to administer conscious sedation with multiple oral or parenteral agents or general anesthesia (including deep sedation), a dentist must first meet the requirements of this chapter (except for the effective date of the educational requirements in WAC 308-38-200) and obtain a permit of authorization from the board through the department of licensing. Application forms for permits, which may be obtained from the department, shall be fully completed and any application fee paid.

(2) In order to renew a permit of authorization, which shall be valid for three years from the date of issuance, a permit holder shall fully and timely complete a renewal application form and:

(a) Demonstrate continuing compliance with this chapter.

(b) Produce satisfactory evidence of eighteen hours of continuing education as required by this chapter. The dentist must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years as required by this chapter.

(c) Pay any applicable renewal fee.

(3) Prior to the issuance or renewal of a permit for the use of general anesthesia, the board may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, licentiate, and the procedures utilized by such licentiate. Every person issued a permit under this article shall have an onsite inspection at least once in every five-year period. An onsite inspection performed by a public or private organization may be accepted by the board in satisfaction of the requirements of this section.

NEW SECTION

WAC 308-39-200 APPLICATION OF CHAPTER 18.130 RCW. The provisions of the Uniform Disciplinary Act, chapter 18.130 RCW, apply to the permits of authorization that may be issued and renewed under this chapter.

NEW SECTION

WAC 308-39-210 EFFECTIVE DATE. With the exception of the educational requirements in WAC 308-39-150(1), 308-39-160(1), and 308-39-170(1), the rules in this chapter shall become effective on June 1, 1990. Educational requirements in WAC 308-39-150(1), 308-39-160(1), and 308-39-170(1) must be met by June 1, 1991. A person may be issued a temporary permit until they can supply proof of meeting the educational requirements; however, proof must be supplied by June 1, 1991. Failure to do so will result in the immediate cancellation of this permit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-39-120 STANDARDS FOR DENTAL ADMINISTRATION OF ANESTHESIA.

WSR 90-06-066

PROPOSED RULES

DEPARTMENT OF LICENSING (Board of Registration for Architects)

[Filed March 6, 1990, 4:45 p.m.]

Original Notice.

Title of Rule: WAC 308-12-031 Registration examination.

Purpose: Sets forth the description of the required examination for registration, the administrative procedures to supplement RCW 18.08.360, a description of the examination, and the application of the five-year limitation in which the examination must be completed.

Statutory Authority for Adoption: RCW 18.08.340.

Statute Being Implemented: RCW 18.08.360.

Summary: WAC 308-12-031 Registration examination, is amended to clarify the application of the five-year limitation, in which applicants for registration must complete the national examination and the oral examination.

Reasons Supporting Proposal: Passing scores on the national examination may be carried forward for a period not to exceed five years. The change from an annual national examination to four national examinations per year requires an amendment of the administration of this five-year limitation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 2424 Bristol Court, 753-6967.

Name of Proponent: Board of Registration for Architects, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This amendment provides greater flexibility to applicants for registration and aligns this rule with the examinations schedule of four examinations each year.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule sets forth the administrative procedures to enforce the law pertaining to the examination requirements for registration as an architect. The rule describes the examination, the requirements to pass the

examination, provides waiver authority for the oral portion of the examination and clarifies the administrative application of the five-year limitation set forth by the law.

Proposal Changes the Following Existing Rules: The amendment rescinds the requirement for applicants for registration to retake the entire national examination at the end of five years and adds the authority for applicants to carry passing scores forward for a period not to exceed five years. The amendment clarifies the requirement that the required oral examination must also be successfully completed within the five-year period.

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

Hearing Location: Sea-Tac Ramada Inn, 18118 Pacific Highway South, Seattle, WA, on May 11, 1990, at 9:00 a.m.

Submit Written Comments to: James D. Hanson, Department of Licensing, P.O. Box 9649, Olympia, WA 98504, by May 4, 1990.

Date of Intended Adoption: May 11, 1990.

March 1, 1990
James D. Hanson
Program Administrator

AMENDATORY SECTION (Amending Order PM 857, filed 8/10/89, effective 9/10/89)

WAC 308-12-031 REGISTRATION EXAMINATION. The form of the examination required of applicants shall consist of a written and an oral examination. Where RCW 18.08.360 refers to the "entire examination," it means the written examination together with the oral examination. The written examination shall be administered at times and locations the board determines appropriate.

The board adopts the architectural registration examination and grading procedures prepared by the National Council of Architectural Registration Boards as the written portion of the examination. The written examination includes computerized versions.

(1) The director shall publish an information guide concerning examination content, locations, and schedules.

(2) To pass the written examination, an applicant must achieve a passing grade on each division.

(3) The oral examination is given upon the applicant's completion of the written examination.

The purpose of the oral examination is to test in those areas of knowledge and skill not covered in the written examination.

The oral part of the examination shall include a review of the applicant's practical experience, an understanding of the law and the responsibility to safeguard life, health, and property and to promote the public welfare.

The oral examination may be conducted by the full board or by an architect member of the board. The board may waive the full board examination if the examining board member deems the applicant prepared for registration. If such waiver is not granted or if the examining board member fails the applicant, the applicant must then appear for a full board oral examination.

The board may waive the entire oral examination based upon certification by the National Council of Architectural Registration Boards of successful completion of the intern development program. Applicants may submit the "Green Cover" IDP certificate in lieu of the exhibit checklist which is required for the oral examination. This waiver of oral examination does not affect the requirement to summarize the law and rules pertaining to architecture.

If an applicant does not receive a recommendation for registration, the board will advise the applicant of the areas of deficiency and schedule another oral examination.

~~(The examinee will be required to retake the entire examination if all portions of the written and oral examination are not successfully completed as per RCW 18.08.360. The five-year period shall begin to run effective with the date on which the examinee first takes the examination. If the examinee does not successfully pass all portions of the written and oral examination, within five years from the date he or~~

~~she first took the examination, he or she shall lose credit for all portions of the examination previously passed, and a new five-year period shall begin on the date on which the examinee begins to retake the examination:)) An applicant must successfully complete the entire examination within a five-year period. The five-year period shall begin with the month an applicant begins the examination process. Passing scores for any division of the examination may be carried forward for a period of five years from the date the applicant passed that division of the examination. Applicants shall retake any division of the examination which was passed more than five years previously, along with any division of the examination not yet passed. The oral examination is part of the entire examination and shall be completed within the five-year period.~~

WSR 90-06-067

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 89-59—Filed March 6, 1990, 4:57 p.m.]

Date of Adoption: March 6, 1990.

Purpose: Adoption of a revised shoreline master program into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-2505 Bothell, city of.

Statutory Authority for Adoption: RCW 90.58.200.

Pursuant to notice filed as WSR 89-22-136 on November 1, 1989; WSR 89-23-126 on November 22, 1989; and WSR 90-01-093 on December 20, 1989.

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

March 6, 1990

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order 84-40, filed 12/5/84)

WAC 173-19-2505 BOTHELL, CITY OF. City of Bothell master program approved February 27, 1975. Revision approved July 2, 1976. Revision approved January 31, 1977. Revision approved March 8, 1983. Revision approved December 5, 1984. Revision approved March 6, 1990.

WSR 90-06-068

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 89-60—Filed March 6, 1990, 4:58 p.m.]

Date of Adoption: March 6, 1990.

Purpose: Amendment to chapter 173-18 WAC, Shoreline Management Act—Streams and rivers constituting shorelines of the state, to extend the designation of shoreline of statewide significance on the Bogachiel River.

Citation of Existing Rules Affected by this Order: Amending WAC 173-18-090 and 173-18-200.

Statutory Authority for Adoption: RCW 90.58.200.

Pursuant to notice filed as WSR 90-02-107 on January 3, 1990.

Effective Date of Rule: Thirty-one days after filing.
 March 6, 1990
 Fred Olson
 Deputy Director

AMENDATORY SECTION (Amending Order DE 76-14, filed 5/3/76)

WAC 173-18-090 CLALLAM COUNTY. Streams

Stream Name	Quadrangle Name and Size	Legal Description
(1) Big River	<u>Lake Pleasant</u> 15	From the confluence of Big River and unnamed creek (Sec.16,T31N,R14W) downstream to mouth on Lake Ozette (Sec.10,T30N, R15W).
(2) Bear Creek	<u>Forks</u> 15	From the confluence of Bear Creek and unnamed creek (Sec.24,T28N,R13W) downstream to mouth at Bogachiel River (Sec.35, T28N,R13W).
(3) Bear Creek	<u>Pysht</u> 15	From the Olympic National Forest boundary (Sec.25, T30N,R12W) downstream to mouth at Soleduck River (Sec.27, same township).
(4) Beaver Creek	<u>Lake Pleasant</u> 15	From the Olympic National Forest boundary (Sec.20, T30N,R12W) downstream to mouth at Soleduck River (Sec.30,T30N,R12W).
(5) Bockman Creek	<u>Lake Pleasant</u> 15	From the Olympic National Forest boundary (Sec.1, T29N,R13W) downstream to mouth at Soleduck River (same section).
(6) Boga-chiel River (Cont.)*	((Forks * 15 La Push 15)) <u>Reade Hill 7 1/2 Forks 7 1/2 Quillayute Prairie 7 1/2</u>	From the Jefferson County line (Sec.35,T28N,R13W) downstream to mouth at Quillayute River (Sec.20, T28N,R14W). ((The 1,000 cfs MAF point begins at mouth of Bear Creek (Sec.35, T28N,R13W).)) The flow exceeds 1,000 cfs MAF at <u>Jefferson County line.</u>
(7) Calawah River*	<u>Forks</u> * 15	From confluence of North and South Forks of Calawah River (Sec.35,T29N,R13W) downstream to mouth at Bogachiel River (Sec.13, T28N,R14W). The 1,000 cfs MAF point begins at confluence of North and South Forks.
(8) Calawah River (S. Fork)	<u>Forks</u> 15	From the Olympic National Forest boundary (Sec.1, T28N,R13W) downstream to mouth at Calawah River (Sec.35,T29N,R13W).
(9) Calawah River (N. Fork)	<u>Pysht</u> 15 <u>Lake Pleasant</u> 15 <u>Forks</u> 15	From the North section line (Sec.15, T29N,R11W) to mouth at Calawah River (Sec.35, T29N,R13W). Exclude federal lands.
(10) Clallam River	<u>Lake Pleasant</u> 15 <u>Pysht</u> 15 <u>Clallam Bay</u> 15	From the confluence of Clallam River and unnamed creek (Sec.12,T31N,R13W) downstream to mouth at Clallam Bay (Sec.20,T32N, R12W).

Stream Name	Quadrangle Name and Size	Legal Description
(11) Colby Creek	<u>La Push</u> 15	From the intersection of private road and Colby Creek (Sec.8,T28N,R14W) downstream to mouth at Dickey River (Sec.6,T28N, R14W).
(12) Coal Creek	<u>La Push</u> 15	From the confluence of Coal Creek and unnamed creek (Sec.1,T28N,R15W) downstream to mouth at Dickey River (Sec.12, same township).
(13) Crooked Creek	<u>Ozette Lake</u> 15	From the confluence of the North Fork and the South Fork (Sec.19,T30N,R14W) downstream to mouth at Ozette Lake (Sec.15,T30N, R15W).
(14) Dickey River	<u>La Push</u> 15	From the confluence of East and West Forks of Dickey River (Sec.30, T29N,R14W) downstream to Olympic National Park boundary (Sec.22,T28N,R15W).
(15) Dickey River (W. Fork)	<u>La Push</u> 15 <u>Ozette Lake</u> 15	From the outlet of Lake Dickey (Sec.16,T30N, R14W) downstream to mouth at Dickey River (Sec.30,T29N,R14W).
(16) Dickey River (E. Fork)	<u>Lake Pleasant</u> 15 <u>Ozette Lake</u> 15	From the confluence of the East Fork Dickey River and unnamed creek (Sec.19,T30N, R13W) downstream to mouth at Dickey River (Sec.30, T29N,R14W).
(17) Dickey River (M. Fork)	<u>Lake Pleasant</u> 15	From the confluence of the Middle Fork Dickey River and unnamed creek (Sec.14, T30N,R14W) downstream to mouth at West Fork Dickey River (Sec.21, same township).
(18) Deep Creek	<u>Pysht</u> 15	From the Olympic National Forest boundary (Sec.36, T31N,R11W) downstream to mouth at Strait of Juan de Fuca (Sec.20,T31N,R10W).
(19) Dungeness River	<u>Tyler Peak</u> 15 <u>Carlsborg</u> 7 1/2 <u>Dungeness</u> 7 1/2	From the Olympic National Forest boundary (Sec.24, T29N,R4W) downstream to mouth at Dungeness Bay (Sec.25,T31N,R4W).
(20) East Twin River	<u>Lake Crescent</u> 15	From the confluence of East Twin River and unnamed creek at Olympic National Forest boundary (Sec.36,T31N,R10W) downstream to mouth at Strait of Juan de Fuca (Sec.23, same township).
(21) Elk Creek	<u>Forks</u> 15	From a point approximately 1000' west of the Olympic National Forest boundary (Sec.12,T28N,R13W) downstream to mouth at Calawah River (Sec.3, same township).
(22) Elwha River*	<u>Joyce</u> * 15	From the center of (Sec. 28,T30N,R7W) downstream to mouth at Freshwater Bay (Sec.27,T31N,R7W). The 1,000 cfs MAF point begins at center of (Sec.28,T30N, R7W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(23) Herman Creek	<u>Lake Pleasant</u> 15	From the confluence of North Branch Herman Creek and Herman Creek (Sec.28, T31N,R13W) downstream to mouth at Hoko River (Sec. 30, same township).	(35) Pysht River	<u>Pysht</u> 15	From the Olympic National Forest boundary (Sec.34, T31N,R12W) downstream to mouth at Strait of Juan de Fuca near Pysht (Sec.9, T31N,R11W).
(24) Hoko River	<u>Lake Pleasant</u> 15 <u>Clallam Bay</u> 15	From the confluence of Hoko River and unnamed creek (Sec.16,T30N,R13W) downstream to mouth at Strait of Juan de Fuca (Sec.10,T32N,R13W).	(36) Pysht River (S. Fk.)	<u>Pysht</u> 15	From the confluence of the South Fork Pysht River and Middle Creek (Sec.28,T31N, R11W) downstream to mouth at Pysht River (Sec.13,T31N, R12W).
(25) Indian Creek	<u>Joyce</u> 15	From the confluence of Indian Creek and unnamed creek (Sec.23,T30N,R8W) downstream to mouth at Lake Aldwell (Sec.28,T30N, R7W).	(37) Quil- layute River*	<u>La Push</u> * 15	From confluence of Soleduck and Bogachiel rivers (Sec. 20,T28N,R14W) downstream to Olympic National Park boundary (Sec.24,T28N,R15W). The 1,000 cfs MAF point begins at confluence of Soleduck River and Bogachiel River.
(26) Little Hoko River	<u>Lake Pleasant</u> 15 <u>Clallam Bay</u> 15	From the confluence of Little Hoko River and Lamb Creek (Sec.3,T31N, R13W) downstream to mouth at Hoko River (Sec.22,T32N, R13W).	(38) Salt Creek	<u>Joyce</u> 15	From the confluence of Salt Creek and unnamed creek (SE1/4, SE1/4 of Sec. 34,T31N,R8W) downstream to mouth at Crescent Bay on Strait of Juan de Fuca (Sec.21, same township).
(27) Little River (S. Br.)	<u>Joyce</u> 15	From the Olympic National Forest boundary (Sec.25, T30N,R7W) downstream to mouth at Elwha River (Sec. 28, same township). Excluding federal lands.	(39) Sekiu River (S. Fk.)	<u>Lake Pleasant</u> 15	From the confluence of the South Fork Sekiu River and unnamed creek (Sec.26,T32N, R14W) downstream to mouth at Sekiu River (Sec.15, same township).
(28) Lyre River	<u>Lake Crescent</u> 15	From the Olympic National Forest boundary (Sec.10, T30N,R9W) downstream to mouth at Strait of Juan de Fuca (Sec.22,T31N,R9W).	(40) Sekiu River (N. Fk.)	<u>Cape Flattery</u> 15	From the confluence of North Fork Sekiu River and unnamed creek (Sec.7, T32N,R14W) downstream to mouth at Sekiu River (Sec. 15, same township).
(29) Maxfield Creek	<u>Forks</u> 15	From the confluence of Maxfield Creek and South Fork Maxfield Creek (Sec. 27,T28N,R14W) downstream to mouth at Bogachiel River (Sec.28, same township).	(41) Sekiu River	<u>Clallam Bay</u> 15	From confluence of North and South Forks of Sekiu River (Sec.15,T32N,R14W) downstream to mouth on Strait of Juan de Fuca (Sec.8,T32N,R13W).
(30) McDonald Creek	<u>Carlsborg</u> 7 1/2 <u>Dungeness</u> 7 1/2	From the confluence of McDonald Creek and unnamed creek (Sec.6,T29N,R4W) downstream to mouth at Strait of Juan de Fuca (Sec.5,T30N,R4W).	(42) Shuwah Creek	<u>Lake Pleasant</u> 15	From the confluence of Shuwah Creek and unnamed creek (NW1/4 SW1/4 of Sec. 15,T29N,R13W) downstream to mouth at Soleduck River (Sec.22, same township).
(31) Murphy Creek	<u>La Push</u> 15	From the confluence of Murphy Creek and unnamed creek (Sec.33,T28N,R14W) downstream to mouth at Bogachiel River (Sec.29, same township).	(43) Skunk Creek	<u>Lake Pleasant</u> 15	From the confluence of Skunk Creek and unnamed creek (Sec.29,T30N,R13W) downstream to mouth at the Dickey River (Sec.31,T39N, R13W).
(32) Pilchuck Creek	<u>Ozette Lake</u> 15	From a point (SW1/4 of NE1/4 Sec.33,T32N,R15W) downstream to mouth at Sooes River (Sec.28, same township).	(44) Snag Creek	<u>Ozette Lake</u> 15	From the confluence of Snag Creek and unnamed creek (Sec.6,T31N,R14W) downstream to mouth at Sooes River (Sec.30,T32N, R14W).
(33) Morse Creek	<u>Morse Creek</u> 7 1/2	From Olympic National Park boundary (Sec.8,T29N,R5W) downstream to mouth at Port Angeles Harbor (Sec. 5,T30N,R5W).	(45) Soleduck River*	<u>Pysht</u> 15 <u>Lake Pleasant</u> * 15 <u>Forks</u> 15 <u>La Push</u> 15	From the Olympic National Forest boundary (Sec.35, T30N,R10W) downstream to mouth at Quillayute River (Sec.20,T28N,R14W). The 1,000 cfs MAF point begins at mouth of Bockman Creek (Sec.1,T29N,R13W). Excludes federal lands.
(34) Ponds Creek	<u>Lake Pleasant</u> 15	From the confluence of Ponds Creek and unnamed creek on the south section line (Sec.34,T31N,R14W) downstream to mouth at Dickey Lake (Sec.9,T30N, R14W).			

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(46) Sooes River	<u>Ozette Lake 15</u> <u>Cape Flattery 15</u>	From the confluence of Snag Creek and Sooes River (Sec.30,T32N,R14W) downstream to Indian Reservation boundary (Sec.16,T32N,R15W).	(7) Dose-wallips River	<u>Brinnon 7 1/2</u>	From the Olympic National Forest boundary between (Sec.25,T26N,R3W) and (Sec.30,T26N,R2W) downstream to mouth at Dabob Bay near Brinnon (Sec.2,T25N,R2W).
(47) Thunder Creek	<u>Lake Pleasant 15</u>	From the confluence of Thunder Creek and unnamed creek (Sec.11,T29N,R14W) downstream to mouth at East Fork Dickey River (Sec.23, same township).	(8) Duckabush River	<u>Brinnon 7 1/2</u>	From the Olympic National Forest boundary between (Sec.17 & 18,T25N,R2W) downstream to mouth at Hood Canal (Sec.21,T25N,R2W).
(48) Umbrella Creek	<u>Ozette Lake 15</u>	From the confluence of Umbrella Creek and unnamed creek (Sec.23,T31N,R15W) downstream to mouth at Umbrella Point on Lake Ozette (Sec.4,T30N,R15W).	(9) Fulton Creek	<u>Brinnon 7 1/2</u> <u>Holly 7 1/2</u>	From the confluence of Fulton Creek and the South Fork of Fulton Creek (Sec.30,T25N,R2W) downstream to mouth at Hood Canal (Sec.31,T25N,R2W).
(49) West Twin River	<u>Lake Crescent 15</u>	From the Olympic National Forest boundary (Sec.34, T31N,R10W) downstream to mouth at Strait of Juan de Fuca (Sec.23,T31N,R10W).	(10) Goodman Creek	<u>Forks 15</u> <u>LaPush 15</u>	From the confluence of Goodman Creek and unnamed creek (Sec.23,T27N,R13W) downstream to Olympic National Park boundary (Sec.23,T27N,R14W).

AMENDATORY SECTION (Amending Order DE 76-14, filed 5/3/76)

WAC 173-18-200 JEFFERSON COUNTY. Streams

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(1) Big Quilcene River	<u>Mt. Walker 7 1/2</u> <u>Quilcene 7 1/2</u>	From the Olympic National Forest boundary (Sec.27, T27N,R2W) downstream to mouth at Quilcene Bay (Sec.19,T27N,R1W).	(11) Hoh River*	<u>Spruce Mt. * 15</u> <u>Destruction Island 15</u>	From the Olympic National Park boundary (Sec.29, T27N,R10W) downstream to Hoh Indian Reservation boundary (Sec.20,T26N,R13W). The 1,000 cfs MAF point starts at the Olympic National Park boundary.
(2) Bogachiel River*	(<u>Spruce Mt. 15</u> <u>Forks 15</u>) <u>Indian Pass* 7 1/2</u> <u>Anderson Creek 7 1/2</u> <u>Reade Hill 7 1/2</u>	From the Olympic National Forest boundary (Sec.4, T27N,R12W) downstream to the Clallam County line (Sec.2,T27N,R13W). <u>The flow exceeds 1,000 cfs MAF at Olympic National Park boundary.</u>	(12) Hoh River (S. Fk.)	<u>Mt. Tom 15</u>	From the Olympic National Park boundary (Sec.2,T26N,R10W) downstream to the Olympic National Forest boundary (Sec.29,T27N,R10W).
(3) Cedar Creek	<u>Destruction Island 15</u>	From the confluence of Cedar Creek and the South Fork of Cedar Creek (Sec.34,T26N,R13W) downstream to the Olympic National Park boundary (Sec.33, T26N,R13W).	(13) Hurst Creek	<u>Destruction Island 15</u>	From an approximate point near the north line of (SE1/4 of NW1/4 of NE1/4 of Sec.17,T24N,R12W) downstream to mouth at the Clearwater River (Sec.19,T24N,R12W).
(4) Chimacum Creek	<u>Port Townsend S. 7 1/2</u>	From the confluence of Chimacum Creek and unnamed creek in Chimacum Valley (Sec.11,T29N,R1W) downstream to mouth at Bay of Port Townsend (Sec.35,T30N,R1W) near Irondale.	(14) Kalaloch Creek	<u>Destruction Island 15</u>	From the confluence of Kalaloch Creek and West Fork Kalaloch Creek (Sec.17, T25N,R13W) downstream to the Olympic National Park boundary (Sec.3,T24N,R13W).
(5) Christmas Creek	<u>Salmon River 15</u>	From an approximate point near the center of (NE1/4 of Sec.2,T25N,R12W) downstream to mouth at Clearwater River (Sec.22, T25N,R12W).	(15) Little Quilcene River	<u>Mt. Walker 7 1/2</u> <u>Quilcene 7 1/2</u>	From the Olympic National Forest boundary (Sec.33, T28N,R2W) downstream to mouth at Quilcene Bay (Sec.18,T27N,R1W).
(6) Clearwater River*	<u>Kloochmon Rock 15</u> <u>Salmon River* 15</u> <u>Destruction Island 15</u>	From the confluence of Clearwater River and unnamed creek (Sec.25, T26N,R10W) downstream (excluding federal lands) to Quinault Indian Reservation (Sec.29,T24N,R12W). The 1,000 cfs MAF point begins at mouth of Miller Creek (Sec.27,T25N,R12W).	(16) Maple Creek	<u>Spruce Mt. 15</u>	From the confluence of Maple Creek and Dry Creek (Sec.3,T26N,R11W) downstream to Hoh River (Sec.35,T27N,R11W).
			(17) Matheny Creek	<u>Salmon River 15</u>	From the Olympic National Forest boundary (Sec.24, T24N,R11W) downstream to the Olympic National Park boundary (Sec.22,T24N,R11W).
			(18) Miller Creek	<u>Destruction Island 15</u> <u>Salmon River 15</u>	From the confluence of Miller Creek and unnamed creek (Sec.17,T25N,R12W) downstream to mouth at Clearwater River (Sec.27, T25N,R12W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(19) Miller Creek (E. Fk.)	<u>Salmon River 15</u>	From the confluence of the East Fork Miller Creek and unnamed creek (Sec. 15,T25N,R12W) downstream to mouth at Miller Creek (Sec.27,T25N,R12W).
(20) Minter Creek	<u>Forks 15</u>	From the intersection of the north line of (Sec.30, T27N,R13W) and Minter Creek, downstream to Goodman Creek (Sec.24, T27N,R14W).
(21) Mosquito Creek	<u>Forks 15</u>	From the intersection of north line of (Sec.5, T26N,R13W) and Mosquito Creek, downstream to Olympic National Park boundary (Sec.36,T27N, R14W).
(22) Nolan Creek	<u>Destruction Island 15 Forks 15</u>	From an approximate point on the north line of (NE1/4 of SW1/4 of Sec.21,T26N, R12W) downstream to mouth at Hoh River (Sec.23,T26N, R13W).
(23) Owl Creek	<u>Spruce Mt. 15</u>	From an approximate point near the center of the north line of (SW1/4 of NE1/4 of Sec.8,T26N,R10W) downstream to mouth at Hoh River (Sec.35,T27N,R11W).
(24) Salmon River	<u>Salmon River 15</u>	From the Olympic National Forest boundary (Sec.36, T24N,R11W) downstream back to said boundary (Sec.35) coming out of Indian Reservation (Sec.36,T24N, R12W) returning to Indian Reservation and coming out again (Sec.35,T24N,R12W) downstream to Olympic National Forest boundary (same section).
(25) Shale Creek	<u>Salmon River 15 Destruction Island 15</u>	From an approximate point near the NE corner of the (SE1/4 of SW1/4 of Sec.26, T25N,R12W) downstream to mouth at Clearwater River (Sec.28,T25N,R12W).
(26) Snahapish River	<u>Salmon River 15</u>	From the intersection of Snahapish River and unimproved road (Sec.21, T26N,R11W) downstream to mouth at Clearwater River (Sec.19,T25N,R11W).
(27) Snow Creek	<u>Uncas 7 1/2</u>	From the confluence of Snow Creek and unnamed creek from Crocker Lake (Sec.2,T28N,R2W) downstream to mouth at Port Discovery (Sec.24, T29N,R2W).
(28) Solleks River	<u>Kloochman Rock 15 Salmon River 15</u>	From the confluence of Solleks River and unnamed creek (Sec.2,T25N,R10W) downstream to mouth at Clearwater River (Sec.10, T25N,R11W).
(29) Stequaleho Creek	<u>Salmon River 15</u>	From the confluence of the Stequaleho Creek and unnamed creek (Sec.19, T25N,R10W) downstream to mouth at Clearwater River (Sec.16,T25N,R11W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(30) Winfield Creek	<u>Spruce Mt. 15</u>	From the confluence of Winfield Creek and unnamed creek (Sec.1,T26N,R12W) downstream to mouth at the Hoh River (Sec.27,T27N, R12W).
(31) Quinault River*	<u>Mt. Christie * 15 Kloochman Rock 15</u>	From east section line (Sec.33,T24N,R8W) downstream to Jefferson/Grays Harbor County line (Sec.1,T23N, R9W). Exclude federal land. The flow is over 1000 cfs MAF at east section line (Sec.33, T24N,R8W).

WSR 90-06-069
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
 [Order 89-60—Filed March 6, 1990, 4:59 p.m.]

Date of Adoption: March 6, 1990.
 Purpose: Amending WAC 173-18-090 Clallam County streams; and 173-18-200 Jefferson County streams.

Citation of Existing Rules Affected by this Order: Amending WAC 173-18-090 and 173-18-200.

Statutory Authority for Adoption: RCW 90.58.200.

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: An emergency rule, filed as WSR 89-24-067, to extend the designation of shoreline of statewide significance on the Bogachiel River, expires before the effective date of the permanent rule filed this date for the same purpose.

Effective Date of Rule: Immediately.

March 6, 1990
 Fred Olson
 Deputy Director

AMENDATORY SECTION (Amending Order DE 76-14, filed 5/3/76)

WAC 173-18-090 CLALLAM COUNTY Streams

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(1) Big River	<u>Lake Pleasant 15</u>	From the confluence of Big River and unnamed creek (Sec.16,T31N,R14W) downstream to mouth on Lake Ozette (Sec.10,T30N, R15W).
(2) Bear Creek	<u>Forks 15</u>	From the confluence of Bear Creek and unnamed creek (Sec.24,T28N,R13W) downstream to mouth at Bogachiel River (Sec.35, T28N,R13W).

Stream Name	Quadrangle Name and Size	Legal Description	Stream Name	Quadrangle Name and Size	Legal Description
(3) Bear Creek	<u>Pysht 15</u>	From the Olympic National Forest boundary (Sec.25, T30N,R12W) downstream to mouth at Soleduck River (Sec.27, same township).	(15) Dickey River (W. Fork)	<u>La Push 15</u> <u>Ozette Lake 15</u>	From the outlet of Lake Dickey (Sec.16, T30N, R14W) downstream to mouth at Dickey River (Sec.30, T29N, R14W).
(4) Beaver Creek	<u>Lake Pleasant 15</u>	From the Olympic National Forest boundary (Sec.20, T30N,R12W) downstream to mouth at Soleduck River (Sec.30, T30N, R12W).	(16) Dickey River (E. Fork)	<u>Lake Pleasant 15</u> <u>Ozette Lake 15</u>	From the confluence of the East Fork Dickey River and unnamed creek (Sec.19, T30N, R13W) downstream to mouth at Dickey River (Sec.30, T29N, R14W).
(5) Bockman Creek	<u>Lake Pleasant 15</u>	From the Olympic National Forest boundary (Sec.1, T29N,R13W) downstream to mouth at Soleduck River (same section).	(17) Dickey River (M. Fork)	<u>Lake Pleasant 15</u>	From the confluence of the Middle Fork Dickey River and unnamed creek (Sec.14, T30N, R14W) downstream to mouth at West Fork Dickey River (Sec.21, same township).
(6) Bogachiel River (Cont.)*	((Forks * 15 La Push 15)) <u>Reade Hill 7 1/2</u> <u>Forks 7 1/2</u> <u>Quillayute</u> <u>Prairie 7 1/2</u>	From the Jefferson County line (Sec.35, T28N, R13W) downstream to mouth at Quillayute River (Sec.20, T28N, R14W). ((The 1,000 cfs MAF point begins at mouth of Bear Creek (Sec.35, T28N, R13W).)) The flow exceeds 1,000 cfs MAF at Jefferson County line.	(18) Deep Creek	<u>Pysht 15</u>	From the Olympic National Forest boundary (Sec.36, T31N, R11W) downstream to mouth at Strait of Juan de Fuca (Sec.20, T31N, R10W).
(7) Calawah River*	<u>Forks * 15</u>	From confluence of North and South Forks of Calawah River (Sec.35, T29N, R13W) downstream to mouth at Bogachiel River (Sec.13, T28N, R14W). The 1,000 cfs MAF point begins at confluence of North and South Forks.	(19) Dungeness River	<u>Tyler Peak 15</u> <u>Carlsborg 7 1/2</u> <u>Dungeness 7 1/2</u>	From the Olympic National Forest boundary (Sec.24, T29N, R4W) downstream to mouth at Dungeness Bay (Sec.25, T31N, R4W).
(8) Calawah River (S. Fork)	<u>Forks 15</u>	From the Olympic National Forest boundary (Sec.1, T28N, R13W) downstream to mouth at Calawah River (Sec.35, T29N, R13W).	(20) East Twin River	<u>Lake Crescent 15</u>	From the confluence of East Twin River and unnamed creek at Olympic National Forest boundary (Sec.36, T31N, R10W) downstream to mouth at Strait of Juan de Fuca (Sec.23, same township).
(9) Calawah River (N. Fork)	<u>Pysht 15</u> <u>Lake Pleasant 15</u> <u>Forks 15</u>	From the North section line (Sec.15, T29N, R11W) to mouth at Calawah River (Sec.35, T29N, R13W). Exclude federal lands.	(21) Elk Creek	<u>Forks 15</u>	From a point approximately 1000' west of the Olympic National Forest boundary (Sec.12, T28N, R13W) downstream to mouth at Calawah River (Sec.3, same township).
(10) Clallam River	<u>Lake Pleasant 15</u> <u>Pysht 15</u> <u>Clallam Bay 15</u>	From the confluence of Clallam River and unnamed creek (Sec.12, T31N, R13W) downstream to mouth at Clallam Bay (Sec.20, T32N, R12W).	(22) Elwha River*	<u>Joyce * 15</u>	From the center of (Sec.28, T30N, R7W) downstream to mouth at Freshwater Bay (Sec.27, T31N, R7W). The 1,000 cfs MAF point begins at center of (Sec.28, T30N, R7W).
(11) Colby Creek	<u>La Push 15</u>	From the intersection of private road and Colby Creek (Sec.8, T28N, R14W) downstream to mouth at Dickey River (Sec.6, T28N, R14W).	(23) Herman Creek	<u>Lake Pleasant 15</u>	From the confluence of North Branch Herman Creek and Herman Creek (Sec.28, T31N, R13W) downstream to mouth at Hoko River (Sec.30, same township).
(12) Coal Creek	<u>La Push 15</u>	From the confluence of Coal Creek and unnamed creek (Sec.1, T28N, R15W) downstream to mouth at Dickey River (Sec.12, same township).	(24) Hoko River	<u>Lake Pleasant 15</u> <u>Clallam Bay 15</u>	From the confluence of Hoko River and unnamed creek (Sec.16, T30N, R13W) downstream to mouth at Strait of Juan de Fuca (Sec.10, T32N, R13W).
(13) Crooked Creek	<u>Ozette Lake 15</u>	From the confluence of the North Fork and the South Fork (Sec.19, T30N, R14W) downstream to mouth at Ozette Lake (Sec.15, T30N, R15W).	(25) Indian Creek	<u>Joyce 15</u>	From the confluence of Indian Creek and unnamed creek (Sec.23, T30N, R8W) downstream to mouth at Lake Aldwell (Sec.28, T30N, R7W).
(14) Dickey River	<u>La Push 15</u>	From the confluence of East and West Forks of Dickey River (Sec.30, T29N, R14W) downstream to Olympic National Park boundary (Sec.22, T28N, R15W).	(26) Little Hoko River	<u>Lake Pleasant 15</u> <u>Clallam Bay 15</u>	From the confluence of Little Hoko River and Lamb Creek (Sec.3, T31N, R13W) downstream to mouth at Hoko River (Sec.22, T32N, R13W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(27) Little River (S. Br.)	<u>Joyce 15</u>	From the Olympic National Forest boundary (Sec.25, T30N,R7W) downstream to mouth at Elwha River (Sec. 28, same township). Excluding federal lands.	(39) Sekiu River (S. Fk.)	<u>Lake Pleasant 15</u>	From the confluence of the South Fork Sekiu River and unnamed creek (Sec.26,T32N, R14W) downstream to mouth at Sekiu River (Sec.15, same township).
(28) Lyre River	<u>Lake Crescent 15</u>	From the Olympic National Forest boundary (Sec.10, T30N,R9W) downstream to mouth at Strait of Juan de Fuca (Sec.22,T31N,R9W).	(40) Sekiu River (N. Fk.)	<u>Cape Flattery 15</u>	From the confluence of North Fork Sekiu River and unnamed creek (Sec.7, T32N,R14W) downstream to mouth at Sekiu River (Sec. 15, same township).
(29) Maxfield Creek	<u>Forks 15</u>	From the confluence of Maxfield Creek and South Fork Maxfield Creek (Sec. 27,T28N,R14W) downstream to mouth at Bogachiel River (Sec.28, same township).	(41) Sekiu River	<u>Clallam Bay 15</u>	From confluence of North and South Forks of Sekiu River (Sec.15,T32N,R14W) downstream to mouth on Strait of Juan de Fuca (Sec.8,T32N,R13W).
(30) McDonald Creek	<u>Carlsborg 7 1/2 Dungeness 7 1/2</u>	From the confluence of McDonald Creek and unnamed creek (Sec.6,T29N,R4W) downstream to mouth at Strait of Juan de Fuca (Sec.5,T30N,R4W).	(42) Shuwah Creek	<u>Lake Pleasant 15</u>	From the confluence of Shuwah Creek and unnamed creek (NW1/4 SW1/4 of Sec. 15,T29N,R13W) downstream to mouth at Soleduck River (Sec.22, same township).
(31) Murphy Creek	<u>La Push 15</u>	From the confluence of Murphy Creek and unnamed creek (Sec.33,T28N,R14W) downstream to mouth at Bogachiel River (Sec.29, same township).	(43) Skunk Creek	<u>Lake Pleasant 15</u>	From the confluence of Skunk Creek and unnamed creek (Sec.29,T30N,R13W) downstream to mouth at the Dickey River (Sec.31,T39N, R13W).
(32) Pilchuck Creek	<u>Ozette Lake 15</u>	From a point (SW1/4 of NE1/4 Sec.33,T32N,R15W) downstream to mouth at Sooes River (Sec.28, same township).	(44) Snag Creek	<u>Ozette Lake 15</u>	From the confluence of Snag Creek and unnamed creek (Sec.6,T31N,R14W) downstream to mouth at Sooes River (Sec.30,T32N, R14W).
(33) Morse Creek	<u>Morse Creek 7 1/2</u>	From Olympic National Park boundary (Sec.8,T29N,R5W) downstream to mouth at Port Angeles Harbor (Sec. 5,T30N,R5W).	(45) Soleduck River*	<u>Pysht 15 Lake Pleasant* 15 Forks 15 La Push 15</u>	From the Olympic National Forest boundary (Sec.35, T30N,R10W) downstream to mouth at Quillayute River (Sec.20,T28N,R14W). The 1,000 cfs MAF point begins at mouth of Bockman Creek (Sec.1,T29N,R13W). Excludes federal lands.
(34) Ponds Creek	<u>Lake Pleasant 15</u>	From the confluence of Ponds Creek and unnamed creek on the south section line (Sec.34,T31N,R14W) downstream to mouth at Dickey Lake (Sec.9,T30N, R14W).	(46) Sooes River	<u>Ozette Lake 15 Cape Flattery 15</u>	From the confluence of Snag Creek and Sooes River (Sec.30,T32N,R14W) downstream to Indian Reservation boundary (Sec.16,T32N,R15W).
(35) Pysht River	<u>Pysht 15</u>	From the Olympic National Forest boundary (Sec.34, T31N,R12W) downstream to mouth at Strait of Juan de Fuca near Pysht (Sec.9, T31N,R11W).	(47) Thunder Creek	<u>Lake Pleasant 15</u>	From the confluence of Thunder Creek and unnamed creek (Sec.11,T29N,R14W) downstream to mouth at East Fork Dickey River (Sec.23, same township).
(36) Pysht River (S. Fk.)	<u>Pysht 15</u>	From the confluence of the South Fork Pysht River and Middle Creek (Sec.28,T31N, R11W) downstream to mouth at Pysht River (Sec.13,T31N, R12W).	(48) Umbrella Creek	<u>Ozette Lake 15</u>	From the confluence of Umbrella Creek and unnamed creek (Sec.23,T31N,R15W) downstream to mouth at Umbrella Point on Lake Ozette (Sec.4,T30N,R15W).
(37) Quillayute River*	<u>La Push * 15</u>	From confluence of Soleduck and Bogachiel rivers (Sec. 20,T28N,R14W) downstream to Olympic National Park boundary (Sec.24,T28N,R15W). The 1,000 cfs MAF point begins at confluence of Soleduck River and Bogachiel River.	(49) West Twin River	<u>Lake Crescent 15</u>	From the Olympic National Forest boundary (Sec.34, T31N,R10W) downstream to mouth at Strait of Juan de Fuca (Sec.23,T31N,R10W).
(38) Salt Creek	<u>Joyce 15</u>	From the confluence of Salt Creek and unnamed creek (SE1/4, SE1/4 of Sec. 34,T31N,R8W) downstream to mouth at Crescent Bay on Strait of Juan de Fuca (Sec.21, same township).			

AMENDATORY SECTION (Amending Order DE 76-14, filed 5/3/76)

WAC 173-18-200 JEFFERSON COUNTY. Streams

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>	<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(1) Big Quilcene River	<u>Mt. Walker 7 1/2 Quilcene 7 1/2</u>	From the Olympic National Forest boundary (Sec.27, T27N,R2W) downstream to mouth at Quilcene Bay (Sec.19,T27N,R1W).	(11) Hoh River*	<u>Spruce Mt. * 15 Forks 15 Destruction Island 15</u>	From the Olympic National Park boundary (Sec.29, T27N,R10W) downstream to Hoh Indian Reservation boundary (Sec.20,T26N, R13W). The 1,000 cfs MAF point starts at the Olympic National Park boundary.
(2) Boga-chiel River*	<u>((Spruce Mt. +5 Forks +5)) Indian Pass* 7 1/2 Anderson Creek 7 1/2 Reade Hill 7 1/2</u>	From the Olympic National Forest boundary (Sec.4, T27N,R12W) downstream to the Clallam County line (Sec.2,T27N,R13W). The flow exceeds 1,000 cfs MAF at Olympic National Park boundary.	(12) Hoh River (S. Fk.)	<u>Mt. Tom 15</u>	From the Olympic National Park boundary (Sec.2,T26N, R10W) downstream to the Olympic National Forest boundary (Sec.29,T27N, R10W).
(3) Cedar Creek	<u>Destruction Island 15</u>	From the confluence of Cedar Creek and the South Fork of Cedar Creek (Sec. 34,T26N,R13W) downstream to the Olympic National Park boundary (Sec.33, T26N,R13W).	(13) Hurst Creek	<u>Destruction Island 15</u>	From an approximate point near the north line of (SE1/4 of NW1/4 of NE1/4 of Sec.17,T24N,R12W) downstream to mouth at the Clearwater River (Sec.19,T24N,R12W).
(4) Chimacum Creek	<u>Port Townsend S. 7 1/2</u>	From the confluence of Chimacum Creek and unnamed creek in Chimacum Valley (Sec.11,T29N,R1W) downstream to mouth at Bay of Port Townsend (Sec. 35,T30N,R1W) near Irontdale.	(14) Kalaloch Creek	<u>Destruction Island 15</u>	From the confluence of Kalaloch Creek and West Fork Kalaloch Creek (Sec.17, T25N,R13W) downstream to the Olympic National Park boundary (Sec.3,T24N, R13W).
(5) Christmas Creek	<u>Salmon River 15</u>	From an approximate point near the center of (NE1/4 of Sec.2,T25N,R12W) downstream to mouth at Clearwater River (Sec.22, T25N,R12W).	(15) Little Quilcene River	<u>Mt. Walker 7 1/2 Quilcene 7 1/2</u>	From the Olympic National Forest boundary (Sec.33, T28N,R2W) downstream to mouth at Quilcene Bay (Sec.18,T27N,R1W).
(6) Clearwater River*	<u>Kloochmon Rock 15 Salmon River* 15 Destruction Island 15</u>	From the confluence of Clearwater River and unnamed creek (Sec.25, T26N,R10W) downstream (excluding federal lands) to Quinault Indian Reservation (Sec.29,T24N,R12W). The 1,000 cfs MAF point begins at mouth of Miller Creek (Sec.27,T25N,R12W).	(16) Maple Creek	<u>Spruce Mt. 15</u>	From the confluence of Maple Creek and Dry Creek (Sec.3,T26N,R11W) downstream to Hoh River (Sec.35,T27N,R11W).
(7) Dose-wallips River	<u>Brinnon 7 1/2</u>	From the Olympic National Forest boundary between (Sec.25,T26N,R3W) and (Sec.30,T26N,R2W) downstream to mouth at Dabob Bay near Brinnon (Sec.2,T25N,R2W).	(17) Matheny Creek	<u>Salmon River 15</u>	From the Olympic National Forest boundary (Sec.24, T24N,R11W) downstream to the Olympic National Park boundary (Sec.22,T24N, R11W).
(8) Duckabush River	<u>Brinnon 7 1/2</u>	From the Olympic National Forest boundary between (Sec.17 & 18,T25N,R2W) downstream to mouth at Hood Canal (Sec.21,T25N, R2W).	(18) Miller Creek	<u>Destruction Island 15 Salmon River 15</u>	From the confluence of Miller Creek and unnamed creek (Sec.17,T25N,R12W) downstream to mouth at Clearwater River (Sec.27, T25N,R12W).
(9) Fulton Creek	<u>Brinnon 7 1/2 Holly 7 1/2</u>	From the confluence of Fulton Creek and the South Fork of Fulton Creek (Sec. 30,T25N,R2W) downstream to mouth at Hood Canal (Sec.31,T25N,R2W).	(19) Miller Creek (E. Fk.)	<u>Salmon River 15</u>	From the confluence of the East Fork Miller Creek and unnamed creek (Sec. 15,T25N,R12W) downstream to mouth at Miller Creek (Sec.27,T25N,R12W).
(10) Goodman Creek	<u>Forks 15 LaPush 15</u>	From the confluence of Goodman Creek and unnamed creek (Sec.23,T27N,R13W) downstream to Olympic National Park boundary (Sec.23,T27N,R14W).	(20) Minter Creek	<u>Forks 15</u>	From the intersection of the north line of (Sec.30, T27N,R13W) and Minter Creek, downstream to Goodman Creek (Sec.24, T27N,R14W).
			(21) Mosquito Creek	<u>Forks 15</u>	From the intersection of north line of (Sec.5, T26N,R13W) and Mosquito Creek, downstream to Olympic National Park boundary (Sec.36,T27N, R14W).
			(22) Nolan Creek	<u>Destruction Island 15 Forks 15</u>	From an approximate point on the north line of (NE1/4 of SW1/4 of Sec.21,T26N, R12W) downstream to mouth at Hoh River (Sec.23,T26N, R13W).

<u>Stream Name</u>	<u>Quadrangle Name and Size</u>	<u>Legal Description</u>
(23) Owl Creek	<u>Spruce Mt. 15</u>	From an approximate point near the center of the north line of (SW1/4 of NE1/4 of Sec.8, T26N, R10W) downstream to mouth at Hoh River (Sec.35, T27N, R11W).
(24) Salmon River	<u>Salmon River 15</u>	From the Olympic National Forest boundary (Sec.36, T24N, R11W) downstream back to said boundary (Sec.35) coming out of Indian Reservation (Sec.36, T24N, R12W) returning to Indian Reservation and coming out again (Sec.35, T24N, R12W) downstream to Olympic National Forest boundary (same section).
(25) Shale Creek	<u>Salmon River Destruction Island 15</u>	From an approximate point near the NE corner of the (SE1/4 of SW1/4 of Sec.26, T25N, R12W) downstream to mouth at Clearwater River (Sec.28, T25N, R12W).
(26) Snahapish River	<u>Salmon River 15</u>	From the intersection of Snahapish River and unimproved road (Sec.21, T26N, R11W) downstream to mouth at Clearwater River (Sec.19, T25N, R11W).
(27) Snow Creek	<u>Uncas 7 1/2</u>	From the confluence of Snow Creek and unnamed creek from Crocker Lake (Sec.2, T28N, R2W) downstream to mouth at Port Discovery (Sec.24, T29N, R2W).
(28) Solleks River	<u>Kloochman Rock 15 Salmon River 15</u>	From the confluence of Solleks River and unnamed creek (Sec.2, T25N, R10W) downstream to mouth at Clearwater River (Sec.10, T25N, R11W).
(29) Stequaleho Creek	<u>Salmon River 15</u>	From the confluence of the Stequaleho Creek and unnamed creek (Sec.19, T25N, R10W) downstream to mouth at Clearwater River (Sec.16, T25N, R11W).
(30) Winfield Creek	<u>Spruce Mt. 15</u>	From the confluence of Winfield Creek and unnamed creek (Sec.1, T26N, R12W) downstream to mouth at the Hoh River (Sec.27, T27N, R12W).
(31) Quinault River*	<u>Mt. Christie * 15 Kloochman Rock 15</u>	From east section line (Sec.33, T24N, R8W) downstream to Jefferson/Grays Harbor County line (Sec.1, T23N, R9W). Exclude federal land. The flow is over 1000 cfs MAF at east section line (Sec.33, T24N, R8W).

Purpose: Chapter 391-08 WAC is adopted to set forth certain general rules of practice and procedure applicable to all types of cases processed by the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to notice filed as WSR 89-23-021 on November 7, 1989.

WAC 391-08-001 Application and scope of chapter 391-08 WAC.

Purpose: Introduces chapter 391-08 WAC as "procedural." Makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers user to other rules, as follows: Chapter 10-08 WAC for conduct of "contested cases"; chapter 391-25 WAC for representation cases; chapter 391-35 WAC for unit clarification cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases. Provides that special rules prevail over general rules.

Reasons: Chapter 34.05 RCW (APA) and RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Amendment of existing rule with more detailed cross-references identifying the areas where PERC does things differently than chapter 10-08 WAC.

WAC 391-08-003 Policy—Construction—Waiver.

Purpose: Promotes labor peace.

Statute: RCW 41.58.005(1).

Summary: Provides for liberal construction of rules and waiver of rules where there is no prejudice to parties.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.050 permits waivers by parties. WAC 10-08-230 "encourages" agencies to explore early, informal settlements, but declares how settlements will be embodied in writing and implemented, including burden on agency to provide written description of the resolution to the persons involved.

Explanation: Re-adoption of existing rule is in harmony with the purpose of WAC 10-08-230, but is more suited to labor-management practice, where parties are accustomed to writing out and signing their own settlement agreements.

WAC 391-08-007 Definitions.

Purpose: Defines certain terms of art.

Statute: Substantive statutes, generally.

Summary: Defines "agency," "commission," "executive director," "labor dispute" and "presiding officer."

Reasons: Chapter 34.05 RCW does not define roles within agency. Model rules silent and also repeals former definition of "presiding officer."

WSR 90-06-070
PERMANENT RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
 [Filed March 7, 1990, 11:26 a.m.]

Date of Adoption: January 12, 1990.

Explanation: Readoption of existing rule is substantive as to definition of "labor dispute" patterned after federal precedent; efficient as to definition of "presiding officer." PERC actually uses working titles of "hearing officer" and "examiner" in APA cases, so "presiding officer" is a handy catch-all. (PERC uses "mediator" and "arbitrator" in non-APA cases); and efficient as to other terms, which permit greater precision in other rules.

WAC 391-08-010 Appearance and practice before agency—Who may appear.

Purpose: Limits practice before PERC.

Statute: Substantive statutes, generally.

Summary: Permits Washington attorneys, union agents and employer agents to practice before PERC, without limitation. Permits out-of-state attorneys to practice before PERC on reciprocity basis.

Reasons: RCW 34.05.428 provides:

(1) A party to an adjudicative proceeding may participate personally or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, if permitted by provision of law, other representative.

Chapter 10-08 WAC is silent with repeal of WAC 10-08-020. PERC finds it advisable to give meaning to the statutory term "duly authorized representative" in the context of labor-management relations and a long history of practice by nonattorneys in this field.

Explanation: Readoption of the existing rule is consistent with the legislative history of the APA. The problem of excluding union business agents and management consultants from practice before PERC was pointed out to the legislature during hearings on the APA, and it softened the original language of the bill. While it might be argued that neither the APA nor PERC's rule is completely consistent with the supreme court's admission to practice (APR) rule 8(b) (which does not require "reciprocity" for out-of-state attorneys, but requires them to "associate" for the case with an in-state attorney), the supreme court ducked the question of "unauthorized practice of law" in a recent Board of Industrial Insurance Appeals case. PERC sees a number of Oregon attorneys in the Vancouver area, and sees the Aitchison firm state-wide. Out-of-state attorneys might qualify under the "duly authorized" agents language of RCW 34.05.428(1). Readoption of the PERC rule will avoid further clouding of the issue at this time.

WAC 391-08-020 Appearance and practice before agency—Standards of conduct.

Purpose: Provide for exclusion from practice before PERC.

Statute: Substantive statutes, generally.

Summary: Permits presiding officer to exclude representative for misconduct at hearing. Permits PERC to exclude persons from practice, upon notice and hearing, for misconduct of an aggravated character.

Reasons: RCW 34.05.428 leaves open possibility of nonattorney practitioners before administrative agencies. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule as deterrent to misconduct. Permits agency sanctions, particularly as to nonattorney practitioners who are not regulated by the Washington State Bar Association.

WAC 391-08-030 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.

Purpose: Limits practice by former PERC and AG staff.

Statute: Substantive statutes, generally.

Summary: Former PERC staff and AG staff are barred from representing parties in any case that was pending before PERC while the person was associated with the agency.

Reasons: Chapter 34.05 RCW silent. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule protects impartiality and PERC's appearance of fairness. PERC's "mediation" role is particularly sensitive and vulnerable to damage if a former insider were to show up representing a party on a case where insider knowledge could have been gained.

WAC 391-08-040 Appearance and practice before agency—Former employee as witness.

Purpose: Limit testimony by former PERC and AG staff.

Statute: Substantive statutes, generally.

Summary: Former PERC staff and AG staff barred from testifying for any party in any case which was pending before PERC while the person was associated with the agency.

Reasons: APA silent. WAC 10-08-140(4) limits the exclusion to "expert witness" testimony, and only where the person was actually involved with the particular case while associated with the agency.

Explanation: Readoption of existing rule protects impartiality and PERC's appearance of fairness. PERC's "mediation" role is particularly sensitive and vulnerable to damage if a former insider were to show up testifying on behalf of a party on a case where insider knowledge could have been gained.

WAC 391-08-100 Service of process—Computation of time.

Purpose: Provide standards for computing time periods.

Statute: Substantive statutes, generally.

Summary: Time periods computed by calendar days to end on business day, except Saturdays, Sundays and Holidays excluded for periods of less than seven days.

Reasons: APA silent. WAC 10-08-080 is identical.

Explanation: Readoption of existing rule maintains consistency. PERC needs to have some rule for PERC cases that are not governed by the APA. The standards should continue to be identical for all types of cases.

WAC 391-08-110 Service of process—By whom served.

Purpose: Repeal redundant requirement for service of papers.

Statute: Substantive statutes, generally.

Summary: PERC to serve papers it issues. All other papers to be served by originating party.

Reasons: RCW 34.05.437(3) requires originating party to serve papers unless agency rules provide otherwise. WAC 10-08-110(1) requires originating party to serve papers filed with presiding officer.

Explanation: Repeal of existing rule maintains consistency. This rule could perhaps have been repealed when chapter 10-08 WAC was first adopted. WAC 391-08-120 will adequately cover the situation.

WAC 391-08-120 Service of process—Filing and service of papers.

Purpose: Regulates filing and service of papers.

Statute: Substantive statutes, generally.

Summary: Filing means actual receipt by agency. Originating party to serve other parties by mail, etc., including fax. Documents intended for commission or executive director to be filed only in Olympia office.

Reasons: RCW 34.05.010(6) defines "filing" as actual receipt by agency at place designated by agency. RCW 34.05.437(3) requires originating party to serve papers (by deposit in mail, etc., or by fax if permitted by agency rule) unless agency rules provide otherwise. WAC 10-08-110 permits filing of any papers for agency at any office of the agency and permits service by fax.

Explanation: Amendment of existing rule, to avoid operational problems. PERC's rule was patterned after the original WAC 10-08-110, but was amended in 1988 to require filings for the commission or executive director at Olympia office. PERC has experienced problems with attempts to file time-critical papers at PERC's Yakima and Spokane offices at times when nobody was present to verify the date and time of filing. WAC 391-08-120 (4)(b) should also say that papers to be filed with a presiding officer may be filed at: "The office of the presiding officer or the Olympia office." Amendment to include service by "fax" is also proposed.

WAC 391-08-160 Service of process—Opportunity for hearing.

Purpose: Repeal redundant requirement for public hearings in contested cases.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: PERC contested case hearings open to the public. Parties may appear and participate.

Reasons: RCW 34.05.449(5) provides for hearings in adjudicative proceedings to be open to the public. Model rules are silent following repeal of portions of WAC 10-08-190 which required hearings to be public.

Explanation: Repeal of existing rule maintains consistency. The subject is adequately covered by statute.

WAC 391-08-180 Service of process—Continuances.

Purpose: Regulates requests for continuances.

Statute: Substantive statutes, generally.

Summary: Parties may move for continuance, with notice to other parties, for good cause. Presiding officer may grant.

Reason: RCW 34.05.449(1) empowers presiding officer to regulate course of proceedings. WAC 10-08-090 makes explicit requirement for party seeking continuance to do leg-work with other parties in advance of making request to agency.

Explanation: Amendment of PERC rule to parallel model rule will maintain consistency. The same standards would be made effective for PERC cases not governed by the APA or the model rules. PERC traditionally asked parties to do the leg-work.

WAC 391-08-200 Definition of issues—Before hearing.

Purpose: Repeal redundant admonition on parties to clarify issues before hearing.

Statute: Substantive statutes, generally.

Summary: Toothless language dates back to chapter 1-08 WAC model rules promulgated by Code Reviser.

Reason: RCW 34.05.431 authorizes agencies to hold prehearing conference to simplify issues. WAC 10-08-035 suggests that application should state issue to be adjudicated. WAC 10-08-130 authorizes agency to hold prehearing conference to simplify issues.

Explanation: Repeal of existing rule maintains consistency. This concept is now adequately covered in the APA and model rules.

WAC 391-08-210 Definition of issues—Prehearing conference.

Purpose: Repeal redundant rule on prehearing conferences.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: PERC adopted a rule duplicating WAC 10-08-130, because PERC conducts representation case prehearing conferences prior to the issuance of a notice of hearing.

Reason: RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 amended only to use "adjudicative proceedings" terminology.

Explanation: Repeal of existing rule maintains consistency. The model rules now cover the period prior to issuance of a notice of hearing, so PERC no longer needs to have its own rule. (PERC needs to adopt "when and how" rules for prehearing conferences in chapters 391-25, 391-35, 391-45 and 391-95 WAC.)

WAC 391-08-230 Summary judgment.

Purpose: Regulates issuance of summary judgments.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: PERC may decide case by summary judgment if pleadings show there is no issue of fact.

Reason: Summary judgment procedures formerly set forth in RCW 34.04.090(3) have disappeared from the new APA, but RCW 34.05.416 permits the agency to decide that no adjudicative proceeding will be conducted. The model rules are silent.

Explanation: Readoption of the existing rule will enhance efficiency. PERC adopted its rule after experience with going to hearing just to entertain an obvious motion for dismissal in cases where no disputed issues had been identified. PERC's "preliminary ruling" procedures for unfair labor practice and union security cases are consistent with RCW 34.05.416, and avoid these situations.

WAC 391-08-300 Subpoenas—Discovery—Form.

Purpose: Subpoena powers limited to hearings; "discovery" not permitted.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Subpoenas to identify agency, title of proceeding and case number, and hearing where returnable. Prehearing discovery is not allowed.

Reason: APA is silent as to form of subpoena. RCW 34.05.446(2) permits agency to determine, by rule, whether discovery is to be available in adjudicative proceedings and, if so, which forms of discovery may be used. Except as otherwise provided by agency rules, discovery is up to the presiding officer. WAC 10-08-120 provides for subpoenas to, inter alia, identify agency, title of proceeding and case number. Model rules silent on discovery following repeal of WAC 10-08-020, which left authority in "discovery" area to the agencies.

Explanation: Amendment, with amendment of title, will fulfill APA requirement to state what "discovery" will be allowed. Consistent with National Labor Relations Board practice, PERC has not permitted "discovery." Discovery rules found in chapter 1-08 WAC were thus omitted from chapter 391-08 WAC, and silence continued to suffice while chapter 10-08 WAC left the matter to the agency. The new APA requires the agency to adopt a rule. The form of subpoena is covered by WAC 10-08-120, but this rule can be converted to limit the use of subpoena.

WAC 391-08-310 Subpoenas—Issuance to parties.

Purpose: Limitation on use of subpoena power to call PERC staff member as witness in proceeding before PERC.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Subpoena may be issued ex parte. Attorneys may sign subpoena on their license. No subpoena issued or given effect to call PERC staff member as witness.

Reason: RCW 34.05.446(1) provides for issuance of subpoena by agency or attorney, with party requesting issuance of subpoena paying witness fees, etc., per RCW 34.05.446(7). WAC 10-08-120 requires that subpoena identify requesting party, agency and case; regulates service; regulates quashing; but repeals prohibition on subpoena of PERC staff member as witness in before PERC.

Explanation: Readoption of existing rule is needed to protect PERC's impartiality. PERC's "mediation" role is particularly sensitive and vulnerable to damage if an

insider shows up testifying for a party. The exclusion of PERC staff from subpoena was adopted by the Chief Administrative Law Judge in the original chapter 10-08 WAC rules, because the sensitive nature of PERC's "mediation" function was recognized and there was no other way to make such a limitation effective. The repealer by the Chief Administrative Law Judge recognizes that PERC has the freedom to adopt its own rule. The commission has already readopted the existing rule on an emergency basis so that this area will not be left to chance.

WAC 391-08-315 Interpreters.

Purpose: Provides for use and compensation of interpreters in "adjudicative proceedings" covered by the APA.

Statute: Chapter 2.42 RCW and RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Adopts model rule with modification to delete agency responsibility for payment of interpreters beyond that required by chapter 2.42 RCW.

Reason: RCW 2.42.040 makes a distinction between "criminal" and related proceedings (where the governmental body initiating the proceedings is responsible for the fees and expenses of the interpreter) and "other legal proceedings" (where the fees and expenses of the interpreter are borne by the impaired person unless indigent, and only then by the agency conducting the proceeding). RCW 2.42.170 recites that an interpreter is entitled to fees and expenses, without assigning responsibility for their payment. WAC 10-08-150(17) makes the agency responsible for the fees and expenses of all interpreters.

Explanation: Adoption of model rule in modified form will limit the circumstances under which the agency must pay for the fees and expenses of interpreters. AGO 1989 No. 10 infers that the distinction between "criminal" and "other legal proceedings" remains viable, and a modified rule is proposed on advice from the Office of the Attorney General that the model rule is over-broad as to the financial obligations of the agency. Additionally, the legislature amended chapter 2.42 RCW in 1989 to create a qualifications process for interpreters through the administrator for the courts, which may turn out to be different than as detailed in the model rules.

WAC 391-08-500 Declaratory rulings authorized.

WAC 391-08-510 Declaratory rulings—Petition.

Purpose: Repeal of redundant rules on declaratory rulings.

Statute: Substantive statutes, generally.

Summary: PERC rules now provide for form, filing, service and disposition of declaratory ruling petitions.

Reason: RCW 34.05.240 permits petitions for declaratory orders and sets forth detailed procedures. Model rules set forth detailed procedures for issuing declaratory orders at WAC 10-08-250, 10-08-251 and 10-08-252.

Explanation: Repeal of existing rule to maintain consistency. This subject is now adequately covered by the APA and by the model rules.

WAC 391-08-600 Agency decisions—Form and content.

Purpose: Repeal of redundant PERC rule.

Statute: RCW 35.05.461 [34.05.461], 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Specifies form and content of decisions, parallel to provisions of original WAC 10-08-210.

Reason: RCW 35.05.461 [34.05.461] controls contents of orders. WAC 10-08-210 is now expanded to cover "initial or final" orders.

Explanation: Repeal of existing rule to maintain consistency. PERC formerly needed to have such a rule to regulate the form and content of orders issued by the commission on petitions for review of initial orders. This subject is now adequately covered by the APA and the model rules.

WAC 391-08-610 Agency decisions—Service.

Purpose: Regulates service of initial and final decisions in "adjudicative proceedings" covered by the APA.

Statute: RCW 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

Summary: Calls for service of decisions on each party, as well as on their attorneys.

Reason: RCW 34.04.120 requirement for service on party as well as upon attorney seems to have disappeared in new APA. RCW 34.05.461(9) says simply orders to be served "on each party." Model rules are silent.

Explanation: Readoption of existing rule to avoid problems. The requirement for service on the party, as well as its attorney, was adopted in 1975 (perhaps out of distrust of the attorneys to keep their clients informed?). PERC may want to continue the practice informally or by rule, regardless of APA silence.

WAC 391-08-630 Agency ((decisions))—Structure—Substitution for executive director.

Purpose: Specify agency structure and delegation of authority.

Statute: RCW 41.58.010 and 41.58.015.

Summary: Describes commission as impartial (all "public members") body; describes executive director as full-time agency head; provides for senior staff member not involved with case to act in place of executive director when he/she is disqualified or unavailable.

Reason: RCW 34.05.220 (1)(b) requires each agency to adopt rules stating its organization and general course and method of operations. Chapter 10-08 WAC is silent.

Explanation: Amendment, with amendment of title, to comply with requirement of new APA. Delegation of authority beyond executive director is operational necessity in some cases.

WAC 391-08-800 Agency records—Public access.

Purpose: Describe agency records available to public.

Statute: Chapter 42.17 RCW, and substantive statutes generally.

Summary: PERC to maintain docket, calendar and case files.

Reason: Effective July 1, 1990, RCW 42.17.260 will require agency to make records and index available to public. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule pending further study is indicated. The existing rule dates back to the chapter 1-08 WAC model rules promulgated by the Code Reviser. The public disclosure law, chapter 42.17 RCW imposes its own access requirements. PERC has relied upon its computer system and upon commercially published indexes of its decisions. The "APA clean-up bill" permits agencies to satisfy their "indexing" obligations by making available a commercially published index used by the agency. PERC may want to name the two local publishers in its rules, to divert inquiries in their direction.

WAC 391-08-810 Agency records—Confidentiality.

Purpose: Makes specific records exempt from public disclosure.

Statute: RCW 28B.52.060, 41.56.070, 41.56.100, 41.56.440, 41.58.020, 41.59.120 and 49.08.010.

Summary: Excludes "showing of interest evidence" and "mediation" records from public disclosure.

Reason: RCW 34.05.010 (3)(b) excludes showing of interest determinations and mediation from "agency action" subject to the APA. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule protects impartiality of PERC and substantive rights of parties. Court of Appeals decision affirms exclusion of "showing of interest" evidence from disclosure. These matters were excluded from the coverage of the APA in recognition of their sensitive and vulnerable nature if subjected to disclosure.

WAC 391-08-820 Agency offices.

Purpose: Specifies addresses of PERC offices.

Statute: Substantive statutes, generally.

Summary: Specifies PERC's principal office address in Olympia and its branch offices in Yakima and Spokane.

Reason: RCW 34.05.220 (1)(b) requires each agency to adopt rules stating how the public may obtain information and make submissions or requests. Chapter 10-08 WAC is silent.

Explanation: Readoption of the existing rule with corrected address (mailstop) information and telephone numbers will comply with the new APA.

This rule formerly contained information on PERC's branch offices. A conscious decision was made to delete that information, because PERC's branch offices in Spokane and Yakima are one-person stations that [are] not staffed on a full-time basis during normal office hours of state agencies, and so are not equipped to receive filings of time-critical documents. The "filing" problem will be taken care of in WAC 391-08-120.

WAC 391-08-900 Petitions for rule making—Who may petition.

WAC 391-08-910 Petitions for rule making—Form.

WAC 391-08-920 Petitions for rule making—Agency must consider.

WAC 391-08-930 Petitions for rule making—Notice of disposition.

Purpose: Repeal redundant rules on petitions for rule making.

Statute: Chapter 34.05 RCW and substantive statutes, generally.

Summary: PERC rules now set forth details for form, filing and disposition of requests for rule making.

Reason: RCW 34.05.330 permits any person to petition an agency for rule making. Agency may prescribe form and procedure. WAC 10-08-260 and 10-08-261 specify form and content of petitions for rule making.

Explanation: Repeal of existing rule to maintain consistency. Subject is now covered by APA and model rules.

Effective Date of Rule: Thirty days after filing.

March 7, 1990

Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-001 APPLICATION AND SCOPE OF CHAPTER 391-08 WAC. Chapter 391-08 WAC has been added to the Washington Administrative Code by the public employment relations commission pursuant to the authority of section 12, chapter 288, Laws of 1975 1st ex. sess. (RCW 41.59.110); sections 14 and 20, chapter 296, Laws of 1975 1st ex. sess. (RCW 28B.52-.080 and 41.56.040); and section 3, chapter 5, Laws of 1975 2nd ex. sess. (RCW 41.58.050), to promulgate comprehensive and uniform rules for practice and procedure before the agency. The provisions of chapter 1-08 WAC shall not be applicable to proceedings before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of (~~contested cases~~) adjudicative proceedings under chapters 391-25, 391-35, 391-45 and 391-95, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070, 391-25-090, 391-35-050, 391-45-050, and 391-95-110;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-110, which is supplanted by WAC 391-08-120;

(d) WAC 10-08-120, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(e) WAC 10-08-140, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(f) WAC 10-08-150, which is supplanted by WAC 391-08-315;

(g) WAC 10-08-211, which is supplanted by WAC 391-25-390, 391-25-590, 391-35-210, 391-35-230, 391-45-350, 391-45-370, 391-95-270, and 391-95-280; and

(h) WAC 10-08-230, which is supplanted by WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250,

391-25-270, 391-35-070, 391-35-140, 391-45-070, 391-45-090, 391-45-260, and 391-95-200.

(2) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

In the event of a conflict between general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-003 POLICY—CONSTRUCTION—WAIVER. The policy of the state being primarily to promote peace in labor relations, these rules and all other rules adopted by the agency shall be liberally construed to effectuate the purposes and provisions of the statutes administered by the agency, and nothing in any rule shall be construed to prevent the commission and its authorized agents from using their best efforts to adjust any labor dispute. The commission and its authorized agents may waive any requirement of the rules unless a party shows that it would be prejudiced by such a waiver.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-007 DEFINITIONS. As used in Title 391 WAC:

(1) "Agency" means the public employment relations commission, its officers and agents;

(2) "Commission" means the public employment relations commission;

(3) "Executive director" means the officer of that title appointed by the commission pursuant to RCW 41.58.015(2);

(4) "Labor dispute" means any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(5) "Presiding officer" means an agency official(s), examiner, hearing officer or other person authorized to act on behalf of the agency.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR. No person may appear in a representative capacity before the agency or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

(3) A bona fide officer, employee or other authorized representative of: (a) Any employer subject to the jurisdiction of the agency, or (b) any labor or employee organization.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF CONDUCT. Misconduct at any hearing conducted by the commission or a member of its staff shall be ground for summary exclusion from the hearing. Misconduct of an aggravated character, when engaged in by an attorney or other person acting in a representative capacity pursuant to WAC 391-08-010, shall be ground for suspension or disbarment by the commission after due notice and hearing.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-030 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF AGENCY OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No former member of the commission, former employee of the agency or former member of the attorney general's staff shall, at any time after severing his employment with the agency or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his employment with the agency.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS WITNESS. Except upon the express written consent of the commission, no former member of the commission, former employee of the agency or former member

of the attorney general's staff shall, at any time after severing his employment with the agency or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his employment with the agency.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-100 SERVICE OF PROCESS—COMPUTATION OF TIME. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

AMENDATORY SECTION (Amending Order 88-01, filed 5/31/88)

WAC 391-08-120 SERVICE OF PROCESS—FILING AND SERVICE OF PAPERS. (1) All notices, pleadings, and other papers filed with the agency or the presiding officer shall be served upon all counsel and representatives of record and upon parties not represented by counsel or upon their agents designated by them or by law.

(2) Service shall be made personally or, unless otherwise provided by law, by first class, registered, or certified mail, ~~((or))~~ by telegraph; by electronic telefacsimile transmission and same-day mailing of copies; or by commercial parcel delivery company.

(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed ~~((, and by telegraph))~~. Service by telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.

(4) Papers required to be filed with the agency or with the presiding officer shall be deemed filed upon actual receipt during office hours at:

(a) The Olympia office of the commission for any papers required to be filed with the commission, the executive director, or the agency generally; or

(b) ~~((Any))~~ The office of ((the agency or of)) the presiding officer or the Olympia office of the commission for any papers required to be filed with the presiding officer.

(5) Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with ~~((either an acknowledgment of service or))~~ one of

the following ((certificate)) shall constitute proof of service:

~~((I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy thereof in person to (names) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.~~

~~Dated at this ... day of, 19...
(signature)ⁿ)~~

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(c) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or to his or her attorney or authorized agent; or

(iii) Transmitting a copy thereof by electronic telefacsimile device, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

(iv) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-180 SERVICE OF PROCESS—CONTINUANCES. (1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, showing good and sufficient cause therefor.

(2) A request for a continuance made prior to the hearing date may be oral or in writing and shall state that the party seeking the continuance has notified all other parties of the request and that either all other parties agree to the continuance or that all parties do not agree to the continuance. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-08-230 SUMMARY JUDGMENT. A summary judgment may be issued if the pleadings and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that one of the parties is entitled to a judgment as a matter of law. Motions for summary judgment made in advance of a hearing shall be filed with the agency and served on all other parties to the proceeding.

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-300 SUBPOENAS—DISCOVERY—FORM. (1) Every subpoena shall state the name of the agency as: State of Washington, public employment relations commission; and shall state the title of the proceeding and case number.

(2) The power of subpoena shall be limited to compelling the testimony of witnesses and production of documents or other tangible evidence at hearings conducted by the agency.

(3) Pursuant to the authority delegated to the agency by RCW 34.05.446(2), discovery shall not be available in proceedings before the agency.

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-310 SUBPOENAS—ISSUANCE TO PARTIES. Subpoenas requiring the attendance and testimony of witnesses or the production of evidence shall be issued ex parte to any party to a case: PROVIDED, HOWEVER, That no subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the commission or any member of the agency staff in any proceeding before the agency. The commission or its hearing officer or examiner shall issue subpoenas upon the application of counsel or other representative authorized to practice before the agency, and may condition the issuance of subpoenas to parties not so represented upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Attorneys may act under the authority conferred by RCW ((34.04.105-(2)(a))) 34.05.446(1).

NEW SECTION

WAC 391-08-315 INTERPRETERS. (1) An "impaired person" is any person who is a hearing impaired person or a limited-English-speaking person.

(2) A "hearing impaired person" is a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, or hard of hearing.

(3) A "limited-English-speaking person" is a person who, because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(4) A "qualified interpreter" is a person who is qualified to act as interpreter under chapter 2.42 RCW as now or hereafter enacted.

(5) An "intermediary interpreter" is a person who is qualified to act under chapter 2.42 RCW as now or hereafter enacted.

(6) When an impaired person is a party to an adjudicative proceeding under chapter 391-25, 391-35, 391-45 or 391-95 WAC, the presiding officer shall, in the absence of a written waiver signed by the impaired person, require the appointment of 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 representative, if any, of the impaired person consents; and

(c) The presiding officer determines that the waiver has been made knowingly, voluntarily, and intelligently.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming his or her right to a qualified interpreter at a later time during the proceedings.

(8) The presiding officer shall make a preliminary determination that an interpreter is able in the particular proceeding to interpret accurately all communication to and from the impaired person. This determination shall be based upon the testimony or stated needs of the impaired person, the interpreter's education, certifications, and experience in interpreting adjudicative proceedings, and the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding, and the interpreter's impartiality. The parties or their representatives may question the interpreter as to his or her qualifications and impartiality.

(9) If at any time during the proceeding, in the opinion of the impaired person, the presiding officer or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person, the presiding officer shall require the appointment of another qualified interpreter.

(10) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the presiding officer, who shall require the appointment of an intermediary interpreter to assist the qualified interpreter.

(11) The mode of interpretation shall be as permitted by chapter 2.42 RCW or WAC 10-08-150, as now or hereafter amended.

(12) A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law. A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

(13) The presiding officer shall explain to the impaired party that a written decision or order will be issued in English, and that the party may contact the interpreter for a translation of the decision. If the party has a right to review of the order or decision, the presiding officer shall orally inform him or her during the hearing of the right and the time limits to request review.

(14) At the hearing, the interpreter for a limited-English-speaking party shall provide to the presiding officer the interpreter's telephone number written in the primary language of the impaired party. A copy of such telephone number shall be attached to the decision or mailed to the impaired party. A copy of the decision or

order shall also be mailed to the interpreter for use in translation.

(15) In any proceeding involving a hearing impaired person, the presiding officer may order that 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 that portion of the proceedings. 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.

(16) A qualified interpreter appointed under this section is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses.

(17) The costs of providing the interpreter shall be borne by the impaired party or by the party who calls the impaired person as a witness, unless the impaired party is indigent under the standards applied in criminal proceedings in the superior court for Thurston County and thus unable to pay for the interpreter, in which case the cost shall be borne as an administrative cost by the commission.

(18) The cost of providing the interpreter may be a taxable cost of any proceeding in which costs are taxed.

READOPTED SECTION (Readopting Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-610 AGENCY DECISIONS—SERVICE. Every final order issued by the agency shall be served on each party or upon the agency designated by the party or by law to receive service of such papers; and a copy shall be furnished to any counsel or person appearing for a party in a representative capacity.

AMENDATORY SECTION (Amending Resolution No. 85-01, filed 9/16/85)

WAC 391-08-630 AGENCY ((DECISIONS)) STRUCTURE—SUBSTITUTION FOR EXECUTIVE DIRECTOR. (1) The public employment relations commission and its staff maintain an impartial role in all proceedings pending before the agency.

(2) The commission consists of three citizen members appointed by the governor with the advice and consent of the senate, pursuant to RCW 41.58.010. The members of the commission serve on a part-time basis only. All of the members of the commission represent the interests of the public. The commission reserves to itself a policy-making and appellate-review function.

(3) The executive director appointed by the commission pursuant to RCW 41.58.015(2) is the full-time agency head, with authority to act in administrative and personnel matters. Authority is also delegated to the executive director to make substantive decisions in certain types of cases, subject in adjudicative proceedings to the right of the parties to appeal to the commission.

(4) The commission's professional staff is appointed pursuant to RCW 41.58.015(3). A "multifunctional" staffing pattern is used, whereby individual members of the commission's professional staff are assigned from

time to time to conduct any or all of the types of dispute resolution services provided by the agency. Authority is delegated to members of the professional staff to make decisions as "examiner" under chapters 391-45 and 391-95 WAC. The executive director may delegate authority to members of the professional staff to make decisions in certain situations under chapters 391-25 and 391-35 WAC.

(5) In the event the executive director disqualifies himself or herself from participation in a decision ((~~or preliminary ruling as may be required under WAC 391-25-390, 391-35-190, or 391-45-110;~~)) the most senior (in terms of length of service with this agency) member of the agency's mediation staff, who has not been directly involved in the particular circumstances shall make decisions and rulings otherwise required of the executive director.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-800 AGENCY RECORDS—PUBLIC ACCESS. The agency will maintain for public inspection: (1) An index to all proceedings filed with and processed by the agency; (2) a docket for each proceeding filed with and processed by the agency showing the actions taken on and the final resolution of each such proceeding; (3) a schedule of hearing dates assigned in particular cases; and (4) the files for all proceedings, including all documents filed with the agency in the particular case, except materials held in confidence as provided in WAC 391-08-810.

READOPTED SECTION (Readopting Order 77-1, filed 1/27/77)

WAC 391-08-810 AGENCY RECORDS—CONFIDENTIALITY. The agency, in order to protect the privacy of individual employees and in order to respect the confidential nature of the mediation process, shall not permit the disclosure to any person of (1) evidence filed as a showing of interest in support of a representation petition or motion for intervention, or (2) notes and memoranda made by any member of the commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

AMENDATORY SECTION (Amending Order 80-4, filed 9/30/80, effective 11/1/80)

WAC 391-08-820 AGENCY OFFICES. (1) The agency maintains its principal office in the city of Olympia, Washington at 603 Evergreen Plaza, 711 Capitol Way, Olympia, Washington 98504. The mailing address of the Olympia office is: 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504.

(2) The agency maintains a branch office at West 55 Mission, Suite 1, Spokane, Washington 99201.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-08-110 SERVICE OF PROCESS—BY WHOM SERVED.

WAC 391-08-160 SERVICE OF PROCESS—OPPORTUNITY FOR HEARING.

WAC 391-08-200 DEFINITION OF ISSUES—BEFORE HEARING.

WAC 391-08-210 DEFINITION OF ISSUES—PREHEARING CONFERENCE.

WAC 391-08-500 DECLARATORY RULINGS AUTHORIZED.

WAC 391-08-510 DECLARATORY RULINGS—PETITION.

WAC 391-08-600 AGENCY DECISIONS—FORM AND CONTENT.

WAC 391-08-900 PETITIONS FOR RULE MAKING—WHO MAY PETITION.

WAC 391-08-910 PETITIONS FOR RULE MAKING—FORM.

WAC 391-08-920 PETITIONS FOR RULE MAKING—AGENCY MUST CONSIDER.

WAC 391-08-930 PETITIONS FOR RULE MAKING—NOTICE OF DISPOSITION.

WSR 90-06-071

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 90-11—Filed March 7, 1990, 11:30 a.m.]

Original Notice.

Title of Rule: Chapter 173-221A WAC, Wastewater discharge standards and exemptions.

Purpose: Establish minimum statewide treatment requirements for upland fin-fish hatching and rearing facilities.

Statutory Authority for Adoption: Chapter 90.48 RCW.

Statute Being Implemented: SSB 5561.

Summary: SSB 5561 requires the Department of Ecology to establish wastewater discharge standards and exemptions for upland fin-fish hatching and rearing facilities.

Reasons Supporting Proposal: To provide consistency and predictability in discharge permits and to reduce time and uncertainty involved in obtaining hatchery permits.

Name of Agency Personnel Responsible for Drafting: Bill Moore, Ecology, Mailstop PV-11, Olympia, Washington 98504, (206) 438-7035; Implementation and Enforcement: Stan Springer, Ecology, Mailstop PV-11, Olympia, Washington 98504, (206) 438-7090.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This regulation will bring consistency and predictability to the permitting process for the upland fin-fish hatching and rearing industry. This regulation will formally set standards for this industry, which have been previously informally applied on a case-by-case basis.

Proposal does not change existing rules.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

SUMMARY: Chapter 173-221A WAC has an economic impact upon all upland fin-fish hatching and rearing facilities producing more than 20,000 pounds annually in Washington state.

For facilities with less than 20,000 pounds of annual production, this regulation will reduce the regulatory costs that may be imposed under current state law through discharge permits. However, it must be noted that few facilities under 20,000 pounds currently have discharge permits.

There are 143 private upland aquaculture facilities registered with the Department of Fisheries in Washington. Of these, only 53 companies, representing 58 facilities reported sales of fish in 1988.

Costs imposed by chapter 173-221A WAC expressed as percent of sales:

	Less than 20,000 pounds	Between 20,000 pounds and 100,000 pounds	More than 100,000 pounds
Number of Entities	125	10	9
Incremental General Permit Costs	0%	Average 2.10% Range 0.58%-4.8%	0.32% 0.13%-0.80%
Groundwater Protection Requirements	0%	1.30%	2.03%
Special Receiving Water Studies	0%	Range 0.60%-3.33%	<0.67-3.33%

While not required under the State Economic Policy Act, an analysis of the costs of compliance with the upland fin-fish general permit was done. The costs associated with compliance with the general permit provides an estimate of the costs of meeting the discharge standards requirements in chapter 173-221A WAC. Existing state statutes require all dischargers to provide "all known, available, and reasonable methods" to prevent and control pollution regardless of size. The discharge standards including effluent limits required in this regulation are similar to those required by the USEPA in their Idaho discharge permits.

Chapter 173-221A WAC contains provisions to mitigate the economic impacts on small businesses. The primary mitigation measure is exempting facilities producing less than 20,000 pounds of fish annually from discharge permits. Chapter 173-221A WAC sets performance standards for effluent quality for small facilities rather than design standards for treatment systems.

Hearing Location: Yakima County Courthouse, Room 420, 128 North 2nd Street, Yakima, WA, on April 11, 1990, at 6:00 p.m.; and at the Energy Facility Site Evaluation Council, Hearings Room, 4224 6th Avenue S.E., Lacey, WA, on April 12, 1990, at 6:00 p.m.

Submit Written Comments to: Bill Moore, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, by April 27, 1990.

Date of Intended Adoption: July 3, 1990.

March 2, 1990
Fred Olson
Deputy Director

Chapter 173-221A WAC
WASTEWATER DISCHARGE STANDARDS AND EFFLUENT LIMITATIONS

WAC

- 173-221A-010 Purpose and scope.
- 173-221A-020 Policy.
- 173-221A-030 Definitions.
- 173-221A-100 Upland fin-fish facilities.

NEW SECTION

WAC 173-221A-010 PURPOSE AND SCOPE. This chapter implements chapters 43.21A, 90.48, 90.52, and 90.54 RCW by setting minimum discharge standards which represent "known, available, and reasonable methods" of prevention, control, and treatment for industrial wastewater facilities that discharge to waters of the state. This chapter supplements WAC 173-216-110, 173-218-100, and 173-220-130.

NEW SECTION

WAC 173-221A-020 POLICY. Waters of the state shall be of the high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served.

NEW SECTION

WAC 173-221A-030 DEFINITIONS. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology, or designee.
- (3) "General NPDES permit" means a permit designed to cover multiple dischargers of a point source category within a designated geographical area, in lieu of individual permits being issued to each discharger.
- (4) "Individual NPDES permit" means a permit for a single point source or a single facility.
- (5) "NPDES" means National Pollutant Discharge Elimination System.
- (6) "Permit" means an authorization, license, or equivalent control document issued by the department to implement chapter 173-220 WAC and/or chapter 173-216 WAC.
- (7) "Sediment quality standards" means the standards set forth in chapter 173-204 WAC.
- (8) "Upland fin-fish facility" means those facilities not located within waters of the state where fin-fish are hatched, fed, nurtured, held, maintained, or reared to reach the size of release or for market sale. This includes fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated public or private facility.
- (9) "Wastewater" means the water or liquid carried waste. These wastes may result from any process or activity, including but not limited to, of industry, manufacturer, trade, business, development of any natural resource, or from animal operations such as feed lots, poultry houses, dairies, or fish rearing operations. The term also includes contaminated stormwater and leachate from solid waste facilities.
- (10) "Water quality standards" means any applicable standards including chapter 173-201 WAC for surface waters and chapter 173-290 for ground water.
- (11) "Waters of the state" includes those waters as defined as "waters of the United States" in 40 CFR 122.2 within the geographic boundaries of Washington state and "waters of the state" as defined in RCW 90.48.020.
- (12) "40 CFR" means Title 40 of the Code of Federal Regulations, as presently promulgated and subsequently amended or repromulgated.

NEW SECTION**WAC 173-221A-100 UPLAND FIN-FISH FACILITIES. (1) Compliance.**

(a) An NPDES permit under chapter 173-220 WAC is required for each upland fin-fish facility that: (i) Is a concentrated aquatic animal production facility as defined in 40 CFR 122.24, or (ii) the department has designated as a significant contributor of pollution in accordance with 40 CFR 122.24. NPDES permit requirements may be satisfied by obtaining coverage under either an individual or general permit.

Each upland fin-fish facility for which either an individual or a general NPDES permit is required must comply with subsections (2), and (4) through (7) of this section.

(b) Each upland fin-fish facility that produces more than 5,000 harvest weight pounds of aquatic animals per year or that feeds more than 1,250 pounds of food during the calendar month of maximum production and does not fall within (a) of this subsection must comply with subsections (2), (3), (5), and (6) of this section.

(c) Each upland fin-fish facility which does not fall within (a) or (b) of this subsection must comply with subsections (3)(a)(ii), (3)(b), (5), and (6) of this section.

(2) Time of compliance. Each upland fin-fish facility falling within subsection (1)(a) of this section must obtain coverage under a discharge permit prior to commencing operations. Each upland fin-fish facility falling within subsection (1)(b) of this section in existence on the effective date of this rule must either register for an exemption from having a state waste discharge permit under subsection (3) of this section or file a complete application for a permit with the department by January 1, 1991.

Each upland fin-fish facility falling within subsection (1)(b) of this section either be deemed exempt by compliance with subsection (3) of this section or obtain a permit prior to commencing operations.

(3) Exemptions.

(a) Registration for exemption. Each upland fin-fish facility which meets the size criteria in subsection (1)(b) of this section and wishes to be deemed exempt from the requirement of obtaining a state waste discharge permit must register with the department on an exemption registration form prescribed by the department in (a)(i) of this subsection and comply with (a)(ii) of this subsection. Upon submission to the department of a complete and accurate exemption registration form and so long as the facility complies fully with (a)(ii) of this subsection the facility shall be deemed exempt from the requirement to obtain a state waste discharge permit.

(i) The exemption registration form shall require the following information: The facility owner's name, mailing address and phone number; the facility operator's name, mailing address and phone number if different from the owners; the facility location and address; the facility's average annual production in pounds of fish; the maximum historical and anticipated harvest weight in pounds of fish; the average amount of fish on hand in pounds; the facility's maximum anticipated amount of fish on hand at any time; the amount of food fed (in pounds) during the calendar month of maximum feeding; the facility's water source(s); the receiving water of the state into which facility effluent is discharged; and the amount of water being discharged into the receiving water of the state.

(ii) After receipt by the department of a complete and accurate exemption registration form, the upland fin-fish facility shall be operated so as to:

(A) Comply with subsections (5) and (6) of this section.

(B) Comply with all applicable water quality standards, sediment quality standards and other applicable requirements of federal and state law.

(C) Allow authorized representatives of the department, upon presentation of identification to:

(I) Enter in or upon the facility at all reasonable times;

(II) Have access to and copy at all reasonable times any records relative to information that must be kept or provided the department under the terms of the exemption;

(III) Inspect, investigate, and photograph at all reasonable times any production, collection, treatment, pollution management, monitoring, or discharge equipment or facilities, or any conditions relating to pollution or possible pollution of any water of the state;

(IV) Sample and make tests at all reasonable times; and

(V) The term "reasonable times" shall include normal business hours, hours during which production, prevention, control, or treatment occurs or times when the department reasonably suspects a violation of this chapter is or may be occurring.

(D) Notify the department in writing, within thirty calendar days of:

(I) Any change of ownership of the facility;

(II) Any increase in production or feeding that could result in the facility being defined as a concentrated aquatic animal production facility under 40 CFR 122.24; or

(III) Any increase in production or feeding rate of more than ten percent over the production and feeding rates reported in the exemption registration form.

(b) Termination of exemption.

(i) Exemption from the requirement of obtaining a state waste discharge permit under (a) of this subsection is automatically terminated under the following conditions:

(A) The upland fin-fish facility meets the criteria for a concentrated aquatic animal production facility as defined in 40 CFR 122.24 or the department designated it as a significant contributor to pollution in accordance with 40 CFR 122.24.

(B) The wastewater from the upland fin-fish facility is not undergoing all known available and reasonable treatment prior to discharge or the upland fin-fish facility otherwise fails to comply with the requirements of (a)(ii) of this subsection.

(C) Information contained in the exemption registration form is or becomes materially inaccurate.

(D) Receiving waters do not meet state water quality standards due wholly or in part to pollutants from the upland fin-fish facility.

(E) The cumulative effect of multiple dischargers has, will, or is likely to cause adverse effects on the receiving environment.

(ii) Termination of exemption from the requirement of obtaining a state waste discharge permit shall become effective thirty calendar days following receipt of the department's notice of termination.

(c) Failure to obtain a permit or exemption. Any facility falling within subsection (1)(b) of this section that fails to either obtain a permit or achieved the conditions necessary to become exempt within the time frame set out in subsection (2) of this section is in violation of state and/or federal law and will be subject to potential enforcement action.

(4) Prevention, control, and treatment. Each upland fin-fish facility shall provide treatment prior to discharging to waters of the state regardless of receiving water quality. The minimum acceptable technology-based treatment requirements for upland fin-fish facilities required to obtain permits including general NPDES permits are:

(a) For facilities that use a vacuum cleaning system, standpipe bottom-drain system or other method to remove solids from the water, raceways or ponds, with treatment in a separate settling basin or treatment system:

(i) All facilities utilizing off-line settling shall incorporate into the pond or raceway design methods to collect settleable solids. Methods such as screened settling zones in the downstream end at raceways shall be used to collect settleable solids prior to periodic removal to off-line settling basins.

(ii) The settling basin shall have a hydraulic detention time of twenty-four hours or more.

(iii) The settling basin shall be designed to minimize short-circuiting and to provide a minimum total suspended solids average monthly percent removal of 85% and an average monthly settleable solids percent removal of 90%.

(iv) Turbulent flow shall be minimized within the cleaning system to avoid homogenization or solids.

(v) Rearing of fish within the settling basin is not permitted.

(vi) Alternative treatment technologies may be used, subject to written departmental approval in advance, provided equivalent treatment efficiency and reliability can be demonstrated.

(b) For facilities that provide in-line settling for the entire effluent;

(i) The settling basin shall have a minimum hydraulic detention time of sixty minutes.

(ii) The settling basin shall be designed to minimize hydraulic short-circuiting.

(iii) The settling basin shall be designed to provide at least a twenty year sludge decomposition and storage capacity unless provisions are made for periodic sludge removal without interruption in treatment.

(iv) Rearing of fish within the settling basin is prohibited.

(v) Alternative treatment technologies may be used subject to written departmental approval in advance, provided equivalent treatment efficiency and reliability can be demonstrated.

(c) For facilities with rearing ponds only, no other form of effluent treatment shall be required, provided the rearing pond has a minimum hydraulic retention time of two hours or more. Rearing vessels with less than two hours hydraulic retention time may be approved by the

department in writing without additional treatment provided the applicant can demonstrate to the department, in advance the ability to continuously comply with effluent limits established in subsection (5)(a) of this section.

(d) Each upland fin-fish facility that begins construction after September 1, 1990, or expands production by fifty percent over the production on the effective date of this rule shall either:

(i) Line all settling basins or otherwise ensure that the static (i.e., without inflow) seepage rate through the settling basin bottom and sides shall not be greater than a water surface drop of 0.10 inch per day; or

(ii) Demonstrate to the department through hydrogeologic investigation and/or ground water monitoring that the operation of the facility will not have an adverse impact upon ground water quality.

(e) Notwithstanding the treatment requirements of this subsection, more stringent or additional conditions may be required by the department as necessary on a case-by-case basis to mitigate adverse water quality impacts or meet water quality standards, ground water standards, sediment standards applicable or other applicable requirements of federal or state law.

(5) Effluent standards. Wastewater from all upland fin-fish facilities regardless of size shall meet the following effluent discharge standards.

(a) Facility discharges.

(i) The instantaneous maximum total suspended solids concentration in the effluent at the point of discharge to the receiving environment shall not exceed 15 milligrams per liter of effluent.

(ii) The average monthly total suspended solids concentration in the effluent at the point of discharge to the receiving environment shall not exceed 5 milligrams per liter of effluent.

(iii) The average monthly settleable solids concentration in the effluent at the point of discharge to the receiving environment shall not exceed 0.1 milliliter per liter of effluent.

(iv) Effluent limitations shall apply as net values provided the criteria contained in 40 CFR 122.45 (net gross allowance) are met.

(b) Off-line settling basin effluent.

(i) The instantaneous maximum total suspended solids concentration shall not exceed 100 milligrams per liter of effluent.

(ii) The instantaneous maximum settleable solids concentration in off-line settling basin effluent shall not exceed 1.0 milliliter per liter of effluent.

(c) Discharges during rearing pond drawdown for fish release shall meet the following discharge standards. Pond drawdown for purposes other than fish release shall meet the discharger standards in (a) of this subsection.

(i) The instantaneous maximum total suspended solids concentration in the rearing pond effluent shall not exceed 100 milligrams per liter.

(ii) The instantaneous maximum settleable solids concentration in the rearing pond effluent shall not exceed 1.0 milliliter per liter.

(d) Test procedures. All sampling and analytical methods used to determine compliance with standards specified in this subsection shall, unless otherwise approved by the department, conform to the Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136.

(i) Total suspended solids shall be analyzed using test procedures #209 "total suspended solids dried at 103-105°C" contained in Standard Methods for the Examination of Water and Wastewater, 16th Edition, unless the department approves otherwise; and

(ii) Settleable solids shall be analyzed using procedure #209E "settleable solids," contained in Standard Methods for the Examination of Water and Wastewater, 16th Edition, unless the department approves otherwise.

(e) Notwithstanding the numerical discharge standards within this subsection, each upland fin-fish facility shall be operated in the most efficient manner possible. Additional effluent limits and/or more stringent effluent limits may be required as necessary on a case-by-case basis to meet water quality standards, ground water quality standards, sediment quality standards, or other applicable requirements of federal or state law.

(6) General requirements. The following practices shall be applicable to all upland fin-fish facilities.

(a) Sand, silt, mud, solids, sludges, filter backwash, debris, or other pollutants deposited or removed in the course of treatment or control of water supply and wastewaters shall be disposed of in a manner so as to prevent such materials from entering waters of the state.

(b) Discharging untreated cleaning wastes (e.g., obtained from a vacuum or standpipe bottom drain system) to waters of the state is prohibited.

(c) Sweeping or intentionally discharging accumulated solids from raceways or ponds to waters of the state without prior treatment is prohibited.

(d) Practices such as removing dam boards in raceways or ponds, that allow accumulated solids to discharge to waters of the state are prohibited.

(e) The discharge of any drugs or chemicals in toxic amounts or in violation of water quality standards to waters of the state is prohibited.

(f) Only drugs, medications, and disease control chemicals approved for hatchery use by the United States Food and Drug Administration (USFDA) or the United States Environmental Protection Agency (USEPA) shall be used. Their use shall comply with the permitted uses and application practices given on the product labels.

(g) Fish mortalities and kill spawning or processing wastes, shall be disposed of in a manner so as to prevent such materials from entering the waters of the state.

(7) Receiving water quality studies. Receiving water quality studies shall be required as follows for each upland fin-fish facility which begins construction after September 1, 1990, or expands production by fifty percent over the production on the effective date of this rule. Existing facilities may be required to do receiving water studies on a case-by-case basis. Dilution shall be evaluated by the department using total facility effluent at maximum production at the lowest seven-day average receiving stream flow with a 10-year recurrence interval (7Q10).

(a) For facilities with a discharge of one part upland fin-fish facility effluent to ten parts or more of receiving water, receiving water studies are not required unless significant data indicates water quality standards would be violated.

(b) For facilities with an effluent dilution of between one part upland fin-fish facility effluent to three parts receiving water and one part effluent to ten parts receiving water, receiving water studies may be required by the department. The department shall provide the upland fin-fish operator or permit applicant with written documentation on the need for receiving water studies upon request. Factors to be considered by the department in determining the need for and objectives of special receiving water studies may include, but are limited to, the following:

(i) The water quality classification of the receiving water of the state;

(ii) The potential water quality impacts of surrounding land use practices and/or existing and proposed discharges including the proposed upland fin-fish hatching and rearing facility;

(iii) The likelihood that the proposed discharge will have an effect on existing water quality and/or present or future beneficial uses;

(iv) The proximity of the discharge to a quiescent water body such as a lake or a reservoir;

(v) On-site inspection;

(vi) The potential of the discharge to have an adverse impact on receiving water quality such that water quality standards would be violated; and

(vii) Possible beneficial impacts of upland fin-fish discharges on existing water quality such as flow augmentation.

(c) For facilities with an effluent dilution of one part upland fin-fish facility effluent to three parts or less of receiving waters, receiving water quality studies will generally be required for new facilities and may be required on a case-by-case basis for existing facilities.

(d) Receiving water quality studies content and scope shall include, as required by the department an analysis of the proposed facilities discharge and any impacts upon the receiving water of the state, including, but not limited to, the following:

(i) Identification of existing and potential beneficial uses of the receiving water of the state and an evaluation of the impact on those beneficial uses of the proposed discharge;

(ii) Hydraulic impacts;

(iii) The impacts of both nitrogen and phosphorous compounds and the potential for eutrophication of the receiving waters;

(iv) The use of chemicals and medications within the facility, their toxicity, and the impacts on the receiving waters;

(v) The effect of the facilities on receiving water temperature and dissolved oxygen concentrations; and

(vi) The potential for impacting any specified identified water use.

(vii) Possible beneficial impact of upland fin-fish discharges on existing water quality such as flow augmentation.

NEW SECTION

WAC 173-221A-150 ENFORCEMENT. This chapter shall be enforced through all legal, equitable, and other methods available to the department, including, but not limited to those described in chapter 90.48 RCW.

WSR 90-06-072
PERMANENT RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
 [Filed March 7, 1990, 11:31 a.m.]

Date of Adoption: January 12, 1990.

Purpose: Chapter 391-25 WAC is adopted to set forth procedures for the processing of representation cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to notice filed as WSR 89-23-022 on November 7, 1989.

WAC 391-25-001 Scope—Contents—Other rules.

Purpose: Introduces chapter 391-25 WAC, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings", generally; chapter 391-08 WAC for general procedural rules; chapter 391-35 WAC for unit clarification cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Readoption of existing rule is necessary to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-25-002 Sequence and numbering of rules—Special provisions.

Purpose: Descriptive only.

Statute: Substantive statutes, generally.

Summary: Explains how rules are numbered to identify exceptions to general rules.

Reasons: RCW 41.58.005(1) admonishes PERC to be "uniform" in the administration of state collective bargaining laws. This WAC chapter regulates proceedings under several different statutes under PERC's jurisdiction. Those statutes have many similarities and some differences.

Explanation: Readoption of existing rule is necessary to preserve a numbering scheme in which exceptions to

general rules immediately follow the general rule on the same subject. (General rules applicable to all of the statutes under PERC's jurisdiction have WAC numbers divisible by ten; if a particular statute requires a deviation from the general rule, it receives a separate number in the same decile.)

WAC 391-25-010 Petition for investigation of a question concerning representation of employees—Who may file.

Purpose: Specifies who may file representation petition with PERC.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: General rule is that representation petition may be filed by an individual employee, group of employees, employee organization, employer or their agents.

Reasons: RCW 34.05.010(11) does not define who may file representation petition. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes.

WAC 391-25-012 Special provision—Educational employees.

Purpose: Special rule on representation petitions concerning certificated employees of K-12 school districts.

Statute: RCW 41.59.070 (1) and (4).

Summary: Excludes employers from filing representation petitions involving certificated employees of K-12 school districts.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-030 Petition—Time for filing.

Purpose: Specifies time periods in which representation petitions may be filed.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Establishes "contract bar" and "certification bar" time periods when representation petitions will not be processed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.413(2) specifies that an adjudicative proceeding can be initiated at any time. RCW 34.05.416 permits agency to determine circumstances when adjudicative proceeding will not be held. WAC 10-08-230 encourages informal settlements. Substantive statutes administered by PERC contain "contract bar" and "certification bar" concepts which are designed to preserve stability for obtaining settlements, consistent with long

standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-050 Petition form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of petition at Olympia office; requires service on other parties.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070 and 41.59.070.

Summary: Party initiating representation case with PERC must file original and three copies with PERC's Olympia office, and must serve other parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule is necessary to avoid claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intra-agency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain compliance with "contract bar" and "certification bar" time limitations) and because all docketing and initial processing by the executive director are performed at Olympia.

WAC 391-25-070 Contents of petition.

Purpose: Specifies contents of representation petition.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.59.070 and 41.59.080.

Summary: Requires identifying information for agency docket records and for efficient processing by PERC. Requires petitioning party to identify type of representation issue as: Organizing of unorganized employees; seeking a change of bargaining representatives; or an effort to decertify an existing representative.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 is permissive as to the use of forms provided by an agency and provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule is necessary to facilitate prompt agency response to representation petitions, by requiring the details needed for case processing. Repeal of WAC 10-08-020 cast doubt on PERC's authority to require use of its forms under the model rules.

WAC 391-25-090 Contents of petition filed by employer.

Purpose: Allows representation petitions to be filed by an employer.

Statute: RCW 28B.52.080, 41.56.040 and 41.58.050.

Summary: General rule permitting employers to file representation petitions if specified conditions exist. Provides detailed list of requirements for employer petitions.

Reasons: RCW 34.05.010(11) does not define who may file representation petition. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 is permissive as to the use of forms provided by an agency. Model rules otherwise silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise. It is of utmost importance to insure that employers are not engaged in coercive attempts to decertify existing bargaining representatives. The existing rule gives clear guidance as to what information an employer must provide if the employer files a representation petition.

WAC 391-25-092 Special provision—Educational employees.

Purpose: Special rule on representation petitions concerning certificated employees of K-12 school districts.

Statute: RCW 41.59.070 (1) and (4).

Summary: Excludes employers from filing representation petitions involving certificated employees of K-12 school districts.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-110 Supporting evidence.

Purpose: Requires evidence of employee support in the filing of representation cases.

Statute: RCW 28B.52.080, 41.56.070 and 41.59.070.

Summary: Requires 30% "showing of interest" to support representation petition filed by employees or union. Specifies requirements for such supporting documentation.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.413(2) specifies that an adjudicative proceeding can be initiated at any time. RCW 34.05.416 permits agency to determine circumstances when adjudicative proceeding will not be held. WAC 10-08-230 encourages informal settlements. Substantive statutes administered by PERC contain "showing of interest" concept which is designed to preserve stability for obtaining settlements, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-130 List of employees.

Purpose: Requires employer to provide list of employees to PERC and, under certain circumstances, to others.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Requires employers to provide lists of employees in proposed bargaining unit. The showing of interest is compared against the list of employees to determine whether petition is supported by requisite percentage of employees.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.413(2) specifies that an adjudicative proceeding can be initiated at any time. RCW 34.05.416 permits agency to determine circumstances when adjudicative proceeding will not be held. WAC 10-08-230 encourages informal settlements. Substantive statutes administered by PERC contain "showing of interest" concept, consistent with long standing federal precedent in the labor-management relations field. Rule calling for early exchange of information promotes informal settlements.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-140 Notice to employees.

Purpose: Requires notice to inform employees of the existence of representation proceedings.

Statute: RCW 28B.52.080, 41.56.050, 41.58.050 and 41.59.110.

Summary: Employer is obligated to post PERC-provided notices to advise employees that a representation proceeding has been initiated.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. While RCW 34.05.413(5) discusses the initiation of adjudicative proceedings, many representation cases can be resolved without the need for hearing. WAC 10-08-230 encourages informal settlements. Rule calling for early exchange of information promotes informal settlements.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise, to reduce or eliminate interference with employee rights due to miscommunications or misinformation.

WAC 391-25-150 Amendment and withdrawal.

Purpose: Allows amendment and withdrawal of representation petitions.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.110.

Summary: Petitioning party may withdraw or amend representation petition under conditions that the executive director or commission may impose.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.060 encourages informal settlements. WAC 10-08-230 provides for informal settlements, but does

not clearly cover amendments or withdrawals of petitions.

Explanation: Readoption of existing rule is necessary to avoid conflict with the model rules. The parties to representation cases are creating ongoing relationships and are quite capable of drafting and signing their own settlement agreements, so that informal settlements are frequently communicated to PERC as a simple "amendment" or "withdrawal" of a case.

WAC 391-25-170 Intervention—By incumbent representative.

Purpose: Regulates intervention by incumbent exclusive bargaining representative in representation proceedings.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Permits incumbent union to intervene within specified time, without making a showing of interest.

Reasons: RCW 34.05.443 regulates "intervention" by reference to other provisions of law. Incumbent exclusive bargaining representative is entitled under federal and state precedent to (rebuttable) presumption of continuing majority status.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise, to make the traditional "presumption" of majority status to suffice for the 10% showing of interest.

WAC 391-25-190 Intervention—By organization other than incumbent.

Purpose: Regulates intervention by interested parties other than incumbent in representation proceedings.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Requires 10% showing of interest by organization other than incumbent exclusive bargaining representative.

Reasons: RCW 34.05.443 regulates "intervention" by reference to other provisions of law. Substantive statutes administered by PERC contain "showing of interest" concept, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-210 Showing of interest confidential.

Purpose: Prohibits disclosure of employees' sentiments regarding union representation.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Maintains strict confidentiality of authorization cards submitted as "showing of interest" in support of representation petition.

Reasons: RCW 34.05.010 (3)(b) specifically exempts determinations of the sufficiency of showings of interest from the definition of "agency action." RCW 34.05.220

(1)(a) provides for agencies to adopt rules for processing of cases before the agency. Substantive statutes administered by PERC contain "showing of interest" concept, consistent with long standing federal precedent in the labor-management relations field.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes and agency expertise.

WAC 391-25-220 Prehearing conferences.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.073, 41.56.040, 41.58.050 and 41.59.110.

Summary: Prehearing conferences will routinely be conducted in representation cases, to deal with both procedural and substantive matters.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. WAC 10-08-230 provides for informal settlements, but imposes obligations on the agency which are not common on labor-management relations.

Explanation: Adoption of new rule is necessary to continue successful existing procedures and to meet the requirements of the new APA. PERC uses "prehearing conferences" in virtually all representation cases.

WAC 391-25-230 Election agreements.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050, 41.59.070 and 41.59.080.

Summary: Specifies items to be stipulated (in accordance with agency-provided form) to proceed to representation election without a hearing.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-230 encourages the settlement of adjudicative proceedings prior to hearing, but only generally specifies the items to be agreed upon and the form of their submission to the agency.

Explanation: Readoption of existing rule is necessary to preserve efficiency while advancing the preference for informal settlements. The election agreement procedure eliminates the need for litigation, and allows for an election to be conducted as quickly as possible, in most PERC representation cases.

WAC 391-25-250 Cross-check agreements.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070 and 41.58.050.

Summary: General rule specifying items to be stipulated (in accordance with agency-provided form) to proceed to representation cross-check without a hearing.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency.

WAC 10-08-230 encourages the settlement of adjudicative proceedings prior to hearing, but only generally specifies the items to be agreed upon and the form of their submission to the agency.

Explanation: Readoption of existing rule is necessary to preserve efficiency while advancing the preference for informal settlements. The cross-check agreement procedure eliminates the need for litigation, and allows for an election to be conducted as quickly as possible, in some PERC representation cases.

WAC 391-25-252 Special provision—Educational employees.

Purpose: Special rule on representation petitions concerning certificated employees of K-12 school districts.

Statute: RCW 41.59.070 (1) and (4).

Summary: Excludes representation proceedings involving certificated employees of K-12 school districts from the cross-check procedures of WAC 391-25-250.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-253 Special provision—Academic employees.

Purpose: Special rule on representation petitions concerning academic employees of community college districts.

Statute: RCW 28B.52.030 and 28B.52.080.

Summary: Excludes representation proceedings involving academic employees of community college districts from the cross-check procedures of WAC 391-25-250.

Reasons: Unique feature of a particular substantive statute is captured in this rule, which has limited applicability to a discrete segment of PERC's clientele.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statute.

WAC 391-25-270 Supplemental agreements.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050, 41.59.070 and 41.59.080.

Summary: Specifies items to be stipulated (in accordance with agency-provided form) to proceed to representation election or cross-check without a hearing, while reserving specific issues for determination after the question concerning representation is determined.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-230 encourages the settlement of adjudicative proceedings prior to hearing, but only generally specifies the items to be agreed upon and the form of their submission to the agency.

Explanation: Readoption of existing rule is necessary to preserve efficiency while advancing the preference for informal settlements. The supplemental agreement procedure eliminates the need for litigation, and allows for an election to be conducted as quickly as possible, in some PERC representation cases.

WAC 391-25-290 Notice of hearing.

Purpose: Explains procedure for determining whether to issue a notice of hearing in a representation case.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: Authorizes executive director to determine whether a notice of hearing will be issued in a representation case. Specifies parties to whom notices of hearing are to be issued.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.434 sets out the type of information generally required in notices of hearing. WAC 10-08-040 prescribes specific rules as to the contents of the notice. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted.

Explanation: Readoption of existing rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint, and does not conflict with the model rules.

WAC 391-25-299 Special provision—Private sector employees.

Purpose: Limits PERC authority to conduct representation cases involving private sector employees.

Statute: Chapter 49.08 RCW.

Summary: PERC suspends processing of private sector representation cases in absence of consent of all parties.

Reasons: PERC conducts representation proceedings in the private sector only as "arbitration" or "mediation" exercises under chapter 49.08 RCW, and then only by consent of all parties.

Explanation: Readoption of existing rule is necessary to continue substantive policy exempting private sector employees and employers from PERC proceedings absent their mutual consent.

No "small business" impact is anticipated, since no change is proposed. (Parties to which this rule applies may be subject to representation proceedings before the National Labor Relations Board under federal law.)

WAC 391-25-310 Hearings—Who shall conduct.

Purpose: Defines who may hear representation cases.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015.

Summary: Hearing officer can be PERC staff member or agency designee. Hearing officers may be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is

exempt from the Office of Administrative Hearings and chapter 34.12 RCW. The chief administrative law judge does not govern the matters covered by this rule.

Explanation: Readoption of existing rule is necessary because the "agency head" generally does not generally preside over PERC's adjudicative hearings.

WAC 391-25-350 Hearings—Nature and scope.

Purpose: Defines representation hearings as investigatory.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015.

Summary: Defines the hearing as public and investigatory between parties, with agency taking impartial, but active, role.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.449(5) provides for hearings to be "public" but model rules are silent following repeal of language in WAC 10-08-190. In addition, the rule no longer speaks to sequestering of witnesses. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" investigatory role of PERC in representation hearings.

Explanation: Amendment of existing rule is necessary to define the impartial investigatory posture of PERC, while permitting the sequestering of witnesses. This will not conflict with the model rules' directives, and will maintain important components of PERC hearings.

WAC 391-25-370 Blocking charges—Suspension of proceedings—Request to proceed.

Purpose: Suspends representation proceedings in cases where unfair labor practices have also been filed.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Permits suspension of representation proceedings where unfair labor practice charges have been filed affecting the situation. Permits party that filed the unfair labor practice complaint to request to proceed by waiving right to file objections on conduct covered by unfair labor practice case.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 permits agency to determine that no adjudicative proceeding should be conducted. Chapter 10-08 WAC is silent. This rule delegates substantive decision-making authority to the executive director, to suspend one subtype of adjudicative proceeding before the agency pending the outcome of another subtype of adjudicative proceeding, consistent with federal precedent.

Explanation: Readoption of the existing rule follows well-accepted policy in this area. Although affecting procedure, the decision concerning the sequence of case processing is fundamentally substantive in nature, based on federal precedent which requires that "laboratory conditions" be maintained for employees to exercise free choice in an election.

WAC 391-25-390 Proceedings before the executive director.

Purpose: Delegates decision-making authority in representation matters and sets forth limited rights of appeal at this stage of the proceedings.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050, 41.59.070 and 41.59.080.

Summary: Delegates decision-making authority to executive director for initial decision on all representation case issues. Permits delegation of certain types of issues to hearing officer. Limits right of appeal at this stage of case to "jurisdiction" and dismissals.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 41.58.015(2) permits commission to delegate decision-making authority, subject to right of parties to petition for review by full commission. WAC 10-08-211 calls for a 20-day period for filing a petition for review after any initial decision.

Explanation: Readoption of the existing rule continues a well-accepted and efficient procedure.

(1) Representation cases involve a limited number and type of issues, and consistency of agency policy is vital to the process of labor-management relations. The existing rule centralizes representation case determinations, making the executive director responsible for overall consistency as well as the outcomes of individual cases.

(2) Delays in resolution of representation disputes are particularly destructive, so PERC has made a policy decision to "postpone" the right of parties to appeal until after the election or cross-check, when practical considerations (e.g., the actual outcome of the election) and other potential issues (e.g., misconduct during the pre-election campaign) can be merged into one review of the case by the commission. This procedure was developed by analysis of the bottlenecks in the procedures of other labor relations agencies, and has been highly successful in operation for more than 10 years.

WAC 391-25-391 Special provision—Public employees.

Purpose: Permits executive director to order a cross-check to resolve a representation dispute in certain circumstances.

Statute: RCW 41.56.060.

Summary: Special rule for use in cases arising under chapter 41.56 RCW, where only one employee organization is involved in the proceedings. Allows executive director to order a cross-check of employment records to determine a representation case.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent. RCW 41.56.060 specifically permits determination of question concerning representation by cross-check methodology.

Explanation: Readoption of the existing rule implements statutory and expedient alternative method for determining certain representation matters.

WAC 391-25-410 Cross-check of records.

Purpose: Specifies procedures for cross-check of employment records.

Statute: RCW 41.56.060.

Summary: General rule specifying what constitutes acceptable "employment records" for purposes of cross-checks. Details procedures to be followed in determining a question concerning representation by cross-check.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent. RCW 41.56.060 specifically permits determination of question concerning representation by cross-check methodology.

Explanation: Readoption of the existing rule implements statutory and expedient alternative method for determining certain representation disputes. Cross-check procedures were controversial when PERC came into existence. The existing rule (which reflects long-established agency policy and practice) is the product of substantial debate in earlier rule-making proceedings, and has been well-received by the parties.

WAC 391-25-412 Special provision—Educational employees.

Purpose: Special rule on representation proceedings involving certificated employees of K-12 school districts.

Statute: RCW 41.59.070.

Summary: Cross-check procedures of WAC 391-25-410 are made inapplicable to cases arising under chapter 41.59 RCW.

Reasons: RCW 41.59.070 requires elections to determine questions concerning representation involving certificated employees of K-12 school districts, except as a remedy for massive unfair labor practices.

Explanation: Readoption of existing rule implements the applicable statute. A "bargaining order" or "cross-check order" would be issued as part of an unfair labor practice decision, where appropriate.

WAC 391-25-413 Special provision—Academic employees.

Purpose: Special rule on representation proceedings involving academic employees of community college districts.

Statute: RCW 28B.52.030 and 28B.52.080.

Summary: Cross-check procedures of WAC 391-25-410 are made inapplicable to cases arising under chapter 28B.52 RCW.

Reasons: RCW 28B.52.030 and 28B.52.080 refer only to elections to determine questions concerning representation involving academic employees of community college districts.

Explanation: Readoption of existing rule implements the applicable statute.

WAC 391-25-430 Notice of election.

Purpose: Sets forth procedures for the issuance and posting of election notices.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.070.

Summary: Describes the procedures for the issuance and posting of election notices. Details elements to be included in the election notice.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is needed to deal with an area not covered by the model rules. This type of notice is distinctly different from the "notice of hearing" regulated by WAC 10-08-040. At this point in the proceedings, a hearing may or may not have been held or necessary. The specifics of representation election procedures are fundamentally substantive in nature, drawn from federal precedent and agency expertise.

WAC 391-25-450 Disclaimers.

Purpose: Allows employee organization to have its name removed from the ballot in representation election.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Permits an organization to withdraw its name from consideration in a representation case; imposes sanctions for disclaimer made after election choices have been presented officially to eligible voters.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is needed to deal with an area not covered by the model rules. This rule is fundamentally substantive in nature, and follows long-established agency policy based on federal precedent and agency expertise.

WAC 391-25-470 Electioneering.

Purpose: Impose substantive limitations on preelection campaign conduct by parties and their representatives.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.070.

Summary: Prohibits "captive audience" meetings with eligible voters within 24 hours prior to opening of polls or while mail ballots are out to voters; prohibits electioneering at polling places.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to maintain substantive provisions dealing with election campaigns, following long-established federal and agency precedent and agency expertise.

WAC 391-25-490 Election procedures—Balloting.

Purpose: Details balloting procedures.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.070.

Summary: Specifies that all elections shall be by secret ballot. Prohibits absentee balloting. Describes use of "on-site" and "mail ballot" procedures.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule to provide guidelines for the actual voting process, consistent with federal precedent and agency expertise.

WAC 391-25-510 Challenged ballots.

Purpose: Provide a means to resolve challenges to voter eligibility issues.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: Establishes procedures to be followed if a voter is challenged. Where challenged ballots are sufficient in number to affect the outcome of the election, the representation dispute will be held in abeyance while the eligibility of the challenged voters is determined.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary because the rule deals with substantive issues not covered by the APA or model rules. The PERC rule is drawn from federal precedent, the applicable statutes and agency expertise.

WAC 391-25-530 Votes needed to determine election.

Purpose: Explains necessary percentages to determine a representation election.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: General rule provides that unit determination elections shall be decided by a majority of those eligible to vote. Provides that representation elections shall be decided by a majority of those voting.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule implements substantive provisions of applicable statutes, consistent with federal precedent and agency expertise.

WAC 391-25-531 Special provision—Public employees.

Purpose: Special rule for certain elections under chapter 41.56 RCW.

Statute: RCW 41.56.070.

Summary: In the event of two or more employee organizations appearing on a representation ballot under chapter 41.56 RCW, a majority of those employees eligible to vote must select one of the choices listed to validate a result on the first ballot.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule implements the applicable statute.

WAC 391-25-550 Tally sheet.

Purpose: Explains vote counting procedures at the close of a representation election.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Specifies that a tally sheet shall be prepared at the close of the polls in a representation election. Provides that challenged ballots may affect the outcome of an election.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to set forth election procedures which are not otherwise covered by the APA or the model rules. The tally of ballots starts the period for "appeal."

WAC 391-25-570 Procedure following inconclusive election.

Purpose: Establishes procedures for run-off election in the event the initial representation election is inconclusive.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Provides that a run-off election will be conducted between the two choices receiving the most votes in the initial election. Provides for limited right of "appeal" where a party claims that a choice is improperly being excluded from the run-off election.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to set forth election procedures and substantive policies not otherwise covered by the APA or by the model rules. The limited right to appeal is in harmony with the purposes of WAC 391-25-390.

WAC 391-25-590 Filing and service of objections.

Purpose: Explains appeal procedures after a representation election or cross-check has been conducted.

Statute: RCW 28B.52.080, 41.56.070, 41.58.050 and 41.59.070.

Summary: Provides a seven day appeal period following the issuance of tally sheet reporting results of representation election or cross-check. Specifies the grounds for appeal as either: Misconduct during preelection campaign; or previous rulings in the case. Requires service of objections on opposing parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-211 establishes a 20 day appeal period for review of "initial orders." Federal precedent and labor-management relations practice generally permits only a one-week period for appeal of "campaign misconduct" following an election.

Explanation: Readoption of existing rule is necessary because the model rule appeal period would cause undue disruption of the representation process. The existing rule enhances the prompt resolution of representation issues, by merging the opportunity for appeal of prior rulings with the traditional opportunity to file "objections." This procedure has been efficient and effective for PERC and its clientele for more than 10 years.

WAC 391-25-610 Procedure where no objections are filed.

Purpose: Delegates final authority where there is no appeal or objection to a conclusive election.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.070.

Summary: Delegates authority to executive director to issue a final certification if there are no challenges to the

conduct of a conclusive election. That certification closes the representation case.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.464(1) permits agency to delegate final order authority in certain types of cases. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to the prompt disposition of representation cases where there is no appeal or further controversy.

WAC 391-25-630 Procedure where objections are filed.

Purpose: Specifies appeal procedures in representation cases.

Statute: RCW 28B.52.080, 41.56.040, 41.58.050 and 41.59.110.

Summary: Authorizes executive director to conduct hearing where objections to preelection campaign conduct raise issues of fact. Provides for transfer of full record to commission.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Election "objections" may raise new fact issues giving rise to a right to a hearing.

Explanation: Readoption of existing rule is necessary. The APA and model rules contain different appeal procedures which anticipate that the factual record will already be complete. The existing rule is derived from federal precedent an agency practices that have been efficient for more than 10 years. Any change of these well-established appeal procedures would create problems for the parties.

WAC 391-25-650 Briefs and written arguments on objections.

Purpose: Provides time periods for the submission of briefs in support of appeals from representation cases.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.58.050 and 41.59.070.

Summary: Specifies that appeal briefs must be filed within 14 days following specified events. Requires filing of briefs at the Olympia office and service on opposing parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-211 establishes periods for filing of appeal briefs.

Explanation: Readoption of the existing rule is appropriate to reflect the unique nature of representation cases. The APA and model rules contain different appeal procedures which anticipate that the factual record will already be complete. The existing rule is derived from federal precedent and agency practices that have been efficient for more than 10 years. Any change of these well-established appeal procedures would create problems for the parties.

WAC 391-25-670 Commission action on objections.

Purpose: Describes commission action when appeals are filed.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.070.

Summary: Permits commission to ask for oral arguments on appeals, and to make appropriate remedial orders.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. The model rules are silent as to the actual conduct of appeals procedures before an appellate body. The commission itself makes the "initial" ruling on "objections" concerning misconduct during election campaigns.

Explanation: Readoption of existing rule reflects unique nature of representation proceedings and does not conflict with the APA or model rules.

Effective Date of Rule: Thirty days after filing.

March 7, 1990
Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission on petitions for investigation of questions concerning representation of employees. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-25 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-25-390 and 391-25-590; and

(d) WAC 10-08-230, which is supplanted by WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, and 391-25-270.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

~~((2))~~ (3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

~~((3))~~ (4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

~~((4))~~ (5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

~~((5))~~ (6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

~~((6))~~ (7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Order 83-02, filed 12/1/83, effective 1/1/84)

WAC 391-25-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-010 PETITION FOR INVESTIGATION OF A QUESTION CONCERNING REPRESENTATION OF EMPLOYEES—WHO MAY FILE. A petition for investigation of a question concerning representation of employees, hereinafter referred to as a "petition," may be filed by any employee, group of employees, employee organization, employer or their agents.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-012 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. A petition may be filed under chapter 41.59 RCW only by an employee organization or its agents (RCW 41.59.070(1)), or by employees, one of whom shall be designated as agent (RCW 41.59.070(4)).

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-030 PETITION—TIME FOR FILING. In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed during the period not more than ninety nor less

than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof.

(2) Where a certification has been issued by the agency covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed not less than twelve months following the date of the certification.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-050 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition shall be prepared on a form furnished by the commission or on a facsimile thereof. The original and three copies of the petition shall be filed with the agency at its Olympia office. The party filing the petition shall serve a copy on the employer and on each employee organization named in the petition as having an interest in the proceedings.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-070 CONTENTS OF PETITION. Each petition shall contain:

(1) The name and address of the employer and, if known, the name, address and telephone number of the employer's principal representative in matters concerning relationships between the employer and its employees.

(2) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and, if known, the approximate number of employees in such bargaining unit.

(3) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(4) A statement that: (a) The employer declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate, or (b) the employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative, or (c) the employees in the bargaining unit do not wish to be represented by an employee organization.

(5) Any other relevant facts.

(6) The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

(7) The signature and, if any, the title of the petitioner or its representative.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-090 CONTENTS OF PETITION FILED BY EMPLOYER. Each petition filed by an employer shall contain all of the information required by WAC 391-25-070, except for that required by WAC 391-25-070(4), and shall conform to the following additional requirements:

(1) Each petition filed by an employer shall contain a statement that the employer has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition.

(2) WAC 391-25-110 shall not be applicable to such petitions.

(3) Where the status of an incumbent exclusive bargaining representative is questioned, the employer shall attach such affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees. To constitute a basis for a good faith doubt under this paragraph, signature documents provided to the employer by employees must be in a form which would qualify as supporting evidence under WAC 391-25-110 if filed by the employees directly with the commission.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-092 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. WAC 391-25-090 is inapplicable to petitions filed under chapter 41.59 RCW. See WAC 391-25-012.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-110 SUPPORTING EVIDENCE. The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the petition or the filing of such evidence with the agency, whichever is later.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-130 LIST OF EMPLOYEES. The employer shall submit to the commission a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition. Following administrative determination that the petition is supported by a sufficient showing of interest, the employer shall, upon request, provide a copy of the list of names and addresses to the petitioner. Following granting of a motion for intervention, the employer shall,

upon request, provide a copy of the list of names and addresses to the intervenor.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-140 NOTICE TO EMPLOYEES. The employer shall post a notice to employees, in the form specified by the commission, advising of the existence of proceedings under this chapter. The agency shall furnish the employer with copies of such notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-150 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner under such conditions as the executive director or the commission may impose.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-170 INTERVENTION—BY INCUMBENT REPRESENTATIVE. An organization which demonstrates that it has been the exclusive representative of all or any part of the bargaining unit involved in proceedings under this chapter during the year preceding the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-190 INTERVENTION—BY ORGANIZATION OTHER THAN INCUMBENT. An organization not covered by WAC 391-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the motion for intervention or the

filing of such evidence with the agency, whichever is later. The showing of interest shall be made confidentially to the agency at or before the time the motion for intervention is made: **PROVIDED, HOWEVER,** That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the agency may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-210 SHOWING OF INTEREST CONFIDENTIAL. The question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the agency and may not be litigated at any hearing. The agency shall not disclose the identities of employees whose authorization cards or letters are filed in support of a petition or motion for intervention. In order to preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the agency shall not honor any attempt to withdraw or diminish a showing of interest.

NEW SECTION

WAC 391-25-220 PREHEARING CONFERENCES. The commission routinely conducts prehearing conferences to discuss with the parties all contested issues of law and fact which may arise in representation cases. The parties are encouraged to reach binding stipulations on all issues during the course of the prehearing conference. Such stipulations are embodied in election agreements, cross-check agreements, and/or supplemental agreements provided for in this chapter.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-230 ELECTION AGREEMENTS. Where an employer and all other parties agree on a representation election, they may file an election agreement with the executive director. Such election agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in such unit.

(4) A statement by all parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c)

the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by all parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that all parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut off date for the election. If the parties request that the election be conducted by mail ballot, the list shall include the last known address of each of the employees eligible to vote. If no eligibility cut off date is specified by the parties, the eligibility cut off date shall be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the location, the day or days of the week and the time or times of day for the conduct of the election, or that the election be conducted by mail ballot.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement shall be filed with the agency at its Olympia office, and copies shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The election agreement shall remain posted for at least seven days after it is filed with the agency (ten days after it is deposited in the United States mail addressed to the agency).

Upon the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the executive director shall proceed to conduct an election. Objections to the election by a party to the election agreement shall be limited to matters relating to specific conduct affecting the results of the election.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-250 CROSS-CHECK AGREEMENTS. Where only one organization is seeking certification as the representative of unrepresented employees, the employer and the organization may file a cross-check agreement with the executive director. Such cross-check agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) The description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions and the number of employees in such unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to

conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the employer.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the time and place where the records to be cross-checked can be made available to the agency.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement shall be filed with the agency at its Olympia office, and copies thereof shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The cross-check agreement shall remain posted for at least seven days after it is filed with the agency (ten days after it is deposited in the United States mail addressed to the agency).

Upon the filing of a cross-check agreement conforming to the foregoing requirements and seeking a cross-check in an appropriate bargaining unit, the executive director shall proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification shall be issued until seven days have elapsed following the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification shall be issued on the basis of the cross-check.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-252 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. WAC 391-25-250 is inapplicable to petitions filed under chapter 41.59 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-253 SPECIAL PROVISION—ACADEMIC EMPLOYEES. WAC 391-25-250 is inapplicable to petitions filed under chapter 28B.52 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-270 SUPPLEMENTAL AGREEMENTS. Where the parties are able to agree generally on the matters to be set forth in an election agreement under WAC 391-25-230 or a cross-check agreement under WAC 391-25-250, but are unable to agree on limited issues concerning the definition of the bargaining unit or employee eligibility, they may expedite the determination of the question concerning representation while reserving their disagreement for subsequent determination by filing a supplemental agreement under this rule together with an agreement under WAC 391-25-

230 or 391-25-250. Such supplemental agreement shall contain:

(1) The names of all parties to the election agreement or cross-check agreement and the case number of the proceedings.

(2) Identification of the employees or classifications as to which a dispute exists, together with the identification of the position taken by each party on the dispute.

(3) A statement by all parties requesting that employees affected by the supplemental agreement be permitted to vote by challenged ballot or be challenged for purposes of a cross-check, subject to a subsequent determination of the dispute; and that the certification of the results of the election or cross-check not be withheld pending the determination of the dispute unless the challenges are sufficient in number to affect the outcome.

(4) The signatures and, if any, the titles, of the representatives of the parties.

The original and one copy of the supplemental agreement shall be filed with the agency together with the agreement filed under WAC 391-25-230 or 391-25-250, and shall be posted with such agreement.

Upon the filing of a supplemental agreement, the executive director shall proceed with the determination of the question concerning representation. If the challenges are sufficient in number to affect the outcome, they shall be determined prior to the issuance of a certification. Otherwise, a conditional certification shall be issued which shall be amended upon final disposition of the issues framed in the supplemental agreement.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-290 NOTICE OF HEARING. After a petition has been filed, if it appears to the executive director that there is reasonable cause to believe that a question concerning representation exists, there shall be issued and served on the employer and on all organizations listed in the petition and on any organization having theretofore intervened, a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-299 SPECIAL PROVISION—PRIVATE SECTOR EMPLOYEES. The commission lacks authority to proceed in representation disputes under chapter 49.08 RCW absent the agreement of all parties. The executive director shall not proceed in such matters unless an agreement is filed under WAC 391-25-230 or 391-25-250. WAC 391-25-290 through 391-25-390 shall not be applicable to proceedings under chapter 49.08 RCW except for hearings and issues submitted under WAC 391-25-270.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-310 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-350 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record upon which the commission and the executive director may discharge their duties under the pertinent statutes and these rules.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-370 BLOCKING CHARGES—SUSPENSION OF PROCEEDINGS—REQUEST TO PROCEED. (1) Where representation proceedings have been commenced under this chapter and:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 391-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the executive director may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the executive director. Such request to proceed shall identify, by case number, the representation proceedings for which it is made, shall request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and shall acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed conforming to the foregoing requirements the executive director shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the filing of an election agreement or issuance of a direction of election, the executive director shall proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 391-25-590.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-390 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Unless otherwise provided in a direction of election, the cut-off date for eligibility to vote in an election shall be the date of issuance of the direction of election. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the employer is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 391-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the executive director shall have the same force and effect as if issued by the commission.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-391 SPECIAL PROVISION—PUBLIC EMPLOYEES. Where only one organization is seeking certification as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that such organization has been authorized by a substantial majority of the employees to act as their representative for the purposes of collective bargaining, and the executive director finds that the conduct of an election would unnecessarily and unduly delay the determination of the question concerning representation with little likelihood of altering the outcome, the executive director may issue a direction of cross-check. The direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-410 CROSS-CHECK OF RECORDS. Where a cross-check of records is to be conducted to determine a question concerning representation, the organization shall submit to the agency original individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that such employees authorize the named organization to represent them for the purposes of collective bargaining, or shall

submit to the agency membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing. The employer shall make available to the agency original employment records maintained as a part of its business records containing the names and signatures of the employees in the bargaining unit. Prior to the commencement of the cross-check, the organization may file a request that the question concerning representation be determined by a representation election and such requests shall be honored. Where the organization files a disclaimer or a request for election after the commencement of the cross-check, the cross-check shall be terminated and the organization shall not seek to be certified in the bargaining unit for a period of at least one year thereafter. All cross-checks shall be by actual comparison of records submitted by the parties. The agency shall not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. Upon the conclusion of the comparison of records, the agency officer conducting the cross-check shall prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-412 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. WAC 391-25-410 is inapplicable to petitions filed under chapter 41.59 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-413 SPECIAL PROVISION—ACADEMIC EMPLOYEES. WAC 391-25-410 is inapplicable to petitions filed under chapter 28B.52 RCW.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-430 NOTICE OF ELECTION. When an election is to be conducted, the agency shall furnish the employer with appropriate notices, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

(1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.

(2) The date(s), hours and polling place(s) for the election.

(3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.

(4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least seven days prior to the opening of the polls. In computing such period, the day of posting shall be counted, but the day on which the polls are opened shall not be counted. The reproduction of any document purporting

to suggest, either directly or indirectly, that the agency endorses a particular choice may constitute grounds for setting aside an election upon objections properly filed.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-450 DISCLAIMERS. An organization may file a disclaimer and have its name removed from the ballot: PROVIDED, HOWEVER, That if such a disclaimer is filed after the issuance of a notice of election, the organization filing the disclaimer shall not seek to be certified in that bargaining unit for a period of at least one year thereafter.

READOPTED SECTION (Readopting Order 88-02, filed 5/31/88)

WAC 391-25-470 ELECTIONEERING. (1) Employers and organizations are prohibited from making election speeches on the employer's time to massed assemblies of employees:

(a) Within twenty-four hours before the scheduled time for the opening of the polls for an election conducted under "in person" voting procedures; or

(b) Within the period beginning with the issuance of ballots to employees for an election conducted under "mail ballot" voting procedures and the tally of ballots.

(2) There shall be no electioneering at or about the polling place during the hours of voting.

Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-490 ELECTION PROCEDURES—BALLOTING. All elections shall be by secret ballot. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting shall not be allowed. The agency may conduct elections by mail ballot when it appears that an election by "in person" procedures would result in undue delay, or would effectively deprive some eligible employees of their opportunity to vote. If mail balloting is used, the notice required by these rules shall be mailed to each eligible voter and no less than ten days shall be provided between the date on which ballot materials are mailed to eligible employees and the deadline for return of the ballots. Each party may be represented by observers of its own choosing, subject to such limitations as the executive director may prescribe: PROVIDED, HOWEVER, That no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-510 CHALLENGED BALLOTS. Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person shall be denied the right

to cast a challenged ballot. The election officer shall not have authority to resolve challenges at the polls, and the ballot of the challenged voter shall be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot shall not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge shall thereby be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they shall be impounded and no ruling shall be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer shall, after the close of the polls, ascertain the position of each party as to each challenged ballot and shall include such information in his report. If challenges raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. The rules relating to the conduct of hearings on petitions shall govern hearings on challenges, except that the scope of the hearing shall be limited to matters relevant to the disposition of the challenged ballots. The executive director shall have authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the executive director as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the executive director are sufficient in number to affect the results of the election, the matter shall be transferred to the commission for its determination under the provisions of WAC 391-25-670.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-530 VOTES NEEDED TO DETERMINE ELECTION. (1) Unit determination elections shall be decided by a majority of those eligible to vote in the election.

(2) Representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote shall result in a certification of no representative.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-531 SPECIAL PROVISION—PUBLIC EMPLOYEES. Where there are three or more choices on the ballot, representation elections shall be decided by a majority of those eligible to vote in the election.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-550 TALLY SHEET. Upon closing the polls, the election officer shall prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally shall be

issued and furnished to the parties. The tally shall indicate whether the results of the election were conclusive or inconclusive.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-570 PROCEDURE FOLLOWING INCONCLUSIVE ELECTION. In any election in which there are more than two choices on the ballot, if none of the choices receives the number of votes necessary to determine the election, a run-off election shall be held providing for selection between the two choices receiving the largest numbers of valid ballots cast in the inconclusive election. Any organization to be excluded from a run-off election may file objections to specific conduct affecting the results of the inconclusive election. Where the choice of "no representative" is to be excluded from a run-off election, the employer or decertification petitioner may file objections to specific conduct affecting the results of the inconclusive election. Such objections shall be resolved prior to the conduct of a run-off election. All run-off elections shall be determined as provided in WAC 391-25-530.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-590 FILING AND SERVICE OF OBJECTIONS. Within seven days after the tally has been served under WAC 391-25-410 or under WAC 391-25-550, any party may file objections with the commission. Objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters, and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

Objections shall contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed. The original and three copies of the objections shall be filed with the commission at its Olympia office, and the party filing the objections shall serve a copy on each of the other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-610 PROCEDURE WHERE NO OBJECTIONS ARE FILED. If no objections are filed within the time set forth above, and if any challenged ballots are insufficient in number to affect the determination of the question concerning representation, and if

no run-off election is to be held, the executive director shall forthwith certify the results of the proceedings, with the same force and effect as if issued by the commission. The proceedings will thereupon be closed.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-630 PROCEDURE WHERE OBJECTIONS ARE FILED. (1) Objections to conduct improperly affecting the results of an election shall be referred to the executive director for investigation. If the objections raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. Hearings on objections to conduct affecting the results of an election may be consolidated with hearings on challenged ballots in the same proceeding. The rules relating to the conduct of hearings on petitions shall govern hearings on objections, except that the scope of the hearing shall be limited to matters relevant to the disposition of the objections.

(2) Objections to prior rulings and/or directions in the matter shall be referred directly to the commission.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-25-650 BRIEFS AND WRITTEN ARGUMENTS ON OBJECTIONS. All parties shall be entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties shall be due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments shall be fourteen days following the later of:

(a) The close of an investigation under WAC 391-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 391-25-630(1); or

(c) The filing of objections under WAC 391-25-590(2).

(2) The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established.

The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-670 COMMISSION ACTION ON OBJECTIONS. In all cases where objections have been filed, the entire record in the proceedings shall be transferred to the commission. The commission may request the parties to appear before it to make oral argument as

to certain of the issues or all of the issues in the matter. The commission shall determine the objections and any challenged ballots referred to the commission pursuant to WAC 391-25-510, and shall issue appropriate orders.

WSR 90-06-073
PERMANENT RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
 [Filed March 7, 1990, 11:34 a.m.]

Date of Adoption: January 12, 1990.

Purpose: Chapter 391-35 WAC is adopted to set forth complete procedures for the processing of unit clarification cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to notice filed as WSR 89-23-023 on November 7, 1989.

WAC 391-35-001 Scope—Contents—Other rules.

Purpose: Introduces chapter 391-35 WAC, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings," generally; chapter 391-08 WAC for general procedural rules; chapter 391-25 WAC for representation cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Readoption of existing rule is necessary to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-35-002 Sequence and numbering of rules—Special provisions.

Purpose: Descriptive only.

Statute: Substantive statutes, generally.

Summary: Explains how rules are numbered to identify exceptions to general rules.

Reasons: RCW 41.58.005(1) admonishes PERC to be "uniform" in the administration of state collective bargaining laws. This WAC chapter regulates proceedings under several different statutes under PERC's jurisdiction. Those statutes have many similarities and some differences.

Explanation: Readoption of existing rule is necessary to preserve a numbering scheme in which exceptions to general rules immediately follow the general rule on the

same subject. (General rules applicable to all of the statutes under PERC's jurisdiction have WAC numbers divisible by ten; if a particular statute requires a deviation from the general rule, it receives a separate number in the same decile.)

WAC 391-35-010 Petition for clarification of an existing bargaining unit—Who may file.

Purpose: Specifies who may file a bargaining unit clarification petition with PERC.

Statute: Substantive statutes, generally.

Summary: Specifies that unit clarification petitions may be filed only by the employer or the incumbent exclusive bargaining representative of a bargaining unit.

Reasons: RCW 34.05.010(11) does not define who may file unit clarification petition. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule is necessary to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from the applicable statutes. The counterpart federal agency (National Labor Relations Board) and some counterpart agencies in other states mix unit clarification rules within their representation case rules, but the commission felt that was confusing. Hence a separate set of rules was adopted for unit clarification which parallel certain portions of the representation case rules in chapter 391-25 WAC.

WAC 391-35-020 Petition—Time for filing.

Purpose: Establishes time periods in which unit clarification petitions can be filed.

Statute: Substantive statutes, generally.

Summary: Provides that petitions dealing with claims of "confidentiality" or "changed circumstances" can be filed at any time. Other issues must first be raised in collective bargaining, and petition must be filed before a new collective bargaining agreement is signed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 permits agency to determine when adjudicative proceeding will not be conducted. RCW 34.05.220(4) "encourages" agencies to codify legal principles enunciated in agency decisions as rules.

Explanation: Readoption of the existing rule continues substantive policy adopted in 1988 as a codification of the commission's decision in *Toppenish School District*, Decision 1143-A (PECB, 1981).

WAC 391-35-030 Petition form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of petition at Olympia office; requires service on other parties.

Statute: RCW 28B.52.080, 41.56.060 and 41.59.080.

Summary: Party initiating unit clarification case with PERC must file original and three copies with PERC's Olympia office, and must serve other parties.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application

for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule is necessary to avoid claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intra-agency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain compliance with "contract bar" and "certification bar" time limitations) and because all docketing and initial processing by the executive director are performed at Olympia.

WAC 391-35-050 Contents of petition.

Purpose: Specifies contents of unit clarification petition.

Statute: RCW 28B.52.080, 41.56.060 and 41.59.080.

Summary: Requires identifying information for agency docket records and for efficient processing by PERC. Requires petitioning party to identify positions at issue and basis for claim of unit inclusion or exclusion.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 is permissive as to the use of forms provided by an agency and provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule is necessary to facilitate prompt agency response to unit clarification petitions, by requiring the details needed for case processing. Repeal of WAC 10-08-020 cast doubt on PERC's authority to require use of its forms under the model rules.

WAC 391-35-070 Amendment and withdrawal.

Purpose: Allows amendment and withdrawal of unit clarification petitions.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Petitioning party may withdraw or amend unit clarification petition under conditions that the executive director or commission may impose.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.060 encourages informal settlements. WAC 10-08-230 provides for informal settlements, but does not clearly cover amendments or withdrawals of petitions.

Explanation: Readoption of existing rule is necessary to avoid conflict with the model rules. The parties to unit clarification cases have ongoing relationships and are quite capable of drafting and signing their own settlement agreements, so that informal settlements are frequently communicated to PERC as a simple "amendment" or "withdrawal" of a case.

WAC 391-35-080 Prehearing conferences.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.073, 41.56.040, 41.58.050 and 41.59.110.

Summary: Prehearing conferences may be conducted in unit clarification cases at the discretion of the hearing officer, to deal with both procedural and substantive matters.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. WAC 10-08-230 provides for informal settlements, but imposes obligations on the agency which are not common on labor-management relations.

Explanation: Adoption of new rule is necessary to continue successful existing procedures and to meet the requirements of the new APA. Since the parties have an ongoing relationship and usually have the issues clearly framed before the case comes to PERC, the commission uses "prehearing conferences" only occasionally in unit clarification cases, and then mostly to deal with "procedural" matters.

WAC 391-35-090 Notice of hearing.

Purpose: Explains procedure for determining whether to issue a notice of hearing in a unit clarification case.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Authorizes executive director to determine whether a notice of hearing will be issued in a unit clarification case. Specifies parties to whom notices of hearing are to be issued.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.434 sets out the type of information generally required in notices of hearing. WAC 10-08-040 prescribes specific rules as to the contents of the notice. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted.

Explanation: Readoption of existing rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint, and does not conflict with the model rules.

WAC 391-35-099 Special provision—Private sector employees.

Purpose: Limits PERC authority to conduct unit clarification cases involving private sector employees.

Statute: Chapter 49.08 RCW.

Summary: PERC suspends processing of private sector unit clarification cases in absence of consent of all parties.

Reasons: PERC conducts representation and unit clarification proceedings in the private sector only as "arbitration" or "mediation" exercises under chapter 49.08 RCW, and then only by consent of all parties.

Explanation: Readoption of existing rule is necessary to continue substantive policy exempting private sector employees and employers from PERC unit clarification proceedings absent their mutual consent. No "small business" impact is anticipated, since no change is proposed. (Parties to which this rule applies may be subject

to representation proceedings before the National Labor Relations Board under federal law.)

WAC 391-35-110 Consolidation of proceedings.

Purpose: Allows consolidation of simultaneous unit clarification and representation proceedings.

Statute: Substantive statutes, generally.

Summary: Permits consolidation of "bargaining unit description" issues into a single case, thereby saving agency resources and expediting final resolution of representation and clarification issues.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is necessary to effect efficiency where multiple parties seek to address the same or related issues through the separate, but similar, PERC procedures.

WAC 391-35-130 Hearings—Who shall conduct.

Purpose: Defines who may hear unit clarification cases.

Statute: RCW 28B.52.080, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015.

Summary: Hearing officer can be PERC staff member or agency designee. Hearing officers may be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is exempt from the Office of Administrative Hearings and chapter 34.12 RCW.

Explanation: Readoption of existing rule is necessary because the "agency head" generally does not preside over PERC's adjudicative hearings. The chief administrative law judge does not govern the matters covered by this rule.

WAC 391-35-170 Hearings—Nature and scope.

Purpose: Defines unit clarification hearings as investigatory.

Statute: RCW 28B.52.080, 41.56.060, 41.59.080 and 53.18.015.

Summary: Defines the hearing as public and investigatory between parties, with agency taking impartial, but active, role.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.449(5) provides for hearings to be "public" but model rules are silent following repeal of language in WAC 10-08-190. In addition, the rule no longer speaks to sequestering of witnesses. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" investigatory role of PERC in unit clarification hearings.

Explanation: Amendment of existing rule is necessary to define the impartial investigatory posture of PERC, while permitting the sequestering of witnesses. This will not conflict with the model rules' directives, and will maintain important components of PERC hearings.

WAC 391-35-190 Proceedings before the executive director.

Purpose: Delegates decision-making authority in unit clarification matters.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Delegates decision-making authority to executive director for initial decision on all unit clarification case issues. Permits delegation of certain types of issues to hearing officer.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 41.58.015(2) permits commission to delegate decision-making authority, subject to right of parties to petition for review by full commission.

Explanation: Readoption of the existing rule continues a well-accepted and efficient procedure. Unit clarification cases involve a limited number and type of issues, and consistency of agency policy is vital to the process of labor-management relations. The existing rule centralizes unit clarification case determinations, making the executive director responsible for overall consistency as well as the outcomes of individual cases.

WAC 391-35-210 Proceedings before the commission—Petition for review.

Purpose: Allows for intraagency review of an initial decision by the commission.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Within 20 days following the issuance of an initial decision, the parties may petition for intraagency review ("appeal") of the initial decision.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intraagency appeals, but specifies a 10-day period for filing of appeal briefs.

Explanation: Readoption of existing rule is necessary to the efficient operation of PERC. The procedures and briefing schedules specified in the model rule are different from those established by PERC after actual experience with the types of issues encountered in labor-management relations.

WAC 391-35-230 Filing and service of cross-petition for review.

Purpose: Allows a party to file a cross-petition for review of an initial decision.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Allows an additional 7 days for the filing of a cross-petition for review.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intraagency appeals, and does not contemplate cross-petitions for review.

Explanation: Readoption of existing rule is necessary to preserve a procedure that has worked well for PERC and its clientele up to this time. PERC adopted the

"cross-petition" procedure to obviate the filing of "strategic" appeals that might otherwise be withheld.

WAC 391-35-250 Commission action.

Purpose: Requires the commission to make a determination of a decision that it reviews.

Statute: RCW 28B.52.080, 41.56.060, 41.58.050 and 41.59.080.

Summary: Transfers entire case to the commission when intraagency appeal procedures have been invoked. Permits commission to call for oral argument.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 does not deal with oral argument.

Explanation: Readoption of existing rule is necessary to specify agency action on appeals, consistent with RCW 34.05.464(1).

Effective Date of Rule: Thirty days after filing.

March 7, 1990
Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-35 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-35-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-35-210 and 391-35-230; and

(d) WAC 10-08-230, which is supplanted by WAC 391-35-070 and 391-35-140.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

~~((2))~~ (3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

~~((3))~~ (4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

~~((4))~~ (5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

~~((5))~~ (6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

~~((6))~~ (7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Order 83-03, filed 12/1/83, effective 1/1/84)

WAC 391-35-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-010 PETITION FOR CLARIFICATION OF AN EXISTING BARGAINING UNIT—WHO MAY FILE. In the absence of a question concerning representation, a petition for clarification of an existing bargaining unit may be filed by the employer, the exclusive representative or their agents, or by the parties jointly.

READOPTED SECTION (Readopting Order 88-03, filed 5/31/88)

WAC 391-35-020 PETITION—TIME FOR FILING. (1) Disputes concerning status as a "confidential employee" may be filed at any time.

(2) Except as provided in subsection (1) of this section, where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings, (i) it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class via the unit clarification procedure, and (ii) it filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-030 PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for clarification of an existing bargaining unit shall be prepared on a form furnished by the commission or shall be prepared in conformance with WAC 391-35-050. The original and three copies of the petition shall be filed with the agency at its Olympia office. If the petition is filed other than as a jointly filed petition, the party filing the petition shall serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-050 CONTENTS OF PETITION. Each petition for clarification of an existing bargaining unit shall contain:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative.

(3) The description of the existing bargaining unit, specifying inclusions and exclusions and the number of employees in such bargaining unit.

(4) Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement, and the history of any modifications of the bargaining unit subsequent thereto.

(5) A description of the proposed clarification, including the position(s), classification(s) or group(s) in issue, the number of employees in each such position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group and identification of the party proposing that the present status be changed.

(6) The names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the contracts, if any, covering such employees.

(7) A statement of the reasons for the proposed clarification.

(8) Any other relevant facts.

(9) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-070 AMENDMENT AND WITHDRAWAL. Any petition may be amended or withdrawn by the petitioner(s) under such conditions as the executive director or the commission may impose.

NEW SECTION

WAC 391-35-080 PREHEARING CONFERENCES. The hearing officer has discretion to conduct a prehearing conference to discuss with the parties all issues of law, fact, and procedure which may arise in unit clarification cases. The parties are encouraged to reach binding stipulations on such matters during the course of the prehearing conference.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-090 NOTICE OF HEARING. After a petition for clarification of an existing bargaining unit has been filed, if it appears to the executive director that a disagreement exists which might appropriately be the subject of an order clarifying an existing bargaining unit, there shall be issued and served on the employer and on the exclusive representative a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-099 SPECIAL PROVISION—PRIVATE SECTOR EMPLOYEES. The commission lacks authority to proceed in unit clarification proceedings under chapter 49.08 RCW absent the agreement of all parties. The executive director shall not proceed in such matters unless a written agreement is filed by the parties to submit their dispute for arbitration by the commission under chapter 49.08 RCW and these rules.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-110 CONSOLIDATION OF PROCEEDINGS. If a proceeding initiated by a petition for clarification under WAC 391-35-010 is pending at the same time as a proceeding involving all or any part of the same bargaining unit initiated by a petition for investigation of a question concerning representation filed pursuant to WAC 391-25-010, the proceedings shall be consolidated and all issues concerning the description of the bargaining unit shall be resolved in the consolidated proceedings.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-130 HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At

any time, a hearing officer may be substituted for the hearing officer previously presiding.

AMENDATORY SECTION (Amending Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-170 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the petition for clarification of an existing bargaining unit. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a full and complete factual record upon which the commission or the executive director may discharge their duties under the pertinent statutes and these rules.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-35-190 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-35-210 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the executive director shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on any other parties. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the

text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-230 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 391-35-210, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Order 80-6, filed 9/30/80, effective 11/1/80)

WAC 391-35-250 COMMISSION ACTION. The executive director shall transfer the entire record in the proceeding to the commission. The commission shall determine the status of each position, classification or group covered by the petition for review, and shall issue appropriate orders.

WSR 90-06-074
PERMANENT RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
[Filed March 7, 1990, 11:36 a.m.]

Date of Adoption: January 12, 1990.

Purpose: Chapter 391-45 WAC is adopted to set forth complete procedures for the processing of unfair labor practice cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to notice filed as WSR 89-23-024 on November 7, 1989.

WAC 391-45-001 Scope—Contents—Other rules.

Purpose: Identifies chapter, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings", generally; chapter 391-08 WAC for general procedural rules; chapter 391-25 WAC for representation cases; chapter 391-35 WAC for unit clarification cases; chapter 391-55 WAC for impasse resolution cases; chapter 391-65 WAC for grievance arbitration cases; and chapter 391-95 WAC for union security cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Amendment of existing rule to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-45-002 Sequence and numbering of rules—Special provisions.

Purpose: Explanatory only.

Statute: Substantive statutes, generally.

Summary: Explains how rules are numbered to identify exceptions to general rules.

Reasons: RCW 41.58.005(1) admonishes PERC to be "uniform" in the administration of state collective bargaining laws. This WAC chapter regulates proceedings under several different statutes under PERC's jurisdiction. Those statutes have many similarities and some differences.

Explanation: Readoption of existing rule is necessary to preserve a numbering scheme in which exceptions to general rules immediately follow the general rule on the same subject. (General rules applicable to all of the statutes under PERC's jurisdiction have WAC numbers divisible by ten; if a particular statute requires a deviation from the general rule, it receives a separate number in the same decile.)

WAC 391-45-010 Complaint charging unfair labor practice—Who may file.

Purpose: Defines who may be a complainant.

Statute: RCW 28B.52.065, 41.56.040, 41.58.040, 41.59.060 and 53.18.015.

Summary: Defines "complainant" to include any employee, group of employees, employee organization, employer or their agents.

Reasons: RCW 34.05.010(11) does not define who may file a complaint charging unfair labor practices. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Model rules silent with repeal of WAC 10-08-020.

Explanation: Readoption of existing rule to insure that standing to file a complaint charging unfair labor practices will not be artificially limited.

WAC 391-45-019 Special provision—Private sector employees.

Purpose: Excludes private sector employees and employers from the coverage of chapter 391-45 WAC.

Statute: RCW 49.08.020.

Summary: Provides that unfair labor practice procedures are not applicable to private sector employees and employers.

Reasons: Chapter 49.08 RCW does not allow unfair labor practices to be filed by private sector parties at the state level.

Explanation: Readoption of existing rule to exempt private sector employees and employers from unfair labor practice proceedings before PERC.

No "small business" impact is anticipated, since no change is proposed. (Parties to which this rule applies may be subject to unfair labor practice proceedings before the National Labor Relations Board under federal law.)

WAC 391-45-030 Form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of complaints at Olympia office; requires service on other parties.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: The party initiating an unfair labor practice case must file an original and three copies with PERC's Olympia office and must serve the respondent(s).

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule to avoid any claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intraagency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain the time of "filing" for purpose of administering a six-month "statute of limitations") and because all docketing and initial processing by the executive director are performed at the Olympia office.

WAC 391-45-050 Contents of complaint charging unfair labor practices.

Purpose: Details information to be included in a complaint charging unfair labor practices.

Statute: RCW 28B.52.073, 41.56.170, 41.56.180, 41.59.150 and 53.18.015.

Summary: Requires identifying information for agency docket records and detailed statement of alleged facts for efficient processing by PERC.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule to avoid conflict with model rules at WAC 10-08-035 and to obtain details needed by PERC for the efficient processing of cases.

WAC 391-45-070 Amendment.

Purpose: Defines how complaints of unfair labor practices can be amended.

Statute: RCW 28B.52.073, 41.56.140, 41.56.150, 41.56.170, 41.59.140 and 53.18.015.

Summary: Complaints may be amended by motion of the complainant.

Reasons: Chapter 10-08 WAC does not clearly cover amendments to complaints.

Explanation: Readoption of existing rule, because amendments to complaints are allowed by the applicable substantive statutes.

WAC 391-45-090 Withdrawal.

Purpose: Defines how unfair labor practices complaints can be withdrawn.

Statute: RCW 28B.52.073, 41.56.140, 41.56.150, 41.59.140 and 53.18.015.

Summary: Complaints can be withdrawn under conditions established by the agency.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.060 encourages informal settlements. WAC 10-08-230 provides for informal settlements, but does not clearly cover withdrawals of complaints.

Explanation: Readoption of existing rule to avoid conflict with the model rules. Most parties to unfair labor practice cases have ongoing relationships and are quite capable of drafting and signing their own settlement agreements, so that informal settlements are frequently communicated to PERC as a simple "withdrawal" of a case.

WAC 391-45-110 Initial processing by executive director.

Purpose: Requires review of complaints to determine whether they state a cause of action.

Statute: RCW 28B.52.073, 41.56.140, 41.56.150, 41.59.140 and 53.18.015.

Summary: Assuming all of the facts alleged in the complaint to be true and provable, the executive director determines whether, as a matter of law, an unfair labor practice violation could be found. If not, the complaint is dismissed by written order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted. This rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint.

Explanation: Readoption of existing rule to insure that invalid complaints are dismissed at the earliest opportunity, with minimum investment of state resources, and that legitimate cases are sent to hearing.

WAC 391-45-130 Examiner—Who may act.

Purpose: Defines who may hear the complaints.

Statute: RCW 28B.52.073, 41.56.160, 41.56.170, 41.59.110 and 53.18.015.

Summary: Examiner can be PERC staff member or agency designee; with notice, examiners can be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is exempt from the Office of Administrative Hearings and chapter 34.12 RCW.

Explanation: Readoption of existing rule because the "agency head" generally does not preside over PERC's adjudicative hearings. The chief administrative law judge does not govern the matters covered by this rule.

WAC 391-45-170 Notice of ((hearing)) right to answer.

Purpose: Defines rights concerning filing of answer.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Requires notice of hearing to provide for the date for filing an answer, and allows amendment of the notice.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-040 regulates the contents of the notice of hearing, other than the requirement for an answer.

Explanation: Amendment of existing rule title because the right to answer is secured by the substantive statutes administered by PERC.

WAC 391-45-190 Answer—Filing—Service.

Purpose: Specifies procedures for filing of answer to complaint charging unfair labor practices.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: The respondent must file the original and three copies of its answer by the date listed on the notice of hearing, and must serve the opposing party.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-040 regulates the contents of the notice of hearing, other than the requirement for an answer.

Explanation: Readoption of existing rule to avoid claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intraagency appeals.

WAC 391-45-210 Answer—Contents and effect of failure to answer.

Purpose: Details required contents for answer and consequences of failure to answer.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Answer must respond specifically to allegations of complaint; if not, facts alleged in complaint are generally admitted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 34.05 RCW and chapter 10-08 WAC are silent on effects of failure to file answer.

Explanation: Readoption of existing rule because the "answer" is required by substantive statutes administered by PERC.

WAC 391-45-230 Amendment of answer.

Purpose: Allows for answers to be amended.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Answer may be amended when complaint is amended, or upon proper motion.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 34.05 RCW and chapter 10-08 WAC are silent on effects of failure to file answer.

Explanation: Readoption of existing rule because the "answer" is required by substantive statutes administered by PERC.

WAC 391-45-250 Motion to make complaint more definite and certain.

Purpose: Allows a respondent to obtain sufficient information to enable it to prepare its answer.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: The respondent may move for more details to be supplied by the complaining party. The examiner is authorized to rule on such motions.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding. WAC 391-45-050 requires more detailed information than model rule.

Explanation: Readoption of existing rule because this is the first opportunity the respondent has to respond to the complaint. (The executive director makes the preliminary ruling under WAC 391-45-110 without input from the respondent.)

WAC 391-45-260 Settlement conference—Prehearing conference.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.073, 41.56.160, 41.59.150 and 53.18.015.

Summary: A member of the commission staff (other than the assigned examiner) may request the parties attend a voluntary "settlement conference," to examine the facts and legal theories presented along with case precedent. Whether or not a "settlement conference" has been held, the examiner may hold a "prehearing conference" to deal with procedural matters related to the hearing.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. WAC 10-08-230 provides for informal settlements, but imposes obligations on the agency which are not common on labor-management relations.

Explanation: Amendment of existing rule to continue a successful procedure and to meet the requirements of the new APA. The "settlement conference" procedure was developed by PERC based on experience in the field, and has been a successful method in many cases. PERC uses conventional "prehearing conferences" from time to time where the pleadings and prehearing motions indicate that it would be appropriate to do so.

WAC 391-45-270 Hearings—Nature and scope.

Purpose: Defines unfair labor practice hearings as adversarial.

Statute: RCW 28B.52.073, 41.56.170, 41.59.150 and 53.18.015.

Summary: Defines the hearing as public and adversarial between parties, with agency impartial. Places the burden of proof on the complainant.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 34.05 RCW and chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" role of PERC in unfair labor practice hearings.

Explanation: Amendment of existing rule to clearly define the impartial posture of PERC, to allow for the sequestering of witnesses and to assign the burden of proof.

WAC 391-45-290 Briefs and proposed findings.

Purpose: Allows filing of written legal argument.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: On their own volition, or at the direction of the examiner, the parties to an unfair labor practice may file written legal argument in support of their position.

Reasons: RCW 34.05.461(7) provides for the filing of briefs and proposed findings. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule is convenient, so that the parties who are already dealing with a substantive statute and three sets of rules (chapters 10-08, 391-08 and 391-45 WAC) will not need to refer to the APA for this fairly obscure provision.

WAC 391-45-310 Examiner decision.

Purpose: Empowers examiner to issue initial findings of fact, conclusions of law and an order.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: After the close of the hearing, the examiner is to issue findings of facts, conclusions of law and an order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner for the initial decision. The commission is a reviewing body in unfair labor practice proceedings.

WAC 391-45-330 Withdrawal or modification of examiner decision.

Purpose: Allows examiner to modify the decision upon discovery of a mistake or new evidence.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Within 20 days following the issuance of a decision (i.e., prior to the expiration of the time for filing

a petition for intraagency review), the examiner can withdraw or modify the decision if a mistake is discovered, or newly-discovered evidence is claimed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner to continue to act under these limited circumstances. The commission is a reviewing body in unfair labor practice proceedings.

WAC 391-45-350 Petition for review of examiner decision.

Purpose: Allows for intraagency review of an examiner's decision by the commission.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Within 20 days following the issuance of an examiner's decision, the parties may petition for intraagency review ("appeal") of the examiner's decision. The commission may "lift" a case for review on its own motion within 30 days following the issuance of the examiner's decision.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intraagency appeals, does not contemplate review on motion of the commission, and specifies a 10-day period for filing of appeal briefs.

Explanation: Readoption of existing rule is necessary to the efficient operation of PERC. The procedures and briefing schedules specified in the model rule are different from those established by PERC after actual experience with the types of issues encountered in labor-management relations. The commission needs the authority to review a decision on its own motion, where an evident defect or order contrary to commission policy would otherwise be left standing by action or omission of the parties.

WAC 391-45-370 Filing and service of cross-petition for review.

Purpose: Allows a party to file a cross-petition for review of an examiner's decision.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Allows an additional 7 days for the filing of a cross-petition for review.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intraagency appeals, and does not contemplate cross-petitions for review.

Explanation: Readoption of existing rule is necessary to preserve a procedure that has worked well for PERC and its clientele up to this time. PERC adopted the "cross-petition" procedure to obviate the filing of "strategic" appeals that might otherwise be withheld.

WAC 391-45-390 Commission action.

Purpose: Requires the commission to make a determination of a decision that it reviews.

Statute: RCW 28B.52.073, 41.56.180, 41.59.150 and 53.18.015.

Summary: Transfers entire case to the commission when intraagency appeal procedures have been invoked. Permits commission to call for oral argument.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 does not deal with oral argument.

Explanation: Readoption of existing rule is necessary to specify agency action on appeals, consistent with RCW 34.05.464(1).

WAC 391-45-410 Unfair labor practice remedies.

Purpose: Allows a remedial order to be issued if an unfair labor practice is found to have been committed.

Statute: RCW 28B.52.073, 41.56.160, 41.59.150 and 53.18.015.

Summary: If an unfair labor practice is found, a remedial order will be issued. Details formula to use if back pay is involved.

Reasons: Substantive rule implementing remedial powers conferred on commission by chapters 28B.52, 41.56 and 41.59 RCW.

Explanation: Readoption of existing rule is necessary to preserve substantive requirements drawn from statutes or agency policy and expertise.

WAC 391-45-430 Motion for temporary relief.

Purpose: Allows the commission to issue an injunction in certain unfair labor practice situations.

Statute: RCW 28B.52.073 and 41.59.150.

Summary: The commission may seek court intervention to preserve the status quo pending the completion of unfair labor practice proceedings, if the complainant would have no adequate remedy and would suffer irreparable harm if it had to wait for completion of the administrative adjudication process. Procedures for filing of motion and for response are specified.

Reasons: RCW 34.05.578(4) provides for agency to seek temporary relief. Chapter 10-08 WAC is silent. RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency.

Explanation: Readoption of existing rule to preserve special procedures drawn from agency expertise and substantive statutes administered by PERC. Temporary relief has been rarely used, but has been effective in most cases where invoked.

WAC 391-45-431 Special provision—Public employees.

Purpose: Makes WAC 391-45-430 temporary relief procedures inapplicable to parties under chapter 41.56 RCW.

Statute: RCW 41.56.190.

Summary: Parties to cases under chapter 41.56 RCW are precluded from using the temporary relief procedure through PERC.

Reasons: RCW 34.05.578(4) provides for agency to seek temporary relief. Chapter 10-08 WAC is silent.

Explanation: Readoption of existing rule will continue the traditional exclusion from "temporary relief" based on the language of RCW 41.56.190 (which has been interpreted as limiting the authority of the commission to seek judicial relief until 30 days had passed after the issuance of the final agency "order").

RCW 34.04.578 [34.05.578] is a separate source of authority for the agency to seek temporary relief within 30 days after its "order" is issued, but falls short of a general authorization to seek an injunction.

WAC 391-45-550 Collective bargaining—Policy.

Purpose: Promotes bilateral collective bargaining.

Statute: RCW 28B.52.073, 41.56.030(4), 41.59.020(2) and 53.18.015.

Summary: Parties may bring any subject to the bargaining table; the commission exclusively determines whether a subject is a mandatory or permissive subject of bargaining.

Reasons: APA is silent.

Explanation: Readoption of existing rule to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from agency expertise and the statutes it administers.

WAC 391-45-552 Special provision—Educational employees.

Purpose: Promotes good faith collective bargaining.

Statute: RCW 41.59.110 and 41.59.120.

Summary: Requires parties to submit written proposals and to give justifications while bargaining, and to use mediation and fact finding procedures to resolve disputes.

Reasons: APA is silent.

Explanation: Readoption of existing rule to avoid any suggestion of conflict with the new APA. This is fundamentally a substantive policy drawn from agency expertise and the statutes it administers.

Effective Date of Rule: Thirty days after filing.

March 7, 1990

Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-45-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-45-350 and 391-45-370; and

(d) WAC 10-08-230, which is supplanted by WAC 391-45-070, 391-45-090, and 391-45-260.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

((2)) (3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

((3)) (4) Chapter 391-35 WAC, which contains rules relating to petitions for clarification of existing bargaining units.

((4)) (5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

((5)) (6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

((6)) (7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

READOPTED SECTION (Readopting Order 83-04, filed 12/1/83, effective 1/1/84)

WAC 391-45-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-010 COMPLAINT CHARGING UNFAIR LABOR PRACTICES—WHO MAY FILE.

A complaint charging that any person has engaged in or is engaging in an unfair labor practice, hereinafter referred to as a "complaint" may be filed by any employee, group of employees, employee organization, employer or their agents.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-019 SPECIAL PROVISION—PRIVATE SECTOR EMPLOYEES. The provisions of chapter 391-45 WAC are inapplicable to private sector collective bargaining under chapter 49.08 RCW.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-030 FORM—NUMBER OF COPIES—FILING—SERVICE. Charges shall be in writing, in the form of a complaint of unfair labor practices. The original and three copies shall be filed with the agency at its Olympia office. The party filing the complaint shall serve a copy on each party named as a respondent.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-050 CONTENTS OF COMPLAINT CHARGING UNFAIR LABOR PRACTICES. Each complaint shall contain, in separate numbered paragraphs:

(1) The name and address of the party filing the complaint, hereinafter referred to as the complainant, and the name, address and telephone number of its principal representative.

(2) The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, hereinafter referred to as the respondent(s), and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).

(3) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(4) A listing of the sections of the Revised Code of Washington (RCW) alleged to have been violated.

(5) A statement of the relief sought by the complainant.

(6) The signature and, if any, the title of the person filing the complaint.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-070 AMENDMENT. Any complaint may be amended upon motion made by the complainant to the executive director or the examiner prior to the transfer of the case to the commission.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-090 WITHDRAWAL. Any complaint may be withdrawn by the complainant under such

conditions as the executive director or the commission may impose.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-110 INITIAL PROCESSING BY EXECUTIVE DIRECTOR. The executive director shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of the applicable statute. If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices, shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-45-350.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-130 EXAMINER—WHO MAY ACT. The examiner may be a member of the agency staff or any other individual designated by the commission or executive director. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-170 NOTICE OF ((HEARING)) RIGHT TO ANSWER. The examiner shall issue and cause to be served on the parties a notice of hearing at a time and place specified therein. Attached to the notice of hearing shall be a copy of the complaint as approved by the executive director under WAC 391-45-110. The notice of hearing shall specify the date for the filing of an answer, which shall be not less than ten days prior to the date set for hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-190 ANSWER—FILING AND SERVICE. The respondent(s) shall, on or before the date specified therefor in the notice of hearing, file with the examiner the original and three copies of its answer to the complaint, and shall serve a copy on the complainant.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-210 ANSWER—CONTENTS AND EFFECT OF FAILURE TO ANSWER. An answer filed by a respondent shall specifically admit, deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which

case the respondent shall so state, such statement operating as a denial. The failure of a respondent to file an answer or the failure to specifically deny or explain in the answer a fact alleged in the complaint shall, except for good cause shown, be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of the respondent of a hearing as to the facts so admitted.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-230 AMENDMENT OF ANSWER. The respondent may amend its answer at any time prior to the hearing. During the hearing or subsequent thereto, it may amend its answer in any case where the complaint has been amended, within such period as may be fixed by the examiner or the commission. Whether or not the complaint has been amended, the answer may, in the discretion of the examiner or the commission, be amended upon motion under such terms and within such period as may be fixed by the examiner or the commission.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-250 MOTION TO MAKE COMPLAINT MORE DEFINITE AND CERTAIN. If a complaint is alleged by a respondent to be so indefinite as to hamper the respondent in the preparation of its answer, such respondent may, on or before the date specified for the filing of an answer, file a motion requesting an order directing that the complaint be made more definite and certain. Such motion shall be filed with the examiner and served by the moving party on the complainant and on any other parties. The filing of such motion will extend the time during which the respondent must file and serve an answer until such date as the executive director or examiner may set. The examiner may require the complainant to file and serve a statement supplying information necessary to make the complaint definite and certain.

AMENDATORY SECTION (Amending Order 88-05, filed 5/31/88)

WAC 391-45-260 SETTLEMENT CONFERENCE. (1) Prior to hearing, the parties may be requested to participate in a settlement conference conducted by a member of the commission staff other than the assigned examiner. During the course of a settlement conference, the parties will be encouraged, on factual and legal grounds including precedent on the particular subject, to resolve the unfair labor practice dispute. Participation in the settlement conference is voluntary, and the refusal of a party to participate shall not prejudice the nonparticipating party in any manner.

(2) Whether or not a "settlement conference" has been held, the examiner may hold a "prehearing conference" to deal with procedural matters related to the hearing.

AMENDATORY SECTION (Amending Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-270 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its own complaint and shall have the burden of proof. During the course of the hearing, the examiner may, upon motion by any party, or on his or her own motion, sequester witnesses. It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: PROVIDED, HOWEVER, That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-290 BRIEFS AND PROPOSED FINDINGS. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of fact, conclusions of law and order, or both, at such time as may be fixed by the examiner. The examiner may direct the filing of briefs when he or she deems such filing warranted by the nature of the proceeding or of particular issues therein.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-310 EXAMINER DECISION. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-330 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: PROVIDED, HOWEVER, That this section shall be inoperative after the filing of a petition for review with the commission.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-45-350 **PETITION FOR REVIEW OF EXAMINER DECISION.** The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission, the executive director or his designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-370 **FILING AND SERVICE OF CROSS-PETITION FOR REVIEW.** Where a petition for review has been timely filed under WAC 391-45-350, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-390 **COMMISSION ACTION.** On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make

oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the record and any briefs or arguments submitted to it on review, determine the matter.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-410 **UNFAIR LABOR PRACTICE REMEDIES.** If an unfair labor practice is found to have been committed, the commission or its examiner shall issue a remedial order. In calculating back pay orders, the following shall apply:

(1) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee may have received during the period of the violation, and the employer shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as a credit to the benefit record of the employee.

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-430 **MOTION FOR TEMPORARY RELIEF.** In addition to the remedies available under WAC 391-45-410, any complainant in an unfair labor practice proceeding may file a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

(1) The complainant shall, at the time its complaint is filed or as soon thereafter as facts giving rise to the request for temporary relief become known, provide written notice to the executive director of its intent to make a motion for temporary relief and shall, at the same time, serve a copy of such notice on each of the other parties to the proceedings.

(2) Upon the filing of a notice of intent to make a motion for temporary relief, the executive director shall expedite the processing of the matter under WAC 391-45-110.

(3) After the determination of the executive director that the complaint states a cause of action, any complainant desiring temporary relief may file with the executive director a motion for temporary relief together with affidavits as to the risk of irreparable harm and the adequacy of legal remedies, and shall serve a copy of such motion and affidavits on all other parties to the proceedings. The other parties shall have seven calendar days thereafter to file and serve counter-affidavits.

(4) The executive director shall forward all such motions and affidavits to the commission, which shall determine whether an injunction pendente lite should be sought. In making such determination, the commission shall adhere to the following policy:

"The name and authority of the public employment relations commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 391-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the executive director, acting in the name and on behalf of the commission and with the assistance of the attorney general, shall petition the superior court of the county in which the main office of the employer is located or wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been procured, the complaint which has been the basis for such temporary relief shall be heard expeditiously and the case shall be given priority over all other cases except cases of like character.

(c) If the commission concludes that temporary relief should not be sought prior to the conclusion of administrative proceedings in the matter, such determination shall not bar renewal of the request for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-431 SPECIAL PROVISION—PUBLIC EMPLOYEES. WAC 391-45-430 is inapplicable to complaints filed under chapter 41.56 RCW. Provision for judicial relief is made by RCW 41.56.190.

READOPTED SECTION (Readopting Order 80-7, filed 9/30/80, effective 11/1/80)

WAC 391-45-550 COLLECTIVE BARGAINING—POLICY. It is the policy of the commission to promote bilateral collective bargaining negotiations between employers and the exclusive representatives of their employees. Such parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into the dispute between them. The commission deems the determination as to whether a particular subject is mandatory or nonmandatory to be a question of law and fact to be determined by the commission, and which is not subject to waiver by the parties

by their action or inaction. It is the policy of the commission that a party which engages in collective bargaining with respect to any particular issue does not and cannot thereby confer the status of a mandatory subject on a nonmandatory subject.

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-45-552 SPECIAL PROVISION—EDUCATIONAL EMPLOYEES. The obligation to bargain in good faith imposed upon an employer and the exclusive representative of its employees, respectively, by RCW 41.59.020(2) and 41.59.140 (1)(e) or (2)(c) includes:

(1) The obligation to submit, as to each subject for bargaining advanced by the party, a written statement of the language proposed for incorporation in or deletion from the collective bargaining agreement between the parties, together with a written or oral explanation or justification of such proposals.

(2) The obligation to submit, as to each subject for bargaining advanced by the other party, at least one written response thereto, together with a written or oral explanation of such response: PROVIDED, HOWEVER, That a party which asserts in a written response that a subject for bargaining advanced by the other party is not a mandatory subject for collective bargaining may thereafter refuse to make further proposals as to such subject or subjects for bargaining.

(3) The obligation to receive proposals from the other party as to all subjects for bargaining in dispute between the parties and, until a legal impasse has been reached, to refrain from demanding the removal of any such subject from the bargaining table on the basis that it is not a mandatory subject for collective bargaining.

(4) The obligation to exhaust the mediation and fact finding procedure established pursuant to RCW 41.59.120 before implementing all or any part of a final offer in negotiations, except as provided in RCW 41.59.930.

WSR 90-06-075

PERMANENT RULES

**PUBLIC EMPLOYMENT
RELATIONS COMMISSION**

[Filed March 7, 1990, 11:38 a.m.]

Date of Adoption: January 12, 1990.

Purpose: Chapter 391-95 WAC is adopted to set forth complete procedures for the processing of union security dispute cases before the commission.

Citation of Existing Rules Affected by this Order: See below.

Statutory Authority for Adoption: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110.

Other Authority: See below.

Pursuant to notice filed as WSR 89-23-025 on November 7, 1989.

WAC 391-95-001 Scope—Contents—Other rules.

Purpose: Identifies chapter, makes cross-references to other rules.

Statute: Chapters 28B.52, 41.56, 41.58, 41.59 and 53.18 RCW (hereinafter: "substantive statutes"), generally.

Summary: Refers to other rules, as follows: Chapter 10-08 WAC for conduct of "adjudicative proceedings", generally; chapter 391-08 WAC for general procedural rules; chapter 391-25 WAC for representation cases; chapter 391-35 WAC for unit clarification cases; chapter 391-45 WAC for unfair labor practice cases; chapter 391-55 WAC for impasse resolution cases; and chapter 391-65 WAC for grievance arbitration cases.

Reasons: RCW 34.05.250 permits agencies to adopt rules different from model rules by stating reasons for variance. WAC 10-08-001 is similar.

Explanation: Amendment of existing rule to identify the areas where PERC does things differently than chapter 10-08 WAC. Details of the interface between chapters 391-08 and 10-08 WAC are specified in WAC 391-08-001.

WAC 391-95-010 Union security—Obligation of exclusive bargaining representative.

Purpose: Set forth substantive requirements that exclusive bargaining representative must follow to enforce a union security provision.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires exclusive bargaining representative to notify bargaining unit employees of their union security obligations, including amounts owed and effects of failure to pay.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to continue the substantive standards to be followed in union security cases. The existing rule is derived from federal and agency precedent concerning the regulation of union security disputes.

WAC 391-95-030 Union security—Assertion of right of nonassociation.

Purpose: Clear framing of issues prior to proceedings before PERC.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires employee asserting right of nonassociation to give notice to the exclusive bargaining representative, together with name of nonreligious charity which is to receive alternative payments. Specifies that right of nonassociation must be based on bona fide religious tenets or teachings of a church or other religious body of which the employee belongs.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to give effect to the substantive statutes administered by PERC. The APA and model rules are silent on this subject matter.

WAC 391-95-050 Union security—Response by exclusive bargaining representative.

Purpose: Clear framing of issues prior to proceedings before PERC.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires exclusive bargaining representative to respond to claim of right of nonassociation within 60 days of receipt of written notice of the claim, and that initial resolution efforts to be undertaken through contractual means.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to give effect to substantive agency policy drawn from federal precedent and agency expertise.

WAC 391-95-070 Union security—Filing of dispute with commission.

Purpose: Establish procedures for initiating a union security dispute case with PERC.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Exclusive bargaining representative or the employee claiming a right of nonassociation may file a petition for declaratory ruling with PERC in the event that the union security dispute cannot be resolved. The parties may litigate issues concerning the employee's eligibility to assert a right of nonassociation or the identity of the nonreligious charity that is to receive alternative payments.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 only generally states requirements for initiating an adjudicative proceeding.

Explanation: Readoption of the existing rule is necessary to continue substantive agency practice. The existing rule specifies that union security disputes are limited in nature, and is drawn from federal and agency precedent and practice in the area.

WAC 391-95-090 Union security—Petition form—Number of copies—Filing—Service.

Purpose: Specifies number of copies and filing of complaints at Olympia office; requires service on other parties.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: The party initiating a union security case must file an original and three copies with PERC's Olympia office and must serve the other party.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding." WAC 10-08-110 would permit filing at "any" office of the agency.

Explanation: Readoption of existing rule to avoid any claim of conflict with model rules. An original and three copies of documents are needed for circulation to the members of the commission in the event of intraagency appeals. Filing at the Olympia office is necessary because PERC's Yakima and Spokane offices are not staffed on a full-time basis (making it difficult to ascertain the time of "filing" for purpose of administering a six-month "statute of limitations") and because all

docketing and initial processing by the executive director are performed at the Olympia office.

WAC 391-95-110 Union security—Contents of petition.

Purpose: Details information to be included in a petition for ruling on union security obligations.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Requires identifying information for agency docket records and detailed statement of alleged facts for efficient processing by PERC.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-035 provides loosely for an "application for an adjudicative proceeding" to specify the issue to be adjudicated in the proceeding.

Explanation: Readoption of existing rule to avoid conflict with model rules at WAC 10-08-035 and to obtain details needed by PERC for the efficient processing of cases.

WAC 391-95-130 Union security—Escrow of disputed funds.

Purpose: Reduce potential for parallel litigation to preserve job rights of employees involved in union security disputes.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Provides for suspension of action to enforce union security agreement by discharge while disputed funds are held in escrow pending resolution of the proceedings before PERC. Provides that escrowed funds are to draw interest.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules.

Explanation: Readoption of the existing rule is necessary to deal with substantive matters not otherwise addressed by the APA or the model rules. The existing rule is drawn from agency practice and precedent.

WAC 391-95-150 Union security—Initial processing by executive director.

Purpose: Requires review of petitions to determine whether they state a cause of action.

Statute: RCW 28B.52.045, 41.56.122, 41.58.050 and 41.59.100.

Summary: Assuming all of the facts alleged in the petition to be true and provable, the executive director determines whether, as a matter of law, a right to non-association could be found. If not, the petition is dismissed by written order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.416 provides for the disposition of cases where the agency concludes that no adjudicative proceeding should be conducted. This rule delegates substantive decision-making authority to the executive director, to conduct what amounts to an automatic "summary judgment" on the contents of the complaint.

Explanation: Readoption of existing rule to insure that invalid petitions are dismissed at the earliest opportunity, with minimum investment of state resources, and that legitimate cases are sent to hearing.

WAC 391-95-170 Union security—Prehearing conference—Notice of hearing.

Purpose: To encourage settlements prior to investing state resources in a formal hearing.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Permits conduct of prehearing conference at discretion of examiner, to deal with both procedural and substantive matters. Permits amendment and withdrawal of notice of hearing.

Reasons: RCW 34.05.060 encourages informal settlements. RCW 34.05.431(1) requires agency to adopt rules specifying conditions and manner in which prehearing conferences are to be held. WAC 10-08-130 provides for conduct of prehearing conferences. RCW 34.05.434 sets out the type of information generally required in notices of hearing. WAC 10-08-040 prescribes specific contents of the notice. However, the existing PERC rule contains more detail and is far more specific in its requirements.

Explanation: Amendment of existing rule to incorporate concepts of prehearing conference, settlement and amendment or withdrawal of notice of hearing, leaving the actual contents of the notice of hearing to the provisions of the APA and the model rules.

WAC 391-95-190 Union security—Hearings—Who shall conduct.

Purpose: Defines who may hear the complaints.

Statute: RCW 28B.52.045, 41.56.122, 41.58.050 and 41.59.100.

Summary: Examiner can be PERC staff member or agency designee; with notice, examiners can be substituted.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. WAC 10-08-050 discusses the use of personnel supplied by the Office of Administrative Hearings, but PERC is exempt from the Office of Administrative Hearings and chapter 34.12 RCW.

Explanation: Readoption of existing rule because the "agency head" generally does not generally preside over PERC's adjudicative hearings. The chief administrative law judge does not govern the matters covered by this rule.

WAC 391-95-230 Hearings—Nature and scope.

Purpose: Explains nature of union security dispute hearings and substantive elements of union security cases.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Specifies that hearings conducted pursuant to this chapter are limited to issues concerning union security disputes. Explains the employee's responsibility in presenting a case supporting a claim for alternative payments to union security.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules. Chapter 34.05 RCW and

chapter 10-08 WAC are written to apply to "adjudicative proceedings" where the agency itself takes an advocacy role, and so do not adequately describe the "impartial" role of PERC in unfair labor practice hearings. WAC 10-08-190 no longer contains a reference to public hearings.

Explanation: Amendment of existing rule to clearly define the impartial posture of PERC, to permit sequestering of witnesses, to assign the burden of proof, and to identify the substantive standards to be applied.

WAC 391-95-250 Examiner decision.

Purpose: Empowers examiner to issue initial findings of fact, conclusions of law and an order.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: After the close of the hearing, the examiner is to issue findings of fact, conclusions of law and an order.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner for the initial decision. The commission is a reviewing body in union security cases.

WAC 391-95-260 Withdrawal or modification of examiner decision.

Purpose: Allows examiner to modify the decision upon discovery of a mistake or new evidence.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Within 20 days following the issuance of a decision (i.e., prior to the expiration of the time for filing a petition for intraagency review), the examiner can withdraw or modify the decision if a mistake is discovered, or newly-discovered evidence is claimed.

Reasons: RCW 34.05.220 (1)(a) provides for agencies to adopt rules for processing of cases before the agency. RCW 34.05.461 regulates form and contents of initial order.

Explanation: Readoption of existing rule to delegate substantive decision-making authority to the examiner to continue to act under these limited circumstances. The commission is a reviewing body in unfair labor practice proceedings.

WAC 391-95-270 Proceedings before the commission—Petition for review.

Purpose: Allows for intraagency review of an examiner's decision by the commission.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Within 20 days following the issuance of an examiner's decision, the parties may petition for intraagency review ("appeal") of the examiner's decision.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intraagency appeals, and specifies a 10-day period for filing of appeal briefs.

Explanation: Readoption of existing rule is necessary to the efficient operation of PERC. The procedures and briefing schedules specified in the model rule are different from those established by PERC after actual experience with the types of issues encountered in labor-management relations.

WAC 391-95-280 Filing and service of cross-petition for review.

Purpose: Allows a party to file a cross-petition for review of an examiner's decision.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Allows an additional 7 days for the filing of a cross-petition for review.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 specifies a 20-day period for all intraagency appeals.

Explanation: Readoption of existing rule is necessary to preserve a procedure that has worked well for PERC and its clientele up to this time. PERC adopted the "cross-petition" procedure to obviate the filing of "strategic" appeals that might otherwise be withheld.

WAC 391-95-290 Commission action.

Purpose: Explains commission action in appeals of union security dispute cases.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Transfers entire case to the commission when intraagency appeal procedures have been invoked. Permits commission to call for oral argument.

Reasons: RCW 34.05.464(1) authorizes agencies to provide, by rule, for intraagency review of initial orders. WAC 10-08-211 does not deal with oral argument.

Explanation: Readoption of existing rule is necessary to specify agency action on appeals, consistent with RCW 34.05.464(1).

WAC 391-95-310 Implementation.

Purpose: Describes implementation of alternative payments in the event that a claim of nonassociation is granted.

Statute: RCW 28B.52.045, 41.56.122 and 41.59.100.

Summary: Explains substantive procedures that the parties are to follow in the event that an employee is allowed to make alternative payments to a nonreligious charity.

Reasons: RCW 34.05.220(4) encourages agencies to codify their substantive policies in rules. The model rules do not refer to this subject matter.

Explanation: Readoption of the existing rule is necessary to continue a substantive policy that is within the agency's scope of operation to determine.

Effective Date of Rule: Thirty days after filing.

March 7, 1990
Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-001 SCOPE—CONTENTS—OTHER RULES. This chapter governs proceedings before the public employment relations commission relating to union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-95-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-95-270 and 391-95-280; and

(d) WAC 10-08-230, which is supplanted by WAC 391-95-200.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

((2)) (3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

((3)) (4) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

((4)) (5) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

((5)) (6) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

((6)) (7) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

READOPTED SECTION (Readopting Order 88-10, filed 5/31/88)

WAC 391-95-010 UNION SECURITY—OBLIGATION OF EXCLUSIVE BARGAINING REPRESENTATIVE. An exclusive bargaining representative which desires to enforce a union security provision contained in a collective bargaining agreement negotiated under the provisions of chapter 28B.52, 41.56, or 41.59 RCW shall provide each affected employee with a copy of the collective bargaining agreement containing the union security provision and shall specifically advise each employee of his or her obligation under that agreement, including informing the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

READOPTED SECTION (Readopting Order 88-10, filed 5/31/88)

WAC 391-95-030 UNION SECURITY—ASSERTION OF RIGHT OF NONASSOCIATION. An employee who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall notify the exclusive bargaining representative, in writing, of the claim of a right of nonassociation and shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-050 UNION SECURITY—RESPONSE BY EXCLUSIVE BARGAINING REPRESENTATIVE. Within sixty days after it is served with written notice of a claimed right of nonassociation under WAC 391-95-030, the exclusive bargaining representative shall respond to the employee, in writing, both as to the eligibility of the employee to make alternative payments and as to the charitable organization(s) suggested by the employee. If a dispute exists concerning whether the employee is within a class of employees obligated under the terms of the union security provision, all such matters of contractual interpretation shall be resolved under such procedures as may be available for unit clarification or resolution of disputes concerning the interpretation or application of the collective bargaining agreement.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-070 UNION SECURITY—FILING OF DISPUTE WITH COMMISSION. In the event of a disagreement between an employee and his or her exclusive bargaining representative as to the eligibility of such employee to make alternative payments or as to the organization which is to receive such payments, either the employee or the exclusive bargaining representative may file with the commission a petition for a declaratory ruling on the union security obligations of the affected employee.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-090 UNION SECURITY—PETITION FORM—NUMBER OF COPIES—FILING—SERVICE. Each petition for declaratory ruling on union security obligations shall be prepared in conformance with WAC 391-95-110. The original and three copies of the petition shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the dispute and on the employer.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-110 UNION SECURITY—CONTENTS OF PETITION. Each petition shall be headed "In the matter of the petition of (name of petitioning party) for a declaratory ruling concerning the union security obligations of (name of affected employee) under a collective bargaining agreement between (name of employer) and (name of exclusive bargaining representative)," and shall contain:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative, if any.

(3) The name, address and telephone number of the affected employee and the name, address and telephone number of his or her representative.

(4) Statements, in additional numbered paragraphs, of the matters in dispute.

(5) A copy, attached to the petition as an exhibit, of the union security provision under which the dispute arises.

(6) Any other relevant facts.

(7) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-95-130 UNION SECURITY—ESCROW OF DISPUTED FUNDS BY EMPLOYER. Upon being served with a copy of a petition filed under WAC 391-95-070, the employer shall preserve the status quo by withholding and retaining the disputed dues for periods during the pendency of the proceedings before the commission. Said funds shall draw interest at the rate provided by commercial banks for regular pass-book savings accounts. While the proceedings remain pending before the commission, the employer shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations. This provision shall be applicable to employees covered by chapter 41-.56 RCW only upon the employee submitting to the employer a signed authorization for the deduction.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-150 UNION SECURITY—INITIAL PROCESSING BY EXECUTIVE DIRECTOR. The matter shall be referred to the executive director who shall determine whether the facts as alleged may constitute a basis for assertion of a right of nonassociation within the meaning of the applicable statute. If it is determined that the claim does not, as a matter of law, constitute a basis for assertion of a right of nonassociation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall

assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-95-270.

AMENDATORY SECTION (Amending Resolution No. 85-01, filed 9/16/85)

WAC 391-95-170 UNION SECURITY—PRE-HEARING CONFERENCE—NOTICE OF HEARING. There shall be issued and served on each of the parties to the dispute and on the employer a notice of hearing before an examiner at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing. The examiner has discretion to conduct a prehearing conference to discuss with the parties all contested issues of fact, law, and procedure which may arise in union security cases. The parties are encouraged to reach binding stipulations on all remaining issues during the course of the prehearing conference.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-190 UNION SECURITY—HEARINGS—WHO SHALL CONDUCT. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as an examiner. At any time, an examiner may be substituted for the examiner previously presiding.

AMENDATORY SECTION (Amending Order 88-10, filed 5/31/88)

WAC 391-95-230 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative payments. During the course of the hearing, the examiner may, upon motion by any party, or upon his or her own motion, sequester witnesses. The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(1) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the objection is based on a bona fide religious teaching of a church or religious body; and

(c) That the claimant employee is a member of such church or religious body.

(2) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the religious nature of the objection is genuine and in good faith.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-250 EXAMINER DECISION. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law, and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-260 WITHDRAWAL OR MODIFICATION OF EXAMINER DECISION. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change, or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: PROVIDED, HOWEVER, That this section shall be inoperative after the filing of a petition for review with the commission.

READOPTED SECTION (Readopting Resolution No. 85-01, filed 9/16/85)

WAC 391-95-270 PROCEEDINGS BEFORE THE COMMISSION—PETITION FOR REVIEW. The final order of the examiner shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served upon the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

READOPTED SECTION (Readopting Order 83-07, filed 12/1/83, effective 1/1/84)

WAC 391-95-280 FILING AND SERVICE OF CROSS-PETITION FOR REVIEW. Where a petition for review has been timely filed under WAC 391-95-270, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

READOPTED SECTION (Readopting Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-290 COMMISSION ACTION. The executive director shall transfer the entire record in the proceeding to the commission. The commission shall determine the matter.

READOPTED SECTION (Readopting Order 81-01, filed 1/6/81)

WAC 391-95-310 IMPLEMENTATION. Where alternative payments in lieu of payments under a union security agreement have been agreed upon by the parties or ordered by the commission, the employer shall release any funds (together with accumulated interest) held in escrow under WAC 391-95-130 to the designated charitable organization and the employee shall thereafter make payments and shall furnish written proof to the exclusive bargaining representative that such payments have been made to the designated charitable organization. Where the employee is found ineligible to make alternative payments, the employer shall release any funds (together with accumulated interest) held in escrow to the exclusive bargaining representative and shall enforce the union security provision according to its terms. The employer and the exclusive bargaining representative shall allow the affected employee a grace period of not less than thirty days following the agreement or final order of the commission to correct any arrearages.

WSR 90-06-076**NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER**

[Memorandum—March 1, 1990]

The Design Committee of the Washington State Convention and Trade Center will meet on Wednesday, March 7, at 1:00 p.m. in Room 601 of the Convention and Trade Center, 800 Convention Place, Seattle.

The Board of Directors of the Washington State Convention and Trade Center will meet on Wednesday, March 7, 1990, at 2:00 p.m. in Room 601 of the Convention and Trade Center, 800 Convention Place, Seattle.

If you have any questions regarding these meetings, please call 447-5000.

WSR 90-06-077
EMERGENCY RULES
DEPARTMENT OF REVENUE
[Filed March 7, 1990, 1:25 p.m.]

Date of Adoption: March 7, 1990.

Purpose: To repeal that portion of the rule concerning warranties and maintenance agreements which are relocated in a separate rule, WAC 458-20-257.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-107.

Statutory Authority for Adoption: RCW 82.32.300.

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 provisions of this rule concerning warranties and maintenance agreements were held invalid by a court and they are repealed in this rule. Warranties and maintenance agreements are relocated to WAC 458-20-257.

Effective Date of Rule: Immediately.

March 7, 1990
Edward L. Faker
Assistant Director

AMENDATORY SECTION (Amending Order ET 86-1, filed 1/7/86)

WAC 458-20-107 ~~SELLING PRICE - ADVERTISED PRICES INCLUDING SALES TAX~~ (~~= WARRANTIES, MAINTENANCE AGREEMENTS, SERVICE CONTRACTS~~). (1) SELLING PRICE. Under the provisions of RCW 82.08.020 the retail sales tax is to be collected and paid upon retail sales, measured by the "selling price."

(a) The term "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible personal property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than taxes imposed under this chapter if the seller advertises the price as including the tax or that the seller is paying the tax, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; . . ." (See RCW 82.08.010(1)).

(b) Concerning the tax liabilities and benefits in connection with "trade-in" transactions, see WAC 458-20-247.

(c) RCW 82.08.050 specifically requires that the retail sales tax must be stated separately from the selling price on any sales invoice or other instrument of sale,

i.e., contracts, sales slips, and/or customer billing receipts. (For an exception covering restaurant receipts of Class H liquor licensees, see WAC 458-20-119). This is required even though the seller and buyer may know and agree that the price quoted is to include state and local taxes, including the retail sales tax. The law creates a "conclusive presumption" that, for purposes of collecting the tax and remitting it to the state, the selling price quoted does not include the retail sales tax. This presumption is not overcome or rebutted by any written or oral agreement between seller and buyer. However, selling prices may be advertised as including the tax or that the seller is paying the tax and, in such cases, the advertised price shall not be considered to be the taxable selling price under certain prescribed conditions explained in this ~~((rule))~~ section. Even when prices are advertised as including the sales tax, the actual sales invoices, receipts, contracts, or billing documents must list the retail sales tax as a separate charge. Failure to comply with this requirement may result in the retail sales tax due and payable to the state being computed on the gross amount charged even if it is claimed to already include all taxes due.

~~(2) ADVERTISING PRICES INCLUDING TAX.~~

~~(a) The law provides that a seller may advertise prices as including the sales tax or that the seller is paying the sales tax under the following conditions:~~

~~((+)) (i) The words "tax included" are stated immediately following the advertised price in print size at least half as large as the advertised price print size, unless the advertised price is one in a listed series;~~

~~((2)) (ii) When advertised prices are listed in series, the words "tax included in all prices" are placed conspicuously at the head of the list in the same print size as the list;~~

~~((3)) (iii) If the price is advertised as including tax, the price listed on any price tag shall be shown in the same way; and~~

~~((4)) (iv) All advertised prices and the words "tax included" are stated in the same medium, whether oral or visual, and if oral, in substantially the same inflection and volume.~~

(b) If these conditions are satisfied, as applicable, then price lists, reader boards, menus, and other price information mediums need not reflect the item price and separately show the actual amount of sales tax being collected on any or all items.

(c) The scope and intent of the foregoing is that buyers have the right to know whether retail sales tax is being included in advertised prices or not and that the tax is not to be used for the competitive advantage or disadvantage of retail sellers.

(3) See: Wac 458-20-257 for Warranties (Guarantees) and Maintenance Agreements (Service Contracts).

~~((WARRANTIES, MAINTENANCE AGREEMENTS, AND SERVICE CONTRACTS~~

~~For purposes of this rule, the following definitions apply:~~

~~Warranties, sometimes referred to as guarantees, are agreements which call for the replacement or repair of tangible personal property with no additional charge for~~

~~parts or labor, or both, based upon the happening of some unforeseen occurrence, e.g., the property breaks down.~~

~~Maintenance agreements, sometimes referred to as service contracts, are agreements which require the specific performance of repairing, cleaning, altering, or improving of tangible personal property on a regular or periodic basis to ensure its continued satisfactory operation.~~

~~Manufacturer's warranties are generally included within the retail selling price of the property and no additional charge is made. However, when any additional charge is made for any warranty protecting tangible personal property sold, additional tax liability is incurred depending on how the warranty is sold. If it is sold by the retail seller of the property protected by the warranty and concomitant with the sale of that property, the entire charge, including the charge for the warranty, is subject to retailing business tax and retail sales tax. This is so even though the warranty charge may be separately billed or separately itemized on any billing. Such warranty sales are deemed to be "for labor and services rendered in respect to . . . installing, repairing, cleaning, altering, imprinting, or improving tangible personal property of or for consumers . . ." and therefor they are "retail sales" under RCW 82.04.050.~~

~~Warranties which are sold by any person who was not the seller of the property protected by the warranty or which are purchased subsequent to and distinct from the original warranty purchased concomitant with the property, are deemed to be services rather than retail sales. Charges for such warranties are subject to the service business tax and are not subject to retail sales tax.~~

MAINTENANCE AGREEMENTS

~~Maintenance agreements and service contracts require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or improving of tangible personal property. Therefor, charges for contracts or agreements of this nature are retail sales, subject to retailing business tax and retail sales tax under all circumstances.~~

~~In the cases of both warranties and maintenance agreements, any actual additional charge made to the consumer because of the providing of materials or the performance of actual labor pursuant to such agreements is separately taxable under the retailing business tax and retail sales tax. This includes so-called "deductible" amounts not covered by the warranty or service agreement.~~

~~Moreover, if an agreement contains warranty provisions but also requires the actual specific performance of inspection, cleaning, servicing, altering, or improving the property on a regular or periodic basis, without regard to the operating condition of the property, such agreements are fully taxed as service agreements, not warranties:))~~

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.

WSR 90-06-078 EMERGENCY RULES DEPARTMENT OF REVENUE

[Filed March 7, 1990, 1:27 p.m.]

Date of Adoption: March 7, 1990.

Purpose: This rule describes the taxation of warranties and maintenance agreements, correcting the portions of WAC 458-20-107 held invalid by a court.

Statutory Authority for Adoption: RCW 82.32.300.

Other Authority: *Sound Hyundai, Inc. v. State of Washington*, Thurston County No. 88-2-02100-4.

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: A court has ruled that the current version of WAC 458-20-107 concerning extended warranties is invalid. This new rule corrects the invalidity, permitting the Department of Revenue to administer the tax laws with as little disruption as possible.

Effective Date of Rule: Immediately.

March 7, 1990

Edward L. Faker
Assistant Director

NEW SECTION

WAC 458-20-257 WARRANTIES AND MAINTENANCE AGREEMENTS. (1) DEFINITIONS. For the purposes of this section, the following terms will apply:

(a) Warranties. Warranties, sometimes referred to as guarantees, are agreements which call for the replacement or repair of tangible personal property with no additional charge for parts or labor, or both, based upon the happening of some unforeseen occurrence, e.g., the property needs repair within the warranty period.

(b) Warrantor. The warrantor is the person obligated, as specified in the warranty agreement, to perform labor and/or provide materials to the owner of the personal property to which the warranty agreement relates.

(c) Maintenance Agreements. Maintenance agreements sometimes referred to as service contracts, are agreements which require the specific performance of repairing, cleaning, altering, or improving of tangible personal property on a regular or periodic basis to ensure its continued satisfactory operation.

(2) B&O TAX.

(a) Manufacturer's warranties included in the retail selling price of the article being sold.

(i) When a manufacturer's warranty is included in the retail selling price of the property sold and no additional charge is made, the value of the warranty is a part of the selling price. The value of the warranty is included in the "gross proceeds of sale" of the article sold and reported under the appropriate classification, e.g. retailing, wholesaling, etc.

(ii) When a repair is made by the manufacturer-warrantor under the warranty, the value of the labor and/or parts provided are not subject to B&O tax.

(iii) When a person other than the manufacturer-warrantor makes a repair for the manufacturer-warrantor, the person making the repair is making a wholesale sale of the repair service to the manufacturer-warrantor. The person doing the repair is B&O taxable under the wholesaling classification on the value of the parts and labor provided.

(b) Non-Manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.

(i) When a warranty is sold for a charge separate from the charge of the product, e.g., a warranty extending the manufacturer's warranty, the charge is reported in the service and other activities classification of the B&O tax.

(ii) When a repair is made by the warrantor under a separately stated warranty, the value of the labor and/or parts provided are not subject to B&O tax.

(iii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale of the repair service to the warrantor. The person making the repair is B&O taxable under the retailing classification.

(c) Maintenance Agreements.

(i) Maintenance agreements (service contracts) require the periodic specific performance of inspecting, cleaning, physical servicing, altering, and/or improving of tangible personal property. Charges for maintenance agreements are retail sales, subject to retailing B&O tax and retail sales tax under all circumstances.

(d) Amounts received as a commission or other consideration for selling a warranty or maintenance agreement of a third-party warrantor or provider are generally subject to B&O tax under the service and other activities classification. However, if the seller of the warranty is licensed under chapter 48.17 RCW with respect to this selling activity, the commission is subject to B&O tax under the insurance agent classification.

(e) In the event a warrantor purchases an insurance policy to cover the warranty, amounts received by the warrantor under the insurance policy are insurance claim reimbursements not subject to B&O tax.

(3) RETAIL SALES TAX.

(a) Manufacturer's warranties included in the retail selling price of the article being sold.

(i) When a manufacturer's warranty is included in the retail selling price of the property sold and no additional or separate charge is made, the value of the warranty is a part of the selling price and retail sales tax applies to the entire selling price of the article being sold.

(ii) When a repair is made by the manufacturer-warrantor under the warranty, the repair performed is not a retail sale and no retail sales tax is collected.

(iii) When a person other than the manufacturer-warrantor makes a repair for the manufacturer-warrantor, the person making the repair is making a wholesale sale of the repair service to the manufacturer-warrantor. No retail sales tax is collected from the manufacturer-warrantor.

(b) Non-Manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.

(i) When a warranty is sold for a charge separate from the charge of the product, e.g., a warranty extending the manufacturer's warranty, the sale is not a retail sale and no retail sales tax is collected on the amount charged.

(ii) When a repair is made by the warrantor under a its own separately stated warranty, the value of the labor and/or parts provided is not a retail sale and no retail sales tax is collected.

(iii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale of the repair service to the warrantor. Retail sales tax is collected from the warrantor measured by the labor and/or parts provided.

(c) Maintenance Agreements are sales at retail and subject to retail sales tax under all circumstances.

(i) Parties sub-contracting to the party selling the maintenance agreement are making sales at wholesale, and are required to take from their customer (maintenance seller) a resale certificate as provided in WAC 458-20-102.

(4) USE TAX.

(a) Manufacturer's warranties included in the retail selling price of the article being sold.

(i) When a manufacturer-warrantor makes repairs required under its warranty, the value of the parts used in making the repairs is not subject to use tax.

(ii) Where a third party makes repairs for a manufacturer-warrantor, the transaction is a wholesale sale and the parts used in the repair are not subject to use tax.

(b) Non-Manufacturer's warranties and manufacturer's warranties not included in the retail selling price of the article being sold.

(i) When a repair is made by the warrantor under a separately stated warranty, the warrantor is the consumer of the parts and the parts are subject to use tax measured by the warrantor's cost.

(ii) When a person other than the warrantor makes a repair for the warrantor, the person making the repair is making a retail sale to the warrantor. Retail sales tax, not use tax, is collected.

(c) Maintenance Agreements.

(i) Persons performing services under the requirements of maintenance agreements sold by them, are not subject to use tax or retail sales tax on materials which become a part of the required repairs or services.

(5) In the event services are provided in addition to any warranty or maintenance agreement, such services are separately taxable as retail sales, subject to retail sales tax and retailing B&O tax. This includes so-called "deductible" amounts not covered by a warranty or maintenance agreement.

(6) If an agreement contains warranty provisions but also requires the actual specific performance of inspection, cleaning, servicing, altering, or improving the property on a regular or periodic basis, without regard to the operating condition of the property, such agreements are fully taxable as maintenance agreements, not warranties.

(7) EXAMPLES:

(a) An automobile dealer sells a vehicle to a customer for selling price of \$15,000 cash and the selling price includes a manufacturer's limited warranty for 5 years or 50,000 miles. The owner of the vehicle has \$600 (\$200 parts and \$400 labor) warranty work, paying no deductible, performed by the dealer who is not the manufacturer-warrantor. The tax liability of the dealer is as follows:

(i) Retail sales tax is collected on the \$15,000 selling price.

(ii) The \$15,000 selling price is reported under the retailing B&O tax classification. The \$600 repair is reported under the Wholesaling B&O tax classification.

(iii) The \$200 of parts used in the repair are not subject to use tax.

(b) The automobile dealer in example (a) also sells its own extended warranty to the customer for \$200. The dealer insures itself with an insurance carrier and under the policy, claims are paid on the retail value of the repairs. In addition to the repairs in example (a), the customer has the dealer complete \$500 of repairs under the dealer's extended warranty. The customer paid the \$100 deductible and the dealer received \$400 from his insurance carrier. In completing the repair, the dealer installed parts from its inventory which had a cost to the dealer of \$150 and subcontracted part of the repair to an electrical shop which charged the dealer \$200. The tax liability to the dealer and the subcontractor are as follows:

(i) The dealer reports the \$200 sale of the warranty under the service and other activities classification of B&O tax. No retail sales tax is collected on the sale.

(ii) The \$100 deductible received by the dealer is a retail sale subject to retail sales tax and retailing B&O tax.

(iii) The \$400 received by the dealer from the insurance company is a non-taxable insurance claim reimbursement.

(iv) The dealer is the consumer of the parts removed from its inventory and used in the repair. The \$150 dealer cost of the parts taken from inventory is subject to use tax.

(v) The subcontractor is making a retail sale to the dealer subject to retail sales tax and retailing B&O.

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 90-06-079
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed March 7, 1990, 1:31 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend buoy brand requirements.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Changes buoy brand number to vessel registration number.

Reasons Supporting Proposal: Currently the department assigns both vessel registration and buoy brand numbers. This reduces the number to one and provides ease of enforcement.

Name of Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, 586-2429; **Implementation:** Sharon Whitehead, 115 General Administration Building, Olympia, 753-6517; and **Enforcement:** James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule changes the buoy brand number, required for unattended commercial gear, from a three or four digit assigned number to the vessel's WDF registration number. This provides for reduced work at fisheries and ease of enforcement. This has a delayed effective date to accommodate the requirement for fishers to change their buoy numbers.

Proposal Changes the Following Existing Rules: See above.

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

This proposal does not effect 10% of the businesses in any one three digit industrial classification nor 20% of all businesses.

Hearing Location: Large Conference Room, General Administration Building, 210 11th Street, First Floor, Olympia, WA 98504, on April 11, 1990, at 1:00 p.m.

Submit Written Comments to: Hearings Officer, Fisheries, 115 General Administration Building, Olympia, WA 98504, by April 11, 1990.

Date of Intended Adoption: April 18, 1990.

March 7, 1990
Judith Freeman
for Joseph R. Blum
Director

AMENDATORY SECTION (Amending Order 88-186, filed 12/29/88)

WAC 220-20-010 GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—SALMON, OTHER FOOD FISH AND SHELLFISH. (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	(Hippoglossus stenolepis)
Pacific herring (except as prescribed in WAC 220-49-020)	(Clupea harengus pallasii)
Salmon	
Chinook	(Oncorhynchus tshawytscha)
Coho	(Oncorhynchus kisutch)
Chum	(Oncorhynchus keta)
Pink	(Oncorhynchus gorbuscha)
Sockeye	(Oncorhynchus nerka)
Masu	(Oncorhynchus masu)

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. (~~This regulation does not apply to vessels in transit.~~)

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(d) Effective January 1, 1991, the buoy brand number for any vessel shall be the same as the vessel's department of fisheries' registration number. Until January 1, 1991, vessels may use either the department of fisheries approved and registered buoy brand provided or the vessel registration number.

(e) It is unlawful for any commercial fishing vessel to work buoyed gear bearing a buoy brand other than the buoy brand number assigned by the department.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make any report or return required of him by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net, gaff or club in the landing of food fish taken by personal-use angling unless otherwise provided.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will

penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using baitfish jigger gear or squid jigs.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay – inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay – north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel – within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles – inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner – within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound – between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass – between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend – westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation licensed by the department of fisheries to fail to comply with the directions of authorized

department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

WSR 90-06-080
PROPOSED RULES
DEPARTMENT OF FISHERIES
 [Filed March 7, 1990, 1:33 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend catch limits.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Establishes 1990 coastal bottomfish limits.

Reasons Supporting Proposal: Coastal bottomfish are under a harvest management plan, renewed yearly. This is the 1990 preliminary harvest limits.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 115 General Administration Building, Olympia, WA, 586-2429; Implementation: Mark Pederson, 115 General Administration Building, Olympia, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule sets the preliminary groundfish catch limits for the coastal groundfish fishery in 1990. Groundfish stocks are managed under a plan implemented by the Pacific Fisheries Management Council which sets targets for harvest. This rule conforms Washington law with those targets and allows enforcement by Washington officers.

Proposed Changes the Following Existing Rules: The groundfish fishery is "restarted" each year against a harvestable quota. This establishes the 1990 quota.

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

No effect on 10% of the businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

Hearing Location: Fisheries Conference Room, 115 General Administration Building, Olympia, WA 98504, on April 10, 1990, at 9:00 a.m.

Submit Written Comments to: Hearings Officer, Fisheries, 115 General Administration Building, Olympia, WA 98504, by April 10, 1990.

Date of Intended Adoption: April 10, 1990.

March 5, 1990
 Judith Merchant
 Deputy
 for Joseph R. Blum
 Director

AMENDATORY SECTION (Amending Order 89-54, filed 6/30/89)

WAC 220-44-050 COASTAL BOTTOMFISH CATCH LIMITS. It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken 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. All weights are in round pounds:

(1) Widow rockfish (*Sebastes entomelas*) - ~~((+0,000))~~ 15,000 pounds per vessel trip per calendar week, defined as Wednesday through the following Tuesday except that a fisherman having made a ~~((+1989))~~ 1990 declaration of intent may make one landing of not more than ~~((20,000))~~ 25,000 pounds biweekly, defined as Wednesday through the second Tuesday following. ~~((It is unlawful for any vessel to make more than one landing in excess of))~~ There is no limit on the number of landings of less than 3,000 pounds ((per calendar week)).

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

(3) Pacific Ocean perch (*Sebastes alutus*) - No restriction on landing 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 total weight of fish on board. Under no circumstances may a vessel land more than ~~((5,000))~~ 3,000 pounds of Pacific Ocean perch in any one vessel trip.

(4) All other species of rockfish (*Sebastes* spp.) - 25,000 pounds of all other species 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 ~~((+1989))~~ 1990 declaration of intent may make either one landing of not more than 50,000 pounds of all other species 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 in any one calendar week of which not 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) ~~((Deepwater complex =))~~ Sablefish ~~((= Dover Sole, Arrowtooth Flounder, and Thorneyhead (or Idiot) Rockfish (Sebastes spp.) = 30,000 pounds of the deepwater complex per vessel trip per calendar week, defined as Wednesday through the following Tuesday except that a fisherman having made a 1989 declaration of intent, may make either one landing of not more than 60,000 pounds of the deepwater complex per vessel trip biweekly, defined as Wednesday through the second Tuesday following or two landings of not more than 15,000 pounds of the deepwater complex in any one calendar week. It is unlawful for any vessel to make more than one landing in excess of 4,000 pounds of the deepwater complex per calendar week (including no more than 1,000 pounds of sablefish; see below) if no declaration to land the deepwater complex twice weekly has been made:))~~

(a) Sablefish taken from trawl vessels - No trip limit. No restrictions on landing up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if sablefish represent 25 percent or less of the total combined round weight of the deepwater complex (Sablefish, Dover Sole, Arrowtooth Flounder and Thorneyhead or Idiot Rockfish) on board. To convert ~~((from))~~ sablefish to round weight ~~((to))~~ from dressed weight multiply the dressed weight by 1.75. Sablefish 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 sablefish catch less than the minimum size of 1,000 pounds or 25 percent of the total combined round weight of the deepwater complex, but not to exceed 5,000 pounds per trip.

(b) Sablefish taken from nontrawl vessels - ~~((No trip))~~ Limit 2,000 pounds per vessel trip or 20 percent of all legal fish on board, whichever is less. The 20 percent limit does not apply to sablefish landings of less than 100 pounds. ((Minimum size 22 inches in length, unless dressed, in which case)) There is no minimum size ((15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail)) for nontrawl vessels ((are allowed an incidental catch less than the minimum size of 1,500 pounds, round weight, per trip)).

(6) ~~((+1989))~~ 1990 Declarations of intent - ~~((All previous 1989))~~ A 1990 declaration ((forms remain in effect. If no declaration had been)) 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 (~~(; a new declaration form must be completed as provided for in this subsection)~~). The ((1989)) 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 fisherman, 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.

WSR 90-06-081

PROPOSED RULES

DEPARTMENT OF FISHERIES

[Filed March 7, 1990, 1:39 p.m.]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning personal use rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1990.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

This notice is connected to and continues the matter in Notice Nos. WSR 89-15-010 and 89-17-019 filed with the code reviser's office on July 7, 1989 and August 7, 1989.

Dated: September 7, 1989

By: Judith Freeman
for Joseph R. Blum
Director

WSR 90-06-082

WITHDRAWAL OF PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed March 7, 1990, 1:54 p.m.]

The Higher Education Personnel Board hereby withdraws proposed new section WAC 251-09-085 filed with your office on November 1, 1989, as part of WSR 89-22-122.

John A. Spitz
Director

WSR 90-06-083

PROPOSED RULES

HIGHER EDUCATION PERSONNEL BOARD

[Filed March 7, 1990, 2:00 p.m.]

Continuance of WSR 89-22-122 and 90-01-042.

Title of Rule: WAC 251-09-090 Special pay—Purpose; 251-09-092 Special pay—Categories; and 251-09-094 Special pay—Requirements.

Purpose: To specify the use and implementation of special pay.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: Chapter 28B.16 RCW.

Summary: Proposed modifications and new rules specify the requirements for implementation of special pay for employees in the Higher Education Personnel Board system.

Reasons Supporting Proposal: The Higher Education Personnel Board requested modifications to clarify when this pay category may be used.

Name of Agency Personnel Responsible for Drafting: Jamie McNamara, 1202 Black Lake Boulevard, FT-11, Olympia, WA, 753-5881; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, WA, 753-3730.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establish special pay and set forth categories and requirements. The purpose of special pay is to alleviate recruitment and retention problems.

Proposal Changes the Following Existing Rules: Expands existing rule, includes more information about categories of special pay, and identifies requirements.

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

Hearing Location: Binns Room, Tacoma Community College, Tacoma, Washington, on April 5, 1990, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by April 5, 1990.

Date of Intended Adoption: April 5, 1990.

March 7, 1990

John A. Spitz
Director

WSR 90-06-084

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:17 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-017 Deleterious exotic wildlife.

Purpose: Allows the use of triploid (sterile) grass carp as an alternative method of control for nuisance levels of aquatic plants in Washington.

Statutory Authority for Adoption: RCW 77.12.020.

Statute Being Implemented: RCW 77.12.020.

Summary: Keeps diploid (fertile) grass carp listed as "deleterious exotic wildlife" and declassifies triploid (sterile) grass carp.

Reasons Supporting Proposal: Five years of research on grass carp issues in Washington and 25 years of research elsewhere in the United States and around the world indicate that triploid (sterile) grass carp are an environmentally safe method of controlling nuisance levels of some aquatic plants.

Name of Agency Personnel Responsible for Drafting and Implementation: Patricia 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: The existing rule lists those species of animals considered potentially harmful to the state's existing wildlife populations and prohibits their importation into the state. The proposed rule change declassifies the sterile form of grass carp so that it can be used to control some nuisance levels of aquatic plants. There will undoubtedly [undoubtedly] be less use of aquatic herbicides in Washington. Also, we can expect more instances where plant control will now be desirable because of reluctance to use herbicides in the past. In many instances plants are not controlled because of the potentially harmful effects of herbicides.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION [(Amending Order 247, filed 4/9/85)]

WAC 232-12-017 DELETERIOUS EXOTIC WILDLIFE. Deleterious exotic wildlife includes:

- (1) Walking catfish, *Clarias batrachus*
- (2) Mongoose, all forms of the genus *Herpestes*
- (3) Diploid grass carp, *Ctenopharyngodon idella*
- (4) African clawed frog, *Xenopus laevis*
- (5) Wild boar, *Sus scrofa* and hybrids involving the species *Sus scrofa*
- (6) Collared peccary (javelina), *Dicotyles tajacu*

It is unlawful to import or possess live specimens of deleterious exotic wildlife except for purposes of scientific research as authorized by the director.

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

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

WSR 90-06-085

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:18 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-019 Classification of game fish.

Purpose: To classify triploid (sterile) grass carp as a game fish to provide a mechanism for regulating harvest of triploid grass carp that have been planted for the purpose of controlling nuisance aquatic plants.

Statutory Authority for Adoption: RCW 77.12.020.

Statute Being Implemented: RCW 77.12.020.

Summary: Grass carp cannot be considered wildlife in Washington, because they do not reproduce in the wild. Therefore once triploid (sterile) grass carp are declassified as "deleterious exotic wildlife" the department has no means of controlling the harvest of these expensive fish from public waters, unless they are classified as game fish.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting and Implementation: Patricia 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: The current rule lists three species of game fish. Listing a species as a game fish allows the regulation of the harvest of that species. If a fish is unclassified, unregulated harvest is allowed. Harvest of these expensive fish (grass carp) is undesirable. Triploid (sterile) grass carp are classified as a game fish.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION [(Amending Order 320, filed 11/10/88)]

WAC 232-12-019 CLASSIFICATION OF GAME FISH. As provided in RCW 77.12.020 and in addition to those species identified

in RCW 77.08.020 the following species of the class Osteichthyes are classified as game fish:

Scientific Name	Common Name
Salvelinus confluentus	Bull Trout
Esox lucius	Northern Pike
and hybrids involving genus Esox	Tiger Muskellunge
<u>Ctenopharyngodon idella</u>	Grass Carp

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

WSR 90-06-086
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed March 7, 1990, 2:19 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-61806 1990-92 Washington game fish seasons and catch limits—Bogachiel Rearing Pond.

Purpose: To establish a juvenile-only fishery in the Bogachiel steelhead rearing pond from April 22, 1990, to June 30, 1990. This is for 1990 only as a result of the VHS isolations at Department of Fisheries' Soleduck Hatchery.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Opens the steelhead smolt rearing pond for two months and eight days to harvest excess steelhead smolts at the WDW Bogachiel Hatchery. Open during daylight hours only, no boats, and eight fish limit with eight fish bonus, and no size restrictions.

Reasons Supporting Proposal: The VHS virus was isolated at the Department of Fisheries' Soleduck salmon hatchery in coho taken from the Bogachiel and Soleduck rivers. The Quillayute system has been placed on quarantine. Since Department of Wildlife is unable to plant smolts outside of the Quillayute system, and the number of smolts on hand are much greater than our program goal for the system, a juvenile fishery is proposed to harvest as many of the smolts as possible.

Name of Agency Personnel Responsible for Drafting and Implementation: Patricia Doyle, AD, Fisheries Management Division, Olympia, (206) 753-5713; and **Enforcement:** Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 573-5740.

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 a juvenile fishery in the Bogachiel rearing pond to harvest steelhead smolts which are quarantined to the Quillayute system and excess to our program's goal for release into the system. Most of the excess smolts will be harvested rather than destroyed and buried. The Department of Wildlife has spent approximately \$15,000 rearing these fish to smolt size.

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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61806 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - BOGACHIEL REARING POND. Notwithstanding the provisions of WAC 232-28-618 for the Bogachiel River, effective April 22, 1990, the following regulations apply to the Bogachiel Rearing Pond:

BOGACHIEL REARING POND: Apr. 22, 1990-June 30, 1990 season. Juveniles only (under 15 years old). TROUT - catch limit - 16. It is unlawful to (1) fish from any floating device, and (2) fish during NIGHT CLOSURE, see page 5.

WSR 90-06-087
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed March 7, 1990, 2:20 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-61807 1990-92 Washington game fish seasons and catch limits—Statewide.

Purpose: Prevent the harvest of grass carp that have been planted for the purpose of controlling nuisance aquatic plants.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Closing the fishing season for grass carp will prevent harvest.

Reasons Supporting Proposal: Grass carp are expensive (\$4-\$5 each). Angling for and removing grass carp from a water will not be compatible with nuisance aquatic plant control.

Name of Agency Personnel Responsible for Drafting and Implementation: Patricia 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: The existing rule regulates the taking of all game fish. The additional language will prohibit the harvest of grass carp, thus allowing the fish to consume and control nuisance aquatic plants. There will be no financial impacts from this proposal.

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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61807 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - STATEWIDE. Notwithstanding the provisions of WAC 232-28-618, the following regulations apply to the game fish season for grass carp, statewide:

Grass Carp: Closed Season.

WSR 90-06-088

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:21 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-191 Three convictions forfeits privileges.

Purpose: To cite a more specific authority and conform the regulation to the requirements of RCW 77.21.060.

Statutory Authority for Adoption: RCW 77.21.060.

Statute Being Implemented: RCW 77.21.060.

Summary: Will cite a more specific authority and conform the regulation to the requirements of RCW 77.21.060.

Reasons Supporting Proposal: To conform the regulation to the requirements of RCW 77.21.060.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary above.

Proposal Changes the Following Existing Rules: It conforms regulation to requirement of RCW 77.21.060.

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

Hearing Location: Washington Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, on April 18, 1990, at 9:00 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 25, 1990.

March 7, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-191 THREE CONVICTIONS FORFEITS PRIVILEGES. A person who has been convicted of three violations of the ((game)) wildlife code of the state of Washington (title 77 RCW) or rules ((of the commission)) adopted under that title, within a ten year period, shall not be issued another license, permit, tag, stamp or punch card for any related activity described in chapter 77.32 RCW until those privileges are restored by the ((commission)) director.

WSR 90-06-089

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:22 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-177 Vehicles using department lands.

Purpose: To adopt a specific provision for enforcement of road management agreements.

Statutory Authority for Adoption: RCW 77.12.210 and 77.12.320.

Statute Being Implemented: RCW 77.12.210 and 77.12.320.

Summary: Regulation of land owned, controlled and/or managed by Department of Wildlife.

Reasons Supporting Proposal: Enforcement.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; Implementation and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will adopt a specific provision for enforcement of road management agreements and cite a more specific authority for enforcement of regulations relating to land management.

Proposal Changes the Following Existing Rules: It adds specific revisions relative to land managed and controlled pursuant to road management agreements.

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

Hearing Location: Department of Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, on April 18, 1990, at 9:00 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 25, 1990.

March 7, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 177, filed 1/28/82)

WAC 232-12-177 VEHICLES USING DEPARTMENT LANDS. (1) It is unlawful to operate a motor driven vehicle on lands owned, controlled or managed by the department except on such land or roads as may be authorized by the director.

(2) It is unlawful to operate a motor driven vehicle on a road controlled or managed by the department pursuant to road management

agreement in a manner or for a purpose contrary to posted signs or notices except as authorized by the director.

WSR 90-06-090
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:24 p.m.]

Original Notice.

Title of Rule: Readopting WAC 232-12-184 Aircraft—Authorized use on department lands; 232-12-187 Access areas—Other department lands—Wildlife agent to control traffic thereon; 232-12-251 Removal of minerals, wood and artifacts from department lands; and 232-12-254 Discharge of litter on department lands—Unlawful.

Purpose: To cite a more specific authority for enforcement of regulation relating to land management.

Statutory Authority for Adoption: RCW 77.12.210 and 77.12.320.

Statute Being Implemented: RCW 77.12.210 and 77.12.320.

Summary: Regulation of land owned, controlled and/or managed by Department of Wildlife.

Reasons Supporting Proposal: Enforcement.

Name of Agency Personnel Responsible for Drafting: Lee S. Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; **Implementation and Enforcement:** Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5740.

Name of Proponent: Washington Department of Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules will adopt a specific provision for enforcement of road management agreements and cite a more specific authority for enforcement of regulations relating to land management.

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 Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, on April 18, 1990, at 9:00 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 25, 1990.

March 7, 1990
 Lee S. Smith
 Administrative Regulations Officer

READOPTED SECTION (Readopting Order 165, filed 6/1/81)

WAC 232-12-184 AIRCRAFT—AUTHORIZED USE ON DEPARTMENT LANDS. Except as authorized by the director or the director of the department of natural resources, it is unlawful to land aircraft on lands owned, leased or controlled by the department, except in the case of a bona fide emergency.

READOPTED SECTION (Readopting Order 177, filed 1/28/82)

WAC 232-12-187 ACCESS AREAS—OTHER DEPARTMENT LANDS—WILDLIFE AGENT TO CONTROL TRAFFIC THEREON. It is unlawful to use department owned or controlled lands or waters in a manner or for a purpose contrary to signs or notices posted on those lands or to refuse or neglect to obey directions regarding use of such property by a wildlife agent. It is unlawful to use department owned or controlled lands or waters for a commercial purpose without a permit issued by the director.

READOPTED SECTION (Readopting Order 165, filed 6/1/81)

WAC 232-12-251 REMOVAL OF MINERALS, WOOD AND ARTIFACTS FROM DEPARTMENT LANDS. It is unlawful to remove petrified wood, minerals, fossils, wood products or artifacts from department lands unless such removal is authorized by a permit issued by the director.

READOPTED SECTION (Readopting Order 165, filed 6/1/81)

WAC 232-12-254 DISCHARGE OF LITTER ON DEPARTMENT LANDS—UNLAWFUL. It is unlawful for any person to throw, to drop, or to leave any discarded object, garbage, debris, or waste upon any of the properties owned, leased or controlled by the department except into a litter or garbage receptacle or container installed for that purpose on such property.

WSR 90-06-091
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:25 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-047 Unlawful firearms for hunting.

Purpose: The purpose of this administrative regulation is to identify the types of firearms, cartridges, calibers and gauges that are considered suitable for hunting purposes.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The proposed changes would revise the criteria for designating which handgun cartridges and calibers are suitable for big game hunting. The proposed changes would also authorize the use of (designated) hunting handgun cartridges for all big game hunting.

Reasons Supporting Proposal: The current regulations addressing handgun hunting were adopted in the early 1980's and have not been revised. New handgun cartridges and new types of hunting handguns have been introduced into the marketplace since the original proposals were adopted. Hunters have asked the Department of Wildlife to review the original regulations and consider addressing these new products.

Name of Agency Personnel Responsible for Drafting: Lee Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; **Implementation:** Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and **Enforcement:** Dan Wyckoff, AD, Wildlife Management 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: The proposed rule establishes a two-tier system for determining suitability of handgun cartridges for big game hunting. Both tiers are based on a minimum .24 caliber size. Handgun cartridges approved for deer, bear and cougar hunting would be required to generate a minimum of 500 foot-pounds of energy at 100 yards. All other big game hunting would require handgun cartridges generating a minimum of 900 foot-pounds of energy at 100 yards. The purpose of the above proposals would be to establish uniform criteria against which all potential handgun cartridges could be evaluated. The anticipated effects are limited to serious handgun hunters and manufacturers of hunting handguns. Certain powerful cartridges—not legal under the current regulations—would be legalized under the proposed rules.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 6, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 198, filed 12/2/82)

WAC 232-12-047 UNLAWFUL FIREARMS FOR HUNTING. It is unlawful to hunt any big game with:

- (1) A fully automatic firearm.
- (2) A handgun (~~(, except)~~) that does not meet the following criteria:
 - (a) For deer, bear, or cougar (~~(may be hunted with:~~))
 - ~~(a) A .41 magnum, .44 magnum, .44 automatic magnum, or .45 Winchester magnum provided it:~~
 - ~~(i) Has~~) (i) be a minimum of .24 caliber; (ii) have a minimum barrel length of ~~((6)) 4 inches, per manufacturer's specification;~~ and ~~((iii) Uses)~~ (iii) fire a centerfire cartridge which ~~((is loaded with))~~ uses a mushrooming or expanding type bullet ~~((of 100 grains or heavier bullet weight))~~ that develops a minimum of 500 foot-pounds of energy at 100 yards.
 - ~~(b) ((Any handgun .240 caliber or larger provided it))~~ For all other big game species:
 - ~~(i) be a minimum of .24 caliber;~~ ~~((Has))~~ ((ii)) have a minimum barrel length of ~~((6)) 4 inches, per manufacturer's specification;~~ and ~~((iii) Uses)~~ (iii) fire a centerfire cartridge ~~((with a minimum overall length (including bullet) of at least 2 inches and is loaded with))~~ which uses a mushrooming or expanding type bullet ~~((of 100 grains or heavier bullet weight))~~ that develops a minimum of 900 foot-pounds of energy at 100 yards.
 - (3) A rifle with a bore diameter less than .240 of an inch (6mm), or barrel length less than 16 inches.
 - (4) A rifle cartridge with a bullet weighing less than 85 grains, or that develops less than 900 foot pounds of energy at 100 yds.
 - (5) A rifle cartridge containing a bullet other than a mushrooming or expanding type designed for big game hunting.
 - (6) A shotgun, provided that a 20 gauge, or larger shotgun, using shells loaded with slugs or buckshot size #1 or larger, may be used to hunt deer and bear.
 - (7) A muzzle-loader that does not meet the definition as provided in WAC 232-12-051.

It is unlawful to hunt game birds with a shotgun capable of holding more than three shells.

It is unlawful to hunt game birds or game animals, except bullfrogs, in a manner other than with a firearm, a bow and arrow, or by falconry.

It is unlawful to hunt game animals or game birds with a shotgun larger than 10 gauge.

It is unlawful to hunt game birds with a rifle or pistol, with the exception of blue grouse, spruce grouse and ruffed grouse.

It is unlawful to hunt wildlife with a crossbow.

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.

WSR 90-06-092

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:26 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-051 Muzzle-loading firearms.

Purpose: The purpose of this administrative regulation is to identify the types of muzzleloading propellant, firearms and projectiles considered suitable for hunting purposes.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The proposed changes would authorize the use of Pyrodex and double-barrelled muzzleloaders. The proposed changes would also establish a minimum caliber designation for elk hunting.

Reasons Supporting Proposal: Interest in muzzleloading hunting has continued to grow since 1984, and this type of hunting opportunity is no longer limited to the traditional "primitive" muzzleloading hunter. New types of muzzleloading firearms and propellant powders have been introduced to the marketplace during the past 5 years.

Name of Agency Personnel Responsible for Drafting: Lee Smith, Administrative Regulations Officer, Olympia, (206) 586-6212; **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: The proposed rule authorizes the use of Pyrodex as a hunting propellant, and it also authorizes the use of double-barrelled muzzleloaders for hunting purposes. In addition, the rule establishes a minimum .50 caliber standard for elk hunting. The purpose of the proposal would be to limit the impact of new technology on muzzleloading hunting opportunity. At the same time the proposal recognizes the need for the changes consistent with "primitive" hunting opportunities. The effect of the proposed rule change would be to regulate the use of certain types of products (e.g., Pyrodex).

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 6, 1990

Lee S. Smith

Administrative Regulations Officer

AMENDATORY SECTION (Amending Order 234 [393], filed 8/28/84 [5/18/89])

WAC 232-12-051 MUZZLE-LOADING FIREARMS. (1) It is unlawful to carry or possess any firearm during special ((primitive)) muzzle-loading seasons which does not meet the following definition of muzzle-loader: ((Muzzle-loader means a single or double barrel wheel lock, matchlock, flintlock or percussion rifle or musket with exposed ignition in which the black powder and ball or bullet must be loaded from the muzzle. If the rifle has a removable breech plug, such removal must require the use of tools. Minimum barrel length is 20 inches and minimum caliber is .40. Ignition is to be wheellock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the elements. Sights must be metal. Telescopic sights or sights containing glass are prohibited.)) A muzzleloading rifle is loaded from the muzzle and uses black powder or Pyrodex. A muzzleloading rifle has a single or double barrel of at least 20 inches (rifled or smooth-bored), with exposed ignition and detonated by an external side hammer or under hammer, and uses iron sights only.

(2) A muzzleloading rifle used for deer must fire a single, non-jacketed lead bullet of .40 caliber or larger, except that buckshot size #1 or larger may be used in a smoothbore of .60 caliber or larger.

(3) A muzzleloading rifle used for elk must fire a single, non-jacketed lead bullet of .50 caliber or larger.

(4) This section shall not apply to the carrying of a handgun designed ((for)) to be charged with black powder ((use)) only.

((=)) (5) This section shall not apply to persons lawfully hunting game birds with a shotgun.

((4) Only one barrel of a double barrel muzzle loader may be loaded at any one time while hunting in a special primitive muzzle-loading season.

(5) It is unlawful to use a black powder substitute in a muzzle-loading firearm during any special primitive muzzle-loading season:))

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 bracketed material preceding the section above was supplied by the code reviser's office.

WSR 90-06-093

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:27 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-219 Firearm restriction areas and 1990 deer hunting seasons.

Purpose: To establish firearm restriction areas and 1990 deer hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Statute Being Implemented: RCW 77.12.040 and 77.04.055.

Summary: This rule restricts the use of firearms in specified geographic areas for safety purposes; and establishes the 1990 deer hunting seasons which allow for hunting of harvestable surplus and provide recreational opportunity.

Reasons Supporting Proposal: See Summary above.

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) 753-5728.

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 Summary 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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-219 FIREARM RESTRICTION AREAS AND 1990 DEER HUNTING SEASONS

HUNTING FIREARM RESTRICTION AREAS

In firearm restriction areas, centerfire and rimfire rifles are not legal for hunting during any time of the year. Hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloader or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

Note: Other firearm restrictions may be imposed by local ordinances not known to the Department of Wildlife and for specific elk seasons.

<u>County</u>	<u>Area</u>
Clallam	That portion of GMU 624 (Coyle) located within Clallam County
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)
Franklin, Grant, Adams	All of GMU 281 (Ringold) and Wahluke Slope Wildlife Area (portion of GMU 278 - Wahluke)
Island	Camano and Whidbey Islands
Jefferson	Indian and Marrowstone Islands

County	Area
King	The area west of Highway 203 (Monroe-Fall City-Preston) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury Islands
Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to North Lake Way, north of North Lake Way and the Bremerton-Seabeck Highway to Big Beef Creek bridge; all of Bainbridge Island, and Bangor Military Reservation
Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Hartstene Island
Pacific	GMU 684 (Long Beach) west of Sand Ridge Road
Pierce	GMU 480
Snohomish	West of Highway 9
Skagit	Guemes Island and March Point north of State Highway 20
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River
Whatcom	Area west of I-5 and north of Bellingham city limits.

Hunters PLEASE obtain permission of the owner before hunting on private property.

DEER

General Information

Bag Limit: One (1) deer per hunter during the 1990 hunting season.
Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, or muzzleloader).
Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Definition: Visible antler is a horn-like growth projecting above the hairline.

Branched Antler Restriction GMUs: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. (Only one antler has to meet the antler point requirement.) Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 433, 478, 558, 574, 576, 584, 586, 588, 636, 681, and GMU 485 (by permit only).

3 Point GMUs: 103, 127, 130, 133, 136, 139, 142, 145, 148, 151, 154, 160, 161, 163, 166, 169, 172, 175, 178, 181, 184, 185, 203, 231, 306, 450, and 455.

Modern Firearm Deer Seasons

License Required: Hunting license for the current calendar year.

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons. Archery and muzzleloader equipment must meet regulations on pages 5 and 6.

Season Overlap: Early archery deer and early muzzleloader deer hunters hunt in common with modern firearm hunters in the high buck hunt (GMUs 203, 301, 302, 450, 455, and Deer Areas 010 and 060). Modern firearm deer permit holders in GMUs 100, 103, 105, 108, 111, 118, 121, and 124 overlap part of the early archery deer hunt. Deer hunts in GMUs 564 and 625 are open to all hunters but firearm restrictions apply. Modern firearm deer permit hunters in GMU 119 overlaps the early muzzleloader deer hunt.

High Buck Hunt

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	Dates	Legal Deer
203, 301, 302, 450,	Sept. 15-25	3-Pt. Min.
Deer Area 010, 040, 060	Sept. 15-25	3-Pt. Min.

General Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	Dates	Legal Deer
Northeastern 100, 103	Oct. 13-28	Buck Only**
105-124*	Oct. 13-Nov. 18	Buck Only
Southeastern 127-185***	Oct. 13-21	3-Pt. Min.
Okanogan 200-242	Oct. 13-28	Buck Only**
Columbia Basin 248-284	Oct. 13-21	Buck Only
Chelan 300-316	Oct. 13-Nov. 9	Buck Only**
Colockum and Central 328-334***	Oct. 13-20	Buck Only
335-370	Oct. 13-30	Buck Only
Western Washington 400-572***	Oct. 13-28	Buck Only**
574, 576	Oct. 13-Nov. 11	Buck Only**
580	Oct. 13-28	Buck Only
584, 586, 588	Oct. 13-Nov. 11	2-Pt. Min.
600-684	Oct. 13-28	Buck Only**

*It is unlawful to hunt wild animals in GMUs 105-124 from Nov. 12-18, 1990, without valid licenses and unaltered, unnotched tags for hunting deer on the hunter's person.

**Branched antler restrictions in some GMUs. See Branched Antler Restrictions in previous column.

***Permit only in GMU 485; Closed in GMU 157 & 522. Closed to high power rifles in GMUs 334, 504, 554, and 564.

Late Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

Restriction: It is unlawful to hunt wild animals during the modern firearm late buck season unless current, valid licenses and unaltered, unnotched tags for hunting deer are on the hunter's person.

GMUs	Dates	Legal Deer
All 400* 500*, & 600	Nov. 15-18	Buck Only**

*Except closed in: GMUs 480, 485, 522, 574, 576, 580, 584, 586, and 588.
 **Branched antler restrictions in some GMUs. See Branched Antler Restrictions in previous column.

Archery Deer Seasons

License Required: Hunting license.

Tag Required: Deer hunter must have a current valid, unaltered, unnotched archery deer tag on his/her person.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons. In addition, grouse, raccoon, bobcat and rabbits may be taken during archery deer seasons with archery equipment if the archer has a valid archery deer tag in possession. Archers may not kill bobcat or raccoon with use of hounds during early archery deer seasons.

Season Overlap: Early archery deer seasons overlap the modern firearm high buck hunt in GMUs 203, 301, 302, 450 455 and Deer Areas 010 and 060. Early archery deer seasons also overlap modern firearm, permit hunts in GMUs 100, 103, 105, 108, 111, 118, 121, and 124. Modern firearm permit hunts for 3-point and larger bull elk overlap with early archery deer seasons in GMUs 514, 516, 560, 602 and 638. Early archery deer seasons overlap the muzzleloader damage control elk hunt in ML Area 910 (Cle Elum). Late archery deer seasons overlap the late muzzleloader elk hunt in GMU 484 (Puyallup). Deer hunts in GMUs 564 and 625 are open to all hunters but firearm restrictions apply. In addition, grouse and bear seasons may be open concurrent with archery seasons.

Branched Antler GMUs: If GMU is under a Branched Antler Restriction, the hunter may take an antlerless deer or branched antler buck meeting minimum antler requirement.

Early Archery

GMUs	Dates	Legal Deer*
100-118*, 121-154*, 160-169*, 175-206*, 215-239*, 248-301, 306-308, 316-340, 352-356, 364, 370, 405-478, 490, 504, 505, 510, 512, 514, 516, 520, 524, 530, 550, 554-560, 568-588, 601, 602, 607, 615, 618, 621, 627-633, 638, 639, 642-663, 667-669, 678, 681	Sept. 15-Oct. 12	Either Sex*
119, 172, 242, 302, 304, 360, 448, 484, 564, 603, 612, 624, 636, 666, 672, 684	Sept. 15-28	Either Sex
501, 506	Sept. 15-Oct. 5	Either Sex
480	Oct. 1-12	Either Sex
Bow Area 802	Sept. 15-Oct. 12	Either Sex

*Branched antler restrictions in GMUs 103, 127-185, 203, 231, 301, 302, 306, 433, 450, 478, 558, 574, 576, 584, 586, 588, 636 and 681.

Late Archery

GMUs	Dates	Legal Deer
103	Nov. 14-Dec. 9	Whitetail Only- Antlerless or 3-Pt. Min.

GMUs	Dates	Legal Deer
118, 121, 124	Nov. 21-Dec. 9	Whitetail Only; Either Sex
127, 166, 178	Nov. 21-Dec. 9	Whitetail-Antlerless or 3-Pt. Min. Mule Deer-Antlerless Only
209, 215, 233, 242, 272	Nov. 21-Dec. 2	Whitetail-Either Sex Mule Deer-Antlerless Only
300, 304, 316, 346, 352, 364	Nov. 21-Dec. 2	Either Sex
584, 588	Nov. 21-Dec. 2	Antlerless and 2-Pt. Min.
405, 418, 426, 433, 440, 442, 448, 450, 454, 460, 466, 480, 484, 505, 506, 510, 512, 514, 516, 520, 524, 530, 556, 558, 560, 564, 568, 572, 601, 603, 607, 612, 615, 618, 624, 627, 636, 638, 639, 642, 645, 648, 660, 663, 666, 667, 669, 672, 678, 681	Nov. 21-Dec. 9	Either Sex*

*Antlerless and 2-pt. Buck Min. in GMUs 433, 636 and 681.

Extended Late Archery Option

GMUs	Dates	Legal Deer
405, 410, 442, 454, 484, 505, 506, 564, 627, 660, 663, 667	Dec. 10-31	Either Sex
802	Nov. 21-Dec. 9	Either Sex
806, 807	Nov. 21-Dec. 2	Either Sex
820	Dec. 22-Jan. 6, 1991	Either Sex

Muzzleloader Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched muzzleloader deer tag on his/her person.

Hunting Method: Muzzleloader meeting requirements. (See muzzleloader regulations on page 5 and 6.)

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. In addition, muzzleloaders can hunt grouse, raccoon, bobcat, and rabbits during any muzzleloader deer season with a muzzleloader if the hunter has a valid muzzleloader deer tag in possession. Muzzleloaders may not kill bobcat or raccoon with use of hounds during early muzzleloader deer seasons. Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits.

Season Overlap: Modern firearm deer hunters hunt in common with muzzleloader and archery deer hunters in the high buck hunt (GMUs 203, 301, 302, 450, and Deer Areas 010, 040 and 060). The early muzzleloader deer hunt in GMU 119 overlaps the modern firearm permit season.

High Buck Hunt

GMUs	Dates	Legal Deer
203, 301 302, 450	Sept. 15-25	3-Pt. Min.

GMUs	Dates	Legal Deer
Deer Area		
010, 040, 060	Sept. 15-25	3-Pt. Min.
Early Muzzleloader		
GMUs	Dates	Legal Deer
119, 209, 242	Sept. 29-Oct. 12	Either Sex
302, 304, 360, 368	Sept. 29-Oct. 12	Either Sex
564, 666	Sept. 29-Oct. 12	Either Sex
506	Oct. 6-12	Buck Only
484, 603, 612, 624, 672	Sept. 29-Oct. 12	Buck Only

Late Muzzleloader		
GMUs	Dates	Legal Deer
113	Nov. 21-Dec. 2	Whitetail Only- Either Sex
181	Nov. 21-Dec. 2	Whitetail-Antlerless or 3-Pt. Min.; Mule Deer-Antlerless Only
304	Nov. 10-18	Buck Only
410	Nov. 21-Dec. 9	Either Sex
478	Nov. 21-Dec. 9	Antlerless and 2-Pt. Min.
501, 504, 550	Nov. 21-Dec. 9	Either Sex
580	Nov. 21-Dec. 9	Buck Only
576, 586	Nov. 21-Dec. 9	2-Pt. Buck Min.
602, 633, 651, 684	Nov. 21-Dec. 9	Either Sex
Muzzleloader Area		
925	Nov. 15-Dec. 15	Antlerless Only

FIREARM RESTRICTED DEER HUNTS OPEN TO ALL DEER HUNTERS

License Required: Deer Hunting license.

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm, archery or muzzleloader deer tag on his/her person.

Hunting Method: Must use weapon in compliance with tag. Firearm Restrictions Apply in some GMUs.

Either Sex Deer			
GMUs	Weapon Permitted	Dates	Legal Deer
281	Archery, Shotgun	Oct. 13-21	Either Sex
410	Archery, Shotgun, Muzzleloader	Oct. 20-28	Either Sex
480	Archery, Shotgun, Muzzleloading Shotgun	Oct. 20-28	Either Sex
564	Archery, Shotgun, Muzzleloader	Oct. 20-28 Nov. 16-Dec. 9	Either Sex
625	Archery*	Sept. 15-Dec. 9	Either Sex

*Military Reservation with firearm and other special restrictions: for information, phone (206) 385-0100 extension 351.

WSR 90-06-094
PROPOSED RULES
DEPARTMENT OF WILDLIFE
[Filed March 7, 1990, 2:28 p.m.]

Original Notice.
Title of Rule: Adopting WAC 232-28-220 1990-91 Elk hunting seasons.
Purpose: To establish 1990-91 Elk hunting seasons.
Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.
Statute Being Implemented: RCW 77.12.040 and 77.04.055.

Summary: This rule establishes the 1990-91 Elk hunting seasons which allow for hunting of harvestable surplus and provide recreational opportunity.

Reasons Supporting Proposal: See Summary above.
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 Summary 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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-220 1990-91 ELK HUNTING SEASONS

ELK SEASONS

General Information

Bag Limit: One (1) elk per hunter during the 1990 hunting season.

Hunting Method: Elk hunters must select one of the hunting methods (modern firearm, archery, or muzzleloader).

Tag Required: Elk hunters must choose one of the four elk areas (Blue Mountains, Yakima, Colockum or Western Washington) to hunt in and buy the appropriate tag for that area. Elk Tag Areas are shown on map to the right.

Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Definitions: Visible Antler is defined as a horn-like growth projecting above the hairline. Antler restrictions apply to all hunters during any open season.

Spike Bull Restriction GMUs: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears.

Spike Only GMUs: 145-185.

Branched Antler Restriction GMUs: Bull elk taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 3 point minimum requirements on bull elk taken.

3 Point GMUs: 157, 418, 460, 466, 472, 478, 485, 490, 506, 524, 530, 556, 558, 572, 601, 602, 607, 621, 636, 638, 639, and 681.

Special Permits: Only modern firearm late season elk tag holders along with muzzleloader tag holders may apply to be drawn in special elk permit seasons. Hunters drawn for a Special Permit may hunt only with a weapon in compliance with their tag. See page 15 for Special Permit Season explanation. Elk hunters in the Colockum please see SPECIAL CLOSURE NOTICE 7 and 8 on page 21.

Modern Firearm Elk Seasons

Modern firearm elk hunters have early and late hunts in all elk areas. Those who choose the early tag have the first opportunity to hunt bulls, but only those who choose the late tag are able to apply for special elk permits listed on pages 17 and 18.

It is unlawful to hunt wild animals during a modern firearm elk season unless a valid tag for hunting elk is in possession. If deer and elk seasons are open concurrently, the proper tags and license for either are sufficient.

License Required: Hunting license for the current calendar year.

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched modern firearm elk tag as listed below on his/her person.

Hunting Method: May use rifle, bow or muzzleloader, but only during modern firearm seasons. Hunters selecting the late modern firearm elk tag may apply for special hunt permit seasons outlined on page 15 if eligible.

General Bull Elk Seasons

Legal Elk: Male elk with visible antlers are legal throughout the state except in GMUs 145-185 only spike bulls are legal and in branched-antler areas Branched Antler Restrictions apply. See Branched Antler GMUs listed above and definitions of branched and spike bull elk.

Blue Mountains – Open Area; 100 series GMUs; GMU 157 limited to permit hunters only. GMUs 145-185 are spike bull only.

BE – Blue Mountain Early Elk Tag – Oct. 31–Nov. 11

BL – Blue Mountain Late Elk Tag – Nov. 3–11

Colockum – Open Area: GMUs 300, 301, (the Chelan County portion of 302), 304, 306, 308, 314, 316, 328, 329, 330 (Permit Hunters Only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in 334).

CE – Colockum Early Elk Tag – Oct. 24–Nov. 2

CL – Colockum Late Elk Tag – Oct. 27–Nov. 2

Yakima – Open Area: The Kittitas County portion of GMU 302, GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364, 366, 368, 370, and that portion of GMU 334 south of I-90 (modern firearm restrictions in 334).

YE – Yakima Early Elk Tag – Nov. 5–13

YL – Yakima Late Elk Tag – Nov. 8–13

Western Washington – Open Area: All 400, 500 and 600 GMUs except closed in 522 and 554. Permit only in GMUs 490, 485, 524, 556 and 602.

WE – Western Washington Early Elk Tag – Oct. 31–Nov. 11

WL – Western Washington Late Elk Tag – Nov. 3–11

Archery Elk Seasons

License Required: Hunting license for the current calendar year.

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person.

Hunting Method: Bow and arrow meeting requirements.

Special Notes: Archery tag holders can only hunt during archery seasons.

Grouse, raccoon, bobcat and rabbits may be taken during archery elk seasons with archery equipment, if the archer has a valid archery elk tag in possession. Archers may not kill bobcat or raccoon with use of hounds during early archery elk seasons.

Season Overlap: In addition to grouse and bear, archery elk seasons overlap modern firearm deer permit hunts in GMUs 100, 103, 105, 108, 111, 118, 121 and 124. Early archery elk seasons overlap modern firearm permit hunts for 3-point or larger bull elk in GMUs 514, 516, 560, and 638. Early archery elk seasons overlap the muzzleloader damage control hunt in ML 910 (part of GMUs 335, 336). Early archery elk seasons overlap the permit hunt for Reecer Elk Area in GMU 328. Late archery elk seasons overlap the late muzzleloader elk hunt in GMU 484 and ML 910 (part of GMUs 335, 336). The late archery elk season in GMU 328 overlaps with the modern firearm permit hunt in the Caribou Elk Area in GMU 328.

Branched Antler GMUs: Antler restrictions apply in some GMUs. See Branched Antler Restriction GMUs. During either sex seasons in branched antler GMUs, hunters may take antlerless elk or branched antler bull meeting minimum antler requirements.

Early Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted: Blue Mountain (BA), Colockum (CA), Yakima (YA), or Western Washington (WA).

GMUs	Elk Tag	Dates	Legal Elk
100-118, 121-142	BA	Sept. 29–Oct. 12	Either Sex
145-154, 160-169, 175-185	BA	Sept. 29–Oct. 12	Antlerless or Spike Only
300, 306-308, 316-334**, 335	CA	Oct. 6-12	Either Sex
334***, 335, 336-340, 352-356, 364, 370	YA	Sept. 29–Oct. 12	Either Sex
405-466, 478, 490, 504, 505, 510, 512, 514, 516, 520, 530, 550, 554, 558, 560, 568, 572, 574, 576, 580, 586, 588-601, 607, 615, 618, 638-663, 667, 669, 678, 681	WA	Sept. 29–Oct. 12	Either Sex*
484	WA	Sept. 29–Oct. 5	Either Sex*
472, 621	WA	Sept. 29–Oct. 12	3-Pt. Bull Min.
Bow Area 802	WA	Sept. 29–Oct. 12	Either Sex

*Antlerless and 3-point bull minimum in GMU 418, 460, 466, 478, 490, 530, 558, 572, 601, 607, 621, 638, 639 and 681.

**That part of GMU 334 north of I-90.

***That part of GMU 334 south of I-90.

Late Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted: Blue Mountain (BA), Colockum (CA), Yakima (YA), or Western Washington (WA).

GMUs	Elk Tag	Dates	Legal Elk
118	BA	Nov. 21–Dec. 9	Either Sex
166	BA	Nov. 21–Dec. 9	Antlerless Only
328**	CA	Nov. 21–Dec. 2	Either Sex
336, 346, 352	YA	Nov. 21–Dec. 2	Either Sex

GMUs	Elk Tag	Dates	Legal Elk
405, 433, 454, 484, 505, 520, 564, 588, 603, 612, 615, 648, 672	WA	Nov. 21-Dec. 9	Either Sex
506, 530, 636, 638, 681*	WA	Nov. 21-Dec. 9	Antlerless & 3-Pt. Bull Min.

*(Except closed between U.S. Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallcut River.)
 **Portion of GMU 328 in the Caribou and Reecer Areas will overlap with modern firearm permit hunt.

Bow Areas	Elk Tag	Dates	Legal Elk
802	WA	Nov. 21-Dec. 9	Either Sex
806, 807	YA	Nov. 21-Dec. 2	Either Sex
808	WA	Feb. 1-7, 1991	Either Sex
831	WA	Nov. 21-Dec. 9	Antlerless & 3-Pt. Bull Min.

Muzzleloader Elk Seasons

License Required: Hunting license for the current calendar year.

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as listed below on his/her person.

Hunting Method: Muzzleloader meeting requirements. (See muzzleloader regulations on page 5 and 6.)

Special Notes: Hunters selecting the muzzleloader elk tag may apply for special hunt permit seasons outlined on page 15, if eligible. In addition, grouse, raccoon, bobcat and rabbit may be taken during muzzleloader seasons with a muzzleloader if the hunter has a valid muzzleloader elk tag in possession. Muzzleloaders may not kill bobcat or raccoon with use of hounds during early muzzleloader seasons.

Season Overlap: Early and late archery seasons overlap the muzzleloader damage control hunt in Area 910 (Cle Elum) (part of GMUs 335, 336). Late archery seasons overlap the late muzzleloader elk hunt in GMU 484.

Muzzleloader Early Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	Dates	Legal Elk
172	BM	Oct. 6-12	Spike Bull Only
302	CM, YM	Oct. 6-12	Bull Only
314*	CM	Oct. 6-12	Bull Only
368	YM	Oct. 6-12	Bull Only
603, 612	WM	Oct. 6-12	Bull Only
506, 636	WM	Oct. 6-12	3-Pt. Bull Min.
484, 501, 564, 684	WM	Oct. 6-12	Either Sex
Muzzleloader Area 910	YM, CM	Sept. 15-Oct. 12	Either Sex

*(Closed east of Ingersol Road)

Muzzleloader Late Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	Dates	Legal Elk
184	BM	Nov. 21-Dec. 9	Antlerless Only
484	WM	Nov. 21-Dec. 9	Antlerless & 3-Pt. Bull Min.
501-568, 574, 576	WM	Nov. 21-Dec. 9	Either Sex
504, 550	WM	Nov. 21-Dec. 9	Bull Only
580, 586	WM	Nov. 21-Dec. 2	Either Sex
601	WM	Nov. 21-Dec. 9	3-Pt. Bull Min.
684	WM	Nov. 21-Dec. 9	Either Sex
Elk Areas 003	CM	Dec. 8-23	Antlerless Only
Muzzleloader Areas 908	WM	Jan. 1-31, 1991	Either Sex
910	YM, CM	Nov. 17-Dec. 2	Either Sex
921	WM	Nov. 21-Dec. 9	Either Sex
944	YM	Nov. 17-20	Either Sex

Elk Hunts Open To Identified Tag Holders.

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates and legal elk in table below.

Antlerless or Either Sex Elk Hunts

GMUs	Elk Tag	Dates	Legal Elk
100, 103, 105, 108, 121	BE, BL	Oct. 31-Nov. 11	Either Sex
178	BE, BL	Nov. 10-11	Antlerless or Spike Bull Only
200-284	Any Elk Tag	Oct. 24-Nov. 15	Either Sex
370	CM, YE, YL, YM	Nov. 1-30	Either Sex
501, 505	WE, WL, WM	Oct. 31-Nov. 11	Either Sex
564*	WA, WM, WE, WL	Oct. 31-Nov. 11	Either Sex
568, 574, 576, 586, 588	WE, WL	Oct. 31-Nov. 11	Either Sex
Elk Areas 001	CE, CL, CM	Oct. 28-Nov. 8	Either Sex
004	CE, CL, CM, YM	Dec. 8-23	Antlerless Only

*Archery or Muzzleloader Equipment Only. Modern Firearm elk tag holders may hunt but must use archery or muzzleloader equipment.

Teeth Submittal

Special permit hunters may be asked to submit incisor teeth from deer or elk for age determination. Unlike past years, however, only some permit hunters sent a special request are asked to submit incisor teeth from their harvested animal. General tag holders are not asked to submit incisor teeth of deer or elk.

WSR 90-06-095
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed March 7, 1990, 2:29 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-221 1990-91 Special deer and elk permit seasons.

Purpose: To establish 1990-91 special permit seasons for hunting deer and elk.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Statute Being Implemented: RCW 77.12.040 and 77.04.055.

Summary: This rule establishes the 1990-91 special permit seasons for hunting deer and elk and provides for population and damage control in specified areas of the state.

Reasons Supporting Proposal: See Summary above.

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 Summary 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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-221 1990-91 SPECIAL DEER AND ELK PERMIT SEASONS

NOTE: Hunt Numbers and GMU numbers are not the same.

The Wildlife Commission establishes Special permit Seasons for deer and elk.

A permit gives a hunter additional opportunity but it does not give him/her an extra deer or elk.

To apply for Deer Special Permit: You must have a valid 1990 Washington hunting license and a modern firearm or muzzleloader deer tag. You may submit one (only one) special deer permit application for 1990.

To apply for an Elk Special Permit: You must have a valid 1990 Washington hunting license and a valid late modern firearm or muzzleloader elk tag, except archers may apply for special elk permits in GMU 490. You may submit one (only one) special permit application for elk. You may not submit an Elk permit application if you were drawn for any elk permit during 1988 or 1989. Permit hunters may hunt only with a weapon in compliance with their tag.

Where to get application: Applications for special hunting season deer or elk permits may be bought at all game license dealerships.

Application Deadline: To qualify for the drawing all applications must be postmarked no later than August 2, 1990 or received no later than 5:00 p.m. on August 2, 1990 at the Department of Wildlife headquarters in Olympia or at any of the regional Department of Wildlife offices.

Cost: Single applications (one person) cost \$2.00. Partnership applications (two persons) cost \$4.00. Partnership applications will be accepted for both deer and elk.

- Permits will be drawn by random computer selection.

- Please do not call Department of Wildlife offices to find out if your application was drawn. All hunters who sent in an application will receive notice in the mail by September 15.

- There are no refunds or exchanges for deer or elk tags for persons applying for special permits.

Special Hunting Season Permits

You MUST have a valid hunting license and tag to apply for any special hunting season set by the Wildlife Commission. (Does not include hunts listed in the pamphlet as open to all hunters.)

Waiting Period: Anyone receiving a special hunting season permit may not apply for another such permit again for:

Mountain Goat - next five years:

Elk - next two years:

Moose - lifetime:

Mountain Sheep - a) unsuccessful in harvesting a sheep - five years: b) successful in harvesting a sheep - lifetime.

SPECIAL DEER PERMIT HUNTING SEASONS
 (Open to Permit Holders Only)

Hunters must purchase a hunting license and deer tag prior to purchase of a permit application. Only modern firearm deer tag holders and muzzleloader deer tag holders may apply for the following permit hunts. It is unlawful to hunt wild animals during late buck seasons or any special deer permit season unless valid licenses and tags for hunting deer are in possession with the following exception: Bear hunters do not need a deer tag to hunt for bear in GMUs 100-124 from Oct. 3-10.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1001	Curlew	200	Oct. 3-10	Whitetail, Antlerless Only	GMU 100
1002	Boulder	200	Oct. 3-10	Whitetail, Antlerless Only	GMU 103
1003	Kellyhill	350	Oct. 3-10	Whitetail, Antlerless Only	GMU 105
1004	Kellyhill	100	Dec. 14-16	Whitetail, Anglerless Only	GMU 105
1005	Douglas	1,000	Oct. 3-10	Whitetail, Antlerless Only	GMU 108
1006	Douglas	100	Dec. 14-16	Whitetail, Antlerless Only	GMU 108
1007	Aladdin	400	Oct. 3-10	Whitetail, Antlerless Only	GMU 111
1008	Chewelah	400	Oct. 3-10	Whitetail, Antlerless Only	GMU 118
1009	Boyer	450	Oct. 3-10	Whitetail, Antlerless Only	GMU 119
1010	Huckleberry	1,750	Oct. 3-10	Whitetail, Antlerless Only	GMU 121
1011	Huckleberry	250	Dec. 14-16	Whitetail, Antlerless Only	GMU 121

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1012	Mt. Spokane	1,000	Oct. 3-10	Whitetail, Antlerless Only	GMU 124
1013	Roosevelt	300	Nov. 14-25	Antlerless Only	GMU 133
1014	Harrington	150	Nov. 14-25	Antlerless Only	GMU 136
1015	Step toe	200	Nov. 14-25	Antlerless Only	GMU 139
1016	Almota	300	Nov. 14-25	Antlerless Only	GMU 142
1017	Mayview	300	Nov. 14-25	Antlerless Only	GMU 145
1018	Starbuck	200	Nov. 14-25	Antlerless Only	GMU 148
1019	Bluecreek	150	Nov. 14-20	Whitetail, Antlerless Only	GMU 154
1020	Touchet	75	Nov. 14-25	Whitetail, Antlerless Only	GMU 160
1021	Eckler	75	Nov. 14-25	Whitetail, Antlerless Only	GMU 161
1022	Marengo A	125	Nov. 14-25	Whitetail, Antlerless Only	GMU 163
1023	Marengo B	75	Nov. 14-25	Antlerless Only	GMU 163
1024	Mountain View	50	Nov. 14-25	Antlerless Only	GMU 172
1025	Lick Creek	50	Nov. 14-25	Antlerless Only	GMU 175
1026	Peola	200	Nov. 14-20	Antlerless Only	GMU 178
1027	Couse A	150	Nov. 14-20	Antlerless Only	GMU 181
1028	Couse B	150	Nov. 14-20	Whitetail, Either Sex	GMU 181
1029	Blue Mtn. Foothills	50	Nov. 14-30	Whitetail, Either Sex	GMU 145, 160 161, 163, 172 175
1030	Wannacut	100	Oct. 29- Nov. 4	Antlerless Only	GMU 209
1031	Sinlahekin	150	Oct. 29- Nov. 4	Antlerless Only	GMU 215
1032	Chewuch	400	Oct. 29- Nov. 4	Antlerless Only	GMU 218
1033	Pearrygin	500	Nov. 4-10	Antlerless Only	GMU 224
1034	Gardner	300	Nov. 4-10	Antlerless Only	GMU 231
1035	Pogue	500	Nov. 4-10	Antlerless Only	GMU 233
1036	Bigbend	300	Oct. 20-28	Antlerless Only	GMU 248*
1037	Okanogan	100	Dec. 3-9	Whitetail, Either Sex	GMU 200-242
1038	Saint Andrews	100	Oct. 20-28	Antlerless Only	GMU 254*
1039	Foster Creek	200	Oct. 20-28	Antlerless Only	GMU 260*
1040	Withrow	100	Oct. 20-28	Antlerless Only	GMU 262*
1041	Badger	100	Oct. 20-28	Antlerless Only	GMU 266*
1042	Moses Coulee	200	Oct. 20-28	Antlerless Only	GMU 269*
1043	Beezley	150	Oct. 15-21	Antlerless Only	GMU 272*
1044	Kalotus	150	Oct. 15-21	Antlerless Only	GMU 284*
1045	Howard Flats 1	75	Oct. 6-12	Antlerless Only	Portion of GMU 300/308****
1046	Howard Flats 2	75	Nov. 10-18	Antlerless Only	Portion of GMU 300/308***
1047	South Chelan	75	Nov. 10-18	Antlerless Only	Portion of GMU 308****
1048	Entiat	150	Nov. 10-18	Antlerless Only	GMU 308
1049	Wenatchee	200	Nov. 17-30	Antlerless Only	Portion of GMU 314****
1050	Naneum	50	Nov. 3-11	Either Sex	GMU 328
1051	Swakane	150	Nov. 10-18	Antlerless Only	GMU 316
1052	Quilomenc	50	Nov. 3-11	Either Sex	GMU 329
1053	Teanaway	100	Nov. 14-16	Either Sex	GMU 335
1054	Taneum	50	Nov. 16-20	Either Sex	GMU 336
1055	Manastash	50	Nov. 16-20	Either Sex	GMU 340
1056	Naches	75	Oct. 27-30	Either Sex	GMU 346
1057	Bumping	50	Oct. 27-30	Either Sex	GMU 356
1058	Bethel	50	Oct. 27-30	Either Sex	GMU 360
1059	Rimrock	50	Oct. 27-30	Antlerless Only	GMU 364
1060	Priest Rapids	30	Oct. 27-30	Either Sex	GMU 370
1061	Champion N.	250	Dec. 7-11	Antlerless Only	AREA 001**
1062	Champion S.	100	Dec. 7-11	Antlerless Only	AREA 002***
1063	Green River A	45	Oct. 20-26	Antlerless & 2-Pt. Buck Min.	GMU 485
1064	Green River B	30	Oct. 20-26	Antlerless Only	GMU 485
1065	Lincoln	100	Oct. 22-28	Either Sex	GMU 501
1066	Mossyrock	100	Oct. 22-28	Either Sex	GMU 505
1067	Willapa Hills	75	Oct. 22-28	Either Sex	GMU 506
1068	Stormking	50	Oct. 22-28	Either Sex	GMU 510
1069	Sawtooth	50	Oct. 22-28	Either Sex	GMU 512
1070	Packwood	30	Oct. 22-28	Either Sex	GMU 516

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1071	Ryderwood	50	Oct. 22-28	Either Sex	GMU 530
1072	Coweman	60	Oct. 22-28	Either Sex	GMU 550
1073	Lewis River	50	Oct. 22-28	Either Sex	GMU 560
1074	Siouxon	50	Oct. 22-28	Either Sex	GMU 572
1075	White Salmon	100	Oct. 22-28	Either Sex	GMU 576
1076	Goodnoe	100	Oct. 22-28	Either Sex	GMU 584
1077	Grayback	200	Oct. 22-28	Either Sex	GMU 588
1078	Hoko	50	Oct. 22-28	Either Sex	GMU 601
1079	Pysht	100	Oct. 22-28	Either Sex	GMU 603
1080	Goodman	50	Oct. 22-28	Either Sex	GMU 612
1081	Clearwater	50	Oct. 22-28	Either Sex	GMU 615
1082	Olympic	150	Oct. 22-28	Either Sex	GMU 621
1083	Coyle	125	Oct. 22-28	Either Sex	GMU 624
1084	Skokomish	125	Oct. 22-28	Antlerless & 2-Pt. Buck Min.	GMU 636
1085	Wynoochee	75	Oct. 22-28	Either Sex	GMU 648
1086	Deschutes	75	Oct. 22-28	Either Sex	GMU 666
1087	Skookumchuck	250	Oct. 22-28	Either Sex	GMU 667
1088	Fall River	50	Oct. 22-28	Either Sex	GMU 672
1089	Marrowstone I.	20	Oct. 22-28	Either Sex	AREA 061*

*Most of the land in these GMUs is private property and prior arrangements for access is recommended.

**Champion will be charging permit entry fees. (Call 206-879-5311 for information).

***Young hunter opportunity. Applicants must be 16 years old or younger and must be accompanied by an adult.

****Successful applicants will be provided a map of the hunt boundary by mail. Review copies are available at regional offices.

DEER MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader deer tag prior to submitting an application for a muzzleloader permit hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Boundary Description
1090	Blue Creek	50	Nov. 21- Dec. 10	Whitetail - Either Sex	GMU 154
1091	Chiliwist	200	Nov. 10-18	Whitetail - Either Sex Mule Deer - Antlerless Only	GMU 239 GMU 239
1092	Alta	300	Nov. 10-18	Whitetail - Either Sex; Mule Deer - Antlerless Only	GMU 242 GMU 242
1093	Moses Coulee	25	Dec. 2-8	Antlerless Only	GMU 269
1094	Moses Coulee	25	Dec. 9-15	Antlerless Only	GMU 269
1095	Moses Coulee	25	Dec. 16-22	Antlerless Only	GMU 269
1096	Manson	200	Nov. 10-18	Either Sex	GMU 300
1097	Alpine	100	Sept. 29- Oct. 12	Either Sex	GMU 302
1098	Chiwawa	250	Nov. 10-18	Antlerless Only	GMU 304

Special Elk Hunting Seasons
(Open to Permit Holders Only)

It is unlawful to hunt wild animals during a special elk permit season unless tags for hunting elk are in possession. Hunters must purchase a hunting license and elk tag prior to purchase of a permit application. Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper area tag for these hunts (see Elk Tag Prefix required to apply for each hunt). Hunters drawing a permit for a hunt after the first of the year can use their 1990 license and tag during the hunt.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2001	Aladdin	15	Nov. 3-11	Either Sex	BL or BM	GMU 111
2002	Selkirk	30	Nov. 3-11	Either Sex	BL or BM	GMU 113
2003	Mica Peak/ Cheney	30	Nov. 3-11	Either Sex	BL or BM	GMU 127 & 130
2004	Blue Creek	125	Nov. 3-11	Spike bull or Antlerless	BL or BM	154
2005	Watershed	100	Nov. 3-11	Antlerless or 3-pt. bull min	BL or BM	GMU 157
2006	Touchet	150	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 160
2007	Eckler	150	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 161
2008	Touchet, Eckler, Marengo	100	Dec. 15- Jan. 15, 1991	Antlerless Only	BL or BM	GMU 160, 161, 163

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2009	Tucannon	100	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 166
2010	Wenaha	75	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 169
2011	Mountain View A	125	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 172
2012	Mountain View B	75	Dec. 15- Jan. 15, 1991	Antlerless Only	BL or BM	GMU 172
2013	Lick Creek	200	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 175
2014	Couse	75	Nov. 3-11	Spike bull or Antlerless	BL or BM	GMU 181
2015	Mission	100	Oct. 21-23	Antlerless Only	CL or CM	GMU 314
2016	Naneum	150	Oct. 21-23	Antlerless Only	CL or CM	GMU 328
2017	Reecer	75	Oct. 6-12	Antlerless Only	CL or CM	ELK AREA 030
2018	Shushuskin	100	Nov. 17-25	Antlerless Only	YL or YM	ELK AREA 031
2019	Malaga	150	Sept. 15- Oct. 23	Antlerless Only	CL or CM	ELK AREA 032
2020	Peshastin	100	Sept. 15- Oct. 23	Antlerless Only	CL or CM	ELK AREA 033
2021	Quilomene	150	Oct. 21-23	Antlerless Only	CL or CM	GMU 329
2022	West Bar A	25	Oct. 21	Antlerless Only	CL or CM	GMU 330
2023	West Bar B	25	Oct. 22	Antlerless Only	CL or CM	GMU 330
2024	West Bar C	25	Oct. 23	Antlerless Only	CL or CM	GMU 330
2025	Caribou	175	Nov. 21- Dec. 2	Antlerless Only	CL or CM	AREA 002
2026	Taneum A	150	Nov. 1-4	Antlerless Only	YL or YM	GMU 336
2027	Taneum B	50	Nov. 14-16	Antlerless Only	YL or YM	GMU 336
2028	Manastash A	100	Nov. 1-4	Antlerless Only	YL or YM	GMU 340
2029	Manastash B	100	Nov. 14-16	Antlerless Only	YL or YM	GMU 340
2030	Naches/ Umtanum A	350	Nov. 1-4	Antlerless Only	YL or YM	GMU 342/346*
2031	Naches/ Umtanum B	150	Nov. 14-16	Antlerless Only	YL or YM	GMU 342/346*
2032	Naches	25	Sept. 29- Oct. 12	3-Pt. Bull Minimum	YL or YM	GMU 346*
2033	Nile A	100	Nov. 1-4	Antlerless Only	YL or YM	GMU 352
2034	Nile B	75	Nov. 14-16	Antlerless Only	YL or YM	GMU 352
2035	Bumping A	250	Nov. 1-4	Antlerless Only	YL or YM	GMU 356
2036	Bumping B	150	Nov. 14-16	Antlerless Only	YL or YM	GMU 356
2037	Bethel	175	Nov. 14-16	Antlerless Only	YL or YM	GMU 360
2038	Rimrock- Cowiche A	175	Nov. 1-4	Antlerless Only	YL or YM	GMU 366
2039	Rimrock- Cowiche B	100	Nov. 14-16	Antlerless Only	YL or YM	GMU 366
2040	Stemilt	50	Sept. 30- Oct 8	Antlerless Only	CL or CM	Portion GMU 314**
2041	Green River Cow	30	Nov. 10-14	Antlerless Only	WL or WM	GMU 485
2042	Green River Bull	15	Nov. 10-14	Antlerless, or 3-Pt. Bull Min.	WL or WM	GMU 485
2043	Green River Spike	5	Nov. 10-14	Spike or Antlerless Only	WL or WM	GMU 485
2044	Cedar River Bull	5	Nov. 17-21	3-Pt Bull Min.	WA, WE, WL, WM	GMU 490
2045	Cedar River Cow	15	Nov. 17-21	Antlerless Only	WA, WE WL, WM	GMU 490
2046	Lincoln	25	Nov. 13-18	Antlerless Only	WL or WM	GMU 501
2047	Willapa Hills	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 506*
2048	Packwood	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 516
2049	Margaret Cow	30	Nov. 13-18	Antlerless Only	WL or WM	GMU 524
2050	Margaret Bull	30	Oct. 31- Nov. 11	3-Pt. Bull Minimum	WL or WM	GMU 524
2051	Toutle Cow	100	Nov. 13-18	Antlerless Only	WL or WM	GMU 556

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2052	Toutle Bull	200	Oct. 31- Nov. 11	3-Pt. Bull Minimum	WL or WM	GMU 556
2053	Marble	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 558
2054	Lewis River	75	Nov. 13-18	Antlerless Only	WL or WM	GMU 560
2055	Siouxon	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 572
2056	Doty	50	Jan. 1- 31, 1991	Antlerless Only	WL or WM	ELK AREA 051
2057	East Valley	30	Jan. 1- 21, 1991	Antlerless Only	WL or WM	ELK AREA 055
2058	Mayfield	25	Jan. 1- 15, 1991	Antlerless Only	WL or WM	ELK AREA 052
2059	Mayfield	25	Jan. 16- 31, 1991	Antlerless Only	WL or WM	ELK AREA 052
2060	Dickey Cow	30	Nov. 13-18	Antlerless Only	WL or WM	GMU 602
2061	Dickey Early Bull	10	Sept. 29- Oct. 12	3-Pt. Bull Minimum	WL or WM	GMU 602
2062	Dickey Late Bull	75	Oct 31- Nov. 11	3-Pt. Bull Minimum	WL or WM	GMU 602
2063	Soleduck	30	Nov. 13-18	Antlerless Only	WL or WM	GMU 607
2064	Goodman	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 612
2065	Matheny	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 618
2066	Quinalt Ridge	5	Sept. 29- Oct. 12	3-Pt. Bull Minimum	WL or WM	GMU 638
2067	Humtulpils	30	Nov. 13-18	Antlerless Only	WL or WM	GMU 639
2068	Wynoochee	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 648
2069	Minot Peak	20	Nov. 13-18	Antlerless Only	WL or WM	GMU 660
2070	Palix	40	Nov. 13-18	Antlerless Only	WL or WM	GMU 669
2071	Nemah	50	Nov. 13-18	Antlerless Only	WL or WM	GMU 678
2072	Backbone	55	Nov. 28- Dec. 16	Either Sex	WL or WM	AREA 025
2073	Toledo	25	Jan. 2- 24, 1991	Antlerless Only	WL or WM	AREA 029
2074	Randle A	25	Jan. 1- 15, 1991	Antlerless Only	WL or WM	AREA 053
2075	Randle B	25	Jan. 16- 31, 1991	Antlerless Only	WL or WM	AREA 053
2076	Boistfort	50	Jan. 2- 23, 1991	Antlerless Only	WL or WM	AREA 054
2077	Carlton	5	Oct. 1-10	3-Pt. Bull Minimum	WL or WM	AREA 057
2078	West Goat Rocks	5	Sept. 29- Oct. 12	3-Pt. Bull Min.	WL or WM	AREA 058
2079	Mt. Adams	5	Sept. 29- Oct. 12	3-Pt. Bull Minimum	WL or WM	AREA 059
2080	Mt. Tebo	5	Sept. 29- Oct. 12	3-Pt. Bull Minimum	WL or WM	AREA 061
2081	Willapa Valley	30	Jan. 1- 15, 1991	Antlerless Only	WL or WM	AREA 065
2082	Twin Valley A	20	Jan. 1- 15, 1991	Antlerless Only	WL or WM	AREA 066
2083	South Willapa	15	Jan. 1- 15, 1991	Antlerless Only	WL or WM	AREA 067
2084	Chinook Early	10	Jan. 1- 15, 1991	Antlerless Only	WL or WM	AREA 069

MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader elk tag prior to purchase of a special hunting season permit application. Note the elk tag required for each hunt.

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2085	Bluecreek	100	Dec. 1- Jan. 30, 1991	Antlerless Only	BM	GMU 154
2086	Mountain View	50	Oct. 6-12	Spike Bull or Antlerless	BM	GMU 172

Hunt No.	Hunt Name	No. Permits	Open Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2087	Umptanum	200	Sept. 29- Oct. 12	Antlerless Only	YM	GMU 342*
2088	Naches	250	Nov. 17-20	Antlerless Only	YM	GMU 346*
2089	Twin Valleys B	20	Jan. 16- Feb. 15, 1991	Antlerless Only	WM	ML AREA 066
2090	Toutle Mtn.	100	Nov. 22- Dec. 10	Antlerless Only	WM	ML AREA 950
2091	Yale	50	Nov. 22- Dec. 10	Either Sex	WM	GMU 554
2092	Hoko River A	15	Jan. 1- 15, 1991	Antlerless Only	WM	ML AREA 961
2093	Hoko River B	15	Jan. 16- Feb. 15, 1991	Antlerless Only	WM	ML AREA 961
2094	Chinook Late	10	Jan. 16- Feb. 15, 1991	Antlerless Only	WM	ML AREA 069
2095	North River	20	Nov. 21- Dec. 9	Antlerless Only	WM	GMU 658
2096	Elwha A	5	Dec. 15- Jan. 15, 1991	Antlerless Only	WM	ML AREA 962***
2097	Elwha B	5	Jan. 16- Feb. 15, 1991	Antlerless Only	WM	ML AREA 962***

*Boundary Change

**Successful applicants will be provided a map of the hunt boundary by mail.

***Very small geographic area for damage control purposes.

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

WSR 90-06-096
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed March 7, 1990, 2:30 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-222 1990-91 Hunting hours, closure notices, and hound hunting areas.

Purpose: To establish legal hunting hours, areas closed to hunting, and hound hunting areas during deer and elk hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Statute Being Implemented: RCW 77.12.040 and 77.04.055.

Summary: This rule establishes legal hunting hours for safety purposes; designates areas which are closed to hunting because of safety concerns, local ordinances, or wildlife management purposes; and establishes hound hunting areas during deer and elk hunting seasons.

Reasons Supporting Proposal: See Summary above.

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 Summary 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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-222 1990-91 HUNTING HOURS, CLOSURE NOTICES, AND HOUND HUNTING AREAS

1990-91 OFFICIAL HUNTING HOURS*
 September 1, 1990 to January 31, 1991

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M.	P.M.	A.M.	P.M.
Sat. Sept. 1 - Sun. Sept. 2	6:00	7:50	5:45	7:40
Mon. Sept. 3 - Sun. Sept. 9	6:05	7:40	5:50	7:30
Mon. Sept. 10 - Sun. Sept. 16	6:15	7:25	6:00	7:15
Mon. Sept. 17 - Sun. Sept. 23	6:20	7:10	6:10	7:00

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M.	P.M.	A.M.	P.M.
Mon. Sept. 24 – Sun. Sept. 30	6:30	6:55	6:20	6:45
Mon. Oct. 1 – Sun. Oct. 7	6:40	6:45	6:30	6:30
Mon. Oct. 8 – Fri. Oct. 12	6:50	6:30	6:40	6:20
Opening** Sat. Oct. 13	6:55	6:25	6:45	6:10
Weekend Sun. Oct. 14	6:55	6:25	6:45	6:10
Mon. Oct. 15 – Sun. Oct. 21	7:00	6:15	6:50	6:05
Mon. Oct. 22 – Sat. Oct. 27	7:10	6:05	7:00	5:50
Sun. Oct. 28	6:15	5:00	6:05	4:45
Mon. Oct. 29 – Sun. Nov. 4	6:20	4:50	6:10	4:40
Mon. Nov. 5 – Sun. Nov. 11	6:35	4:40	6:20	4:30
Mon. Nov. 12 – Sun. Nov. 18	6:45	4:35	6:30	4:20
Mon. Nov. 19 – Sun. Nov. 25	6:55	4:25	6:40	4:15
Mon. Nov. 26 – Sun. Dec. 2	7:05	4:20	6:50	4:10
Mon. Dec. 3 – Sun. Dec. 9	7:10	4:20	7:00	4:05
Mon. Dec. 10 – Sun. Dec. 16	7:20	4:20	7:05	4:05
Mon. Dec. 17 – Sun. Dec. 23	7:25	4:20	7:10	4:05
Mon. Dec. 24 – Sun. Dec. 30	7:25	4:25	7:15	4:10
Mon. Dec. 31 – Sun. Jan. 6	7:25	4:30	7:15	4:20
Mon. Jan. 7 – Sun. Jan. 13	7:25	4:40	7:15	4:25
Mon. Jan. 14 – Sun. Jan. 20	7:20	4:45	7:10	4:35
Mon. Jan. 21 – Sun. Jan. 27	7:15	4:55	7:05	4:45
Mon. Jan. 28 – Thu. Jan. 31	7:10	5:05	7:00	4:55

* These are lawful hunting hours for all game animals and game birds except waterfowl during established seasons. Waterfowl hunting hours will be published in the Upland Bird and Waterfowl Season pamphlet.

Exceptions:

- 1) Western Washington – Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington – Cottontail rabbit and snowshoe hare hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant season on designated pheasant release sites.
- 3) Before September 1 and after January 31 during their respective seasons, the lawful hunting hours for all game animals and game birds shall be one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer and elk, hunting hours shall be one-half hour before sunrise to sunset.

** Opening Day – In eastern Washington, upland bird and waterfowl seasons open at noon. In western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

SPECIAL CLOSURE NOTICE

It is unlawful to hunt wild animals and wild birds as provided in the following closures:

(1) Little Pend Oreille Wildlife Area: The southern part of the Little Pend Oreille Wildlife Area in Stevens County is closed to hunting and discharge of firearms except during the period of October 1 through December 31. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34N, R 40 EWM, thence easterly along road 1.0 to the intersection with road 2.0 in Section 2, thence easterly along Road 2.0 to the easterly boundary in Section 8, Township 34N, R 42 EWM.

The Little Pend Oreille Wildlife Area north of the preceding boundary is open to all legally established hunting seasons during September and October.

(2) Parker Lake: All lands south of Ruby Creek Road (USFS #2489), north of Tacoma Creek Road (USFS #2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds except during the period Sept. 1-30, 1990. The above closures were established to provide a protected area for the Air Force Military Survival Training Program.

(3) Cathlamet: Those lands between State Highway No. 4 and the Columbia River between Cathlamet and Skamokawa, and all of Puget Island in Wahkiakum County; closed to all deer hunting. This closure is established to protect the endangered Columbia Whitetail Deer.

(4) Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbia Whitetail Deer hunting.

(5) Willapa National Wildlife Refuge: Except for Bow Area No. 802 (Long Island), Willapa NWR is closed to all big game hunting. Consult refuge manager for other special regulations, HC 01, Box 910, Ilwaco, Washington 98624-9707, or telephone (206) 484-3482.

(6) Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals and birds except for holders of special controlled elk permits during the established open season. This area is closed to motorized vehicles. Terrain is extremely steep and rugged. Entry is allowed only by Forest Service permit and only for duration of the hunt.

(7) Colockum elk hunting restrictions: No entry in GMUs 330 (West Bar) except permit holders, October 21-23. Closed to entry (no trespassing) October 24-November 9.

(8) Colockum horse restrictions: GMU 330 (West Bar) & It is unlawful to ride horses, mules, or other livestock during any open elk seasons in GMU 330, PROVIDED, however, that livestock may be used for transporting camp gear and elk carcasses. GMU 329 (Quilomene) & It is unlawful to allow a horse to enter the Brush and Cape Horn agricultural fields prior to 9 a.m. from Oct. 21 to Nov. 2, 1989.

(9) Columbia River and all the islands in the river between Vernita Bridge (Highway 24) downstream to the old Hanford townsite power-line crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.

(10) Green River (GMU 485): Except for special controlled permit hunts, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals and wild birds. The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the city during all times of the year.

(11) McNeil Island: McNeil Island (part of GMU 480) is closed to the hunting of all wild animals and wild birds year around.

(12) Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of S.R. No. 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.

(13) Baleville: Closed to hunting of all big game animals on those lands between Highway 105 and the Willapa River west of Raymond.

(14) Portion of GMU 484 (Puyallup): Closed to all hunting within the following described boundary: Beginning at the intersection of State Highway 410 and the Southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the Southeast Mud Mountain Road to 284th Avenue SE; then north along 284th Avenue SE to State Highway 410; then west along Highway 410 to point of beginning.

HOUND HUNTING DURING DEER AND ELK HUNTING SEASONS

It is unlawful to hunt at night during any modern firearm deer or elk season.

It is unlawful to hunt wild animals with dogs in any area open to a center-fire rifle deer or elk season except for the following areas and dates. (This does not permit the hunting of deer and elk with the use of hounds.)

Eastern Washington

GMUs 100-124	Oct. 3-10
GMUs 127-185	Nov. 14-25
GMUs 200-242	Dec. 3-9

Yakima County within two (2) miles of the Yakima River below Union Gap.

Oct. 13-30

Whitman and Lincoln counties.

Oct. 31-Nov. 11

Chelan and Okanogan counties.

Dec. 1-31

Western Washington

Oct. 13-Nov. 23 in the Columbia River Floodplain of Clark and Cowlitz counties with boundaries described as follows: beginning at the Longview/Columbia River Bridge, then north and west on Oregon Way (Highway 432) to Tennant Way (Highway 432) to Interstate Highway 5, then south on I-5 to State Highway 14 to the Skamania County line, then south on county line to the Columbia River on state line to the Longview Bridge and point of beginning.

Oct. 13-Nov. 11 in GMU 405 (west of Highway 9) and GMUs 454, 627 and 633.

WSR 90-06-097
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed March 7, 1990, 2:31 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-223 1990-91 Bear and small game hunting seasons.

Purpose: To establish bear and small game hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Statute Being Implemented: RCW 77.12.040 and 77.04.055.

Summary: This rule establishes bear and small game hunting seasons which allow for hunting of harvestable surplus and provide recreational opportunity.

Reasons Supporting Proposal: See Summary above.

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 Summary 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, Tukwila, WA 98188, on April 20-21, 1990, 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.

March 5, 1990

Lee S. Smith

Administrative Regulations Officer

NEW SECTION

WAC 232-28-223 1990-91 BEAR AND SMALL GAME HUNTING SEASONS

BLACK BEAR

Bag Limit: Fall General - One (1) bear.

(NOTE: Grizzly bear protected by closed season.)

Tag Sale Deadline: Bear tags must be purchased by midnight, preceding deer firearm season opener, October 12, 1990.

Licenses and Tags Required: A valid hunting license and unaltered, unnotched bear tag are required to hunt black bear. A hound stamp is required for each hunter if dogs are used. During general and permit elk seasons, all hunters must have the appropriate elk tag in possession.

Bear tag: Only one (1) may be purchased, and the number will be recorded on the hunting license.

Pursuit Only Season

(Bear may not be killed or injured)

Options for consideration:

- a. Calendar date adjustment to current bear pursuit seasons. August 1-31 in GMUs 100-124 and GMUs 200-206.
- b. Eliminate bear pursuit season.

OPEN SEASON

Eastern Washington*

Sept. 1-Oct. 25, except CLOSED to hunting with hounds Sept. 1-Oct. 21 in Walla Walla and Columbia counties outside of Umatilla National Forest and CLOSED to hunting with hounds Sept. 1-5 in GMUs 203, 218, 224, 231, 239 and 242.

Western Washington

Aug. 1-Oct. 28, 1990, EXCEPT Sept. 1-Oct. 28, 1990 in GMUs 448 (Stillaguamish), 669 (Palix), 678 (Nemah), and 681 (Bear River) and Sept. 15-Oct. 28, 1990 in Bow Area 802 (Long Island). CLOSED in GMUs 485 (Green River) and 522 (Loo-wit).

HOUND HUNTING CLOSURES

Use of hounds is prohibited in GMU 684 (Long Beach) and Bow Area 802 (Long Island).

TEETH SUBMITTAL

Bear: Each hunter who takes a bear must submit the small premolar tooth behind the canine tooth of upper or lower jaw for age determination. Tooth envelopes are available from Department of Wildlife regional offices.

Bobcat

Sealing of Hide: Successful bobcat hunters must present the unfrozen pelt to a state Wildlife Agent or Department office for sealing within 10 days of the close of the hunting or trapping season in which they were harvested.

It is unlawful to transport or cause the transport of an unprocessed native cat pelt taken in Washington, out of Washington without a Washington Department of Wildlife seal attached.

Bag Limit: No limit.

A hound stamp is required for each hunter if dogs are used.

The agency has identified several alternatives to the current open bobcat seasons. The options are as follows:

Eastern Washington**Pursuit Only Season**

(Bobcats may not be killed or injured)

Options for consideration:

- Calendar date adjustment to the current bobcat pursuit season. Sept. 1-30 and Nov. 21-Dec. 14, 1990, except closed to hound hunting in Walla Walla and Columbia Counties outside of Umatilla National Forest Sept. 1-Oct. 12.
- Eliminate the late pursuit season. Sept. 1-30, except closed to hound hunting in Walla Walla and Columbia Counties outside of Umatilla National Forest.
- Eliminate all bobcat pursuit seasons.

Open Season

(Bobcat may be killed)

Options for consideration:

- Calendar date adjustments to the current open seasons. Oct. 13-31, 1990 and Dec. 15, 1990-Jan. 15, 1991.
- Close night hunting for all species during the cougar permit season. Oct. 13-31, 1990 and Dec. 15, 1990-Jan. 15, 1991, except restricted to official daylight hunting hours Nov. 21, 1990-Jan. 15, 1991.
- Shift the late bobcat kill season one month later. Oct. 13-31, 1990 and Jan. 16-Feb. 15, 1991.

Western Washington**Pursuit Only Season**

(Bobcats may not be killed or injured)

Options for consideration:

- Calendar date adjustment to current bobcat pursuit season. August 1-Oct. 12, except closed in GMU 522 (Loo-wit).
- Close bobcat pursuit season.

Open Season

(Bobcats may be killed)

Options for consideration:

- Calendar date adjustment to current seasons. Oct. 13, 1990-March 15, 1991, except closed in GMU 522 (Loo-wit).
- Close night hunting for all species during cougar permit season. Oct. 13, 1990-March 15, 1991, except restricted to official daylight hunting hours Nov. 21, 1990-Jan. 15, 1991 and closed in GMU 522 (Loo-wit).
- Close bobcat season during cougar permit seasons. Oct. 13-Nov. 20, 1990 and Jan. 16, 1990-March 15, 1991, except closed in GMU 522 (Loo-wit).

RACCOON

A hunting license is required to hunt raccoon. A hound stamp is required by all hunters if dogs are used.

The agency has identified several alternatives to the current open raccoon seasons.

Eastern Washington**Pursuit Only Season**

(Raccoons may not be killed or injured)

Options for consideration:

- Calendar date adjustment to the current raccoon pursuit season. Sept. 1-Oct. 12 in all eastern Washington, except closed to hound hunting in Walla Walla and Columbia Counties outside Umatilla National Forest. Feb. 1-28 in GMUs 111, 121, 148, and 154.
- Close the late pursuit season. Sept. 1-Oct. 12 in all eastern Washington, except closed to hound hunting in Walla Walla and Columbia Counties outside Umatilla National Forest.
- Eliminate the raccoon pursuit season.

Open Season

(Raccoons may be killed)

Options for consideration:

- Calendar date adjustment to current season. Oct. 13, 1990-Jan. 15, 1991.
- Close night hunting for raccoon during cougar permit season. Oct. 13, 1990-Jan. 15, 1991, except restricted to official daylight hunting hours Nov. 21, 1990-Jan. 15, 1991.
- Shift the raccoon season later in the year. Oct. 13-Nov. 20, 1990 and Jan. 16-March 1, 1991.
- Eliminate open raccoon season during cougar permit seasons. Oct. 13-Nov. 20, 1990.

Western Washington**Pursuit Only Season**

(Raccoon may not be killed or injured)

Options for consideration:

- Calendar date adjustment to current raccoon pursuit season. Aug. 1-Oct. 12, except closed on Long Island within Willipa National Wildlife Refuge and GMU 522 (Loo-wit).
- Eliminate raccoon pursuit season.

Open Season

(Raccoon may be killed)

Options for consideration:

- Calendar date adjustment to the current season. Oct. 13, 1990-March 15, 1991 in all western Washington GMUs, except closed on Long Island within the Willipa National Wildlife Refuge and GMU 522 (Loo-wit).
- Eliminate night hunting during cougar permit seasons. Oct. 13, 1990-March 15, 1991, except restricted to official daylight hunting hours Nov. 21, 1990-Jan. 15, 1991, closed on Long Island within the Willipa National Wildlife Refuge and GMU 522 (Loo-wit).
- Eliminate raccoon open season during cougar permit season. Oct. 13-Nov. 20, 1990 and Jan. 16-March 15, 1991, except closed on Long Island with the Willipa National Wildlife Refuge and GMU 522 (Loo-wit).

Upland Birds

Blue Grouse, Ruffed Grouse, and Spruce (Franklin) Grouse.

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) in possession at any time, straight or mixed bag.

Statewide: Sept. 1-Dec. 31, 1990, except CLOSED in GMU 522 (Loo-wit). Rifles and handguns prohibited from Nov. 19-Dec. 31, 1990.

The taking of grouse by archery equipment is prohibited during archery deer and archery elk seasons unless valid license and tag for deer or elk hunting is in possession.

The taking of grouse by muzzleloader equipment except smooth bore with #4 birdshot or smaller is prohibited during muzzleloader deer and muzzleloader elk seasons unless valid license and tag for deer or elk hunting is in possession.

Early chukar and Hungarian Partridge

To be set at the August Wildlife Commission meeting.

Ring-necked Pheasant, Quail, Chukar and Hungarian Partridge

Statewide: Starting Oct. 13, 1990. Closed in GMU 522 (Loo-wit). Remaining season dates set by Wildlife Commission in August. Flier will be available in September.

Western Washington Pheasant: Sept. 29-Nov. 30, 1990 (8 a.m. to 4 p.m.), except Voice of America site (Clallam County) starting Oct. 13, 1990. Closed in GMU 522 (Loo-wit). Bag and Possession Limits: Early Western Washington Seasons: Two (2) Ring-necked pheasants of either sex per day on designated release sites. EXCEPT two (2) cock pheasants only on other than designated release sites. Remaining bag and possession limits set by Wildlife Commission in August.

UPLAND BIRD STAMP is required to hunt pheasant, quail, and partridge in Eastern Washington.

UPLAND BIRD PERMIT CARD is required to hunt pheasant, quail, and partridge in Western Washington. (Hunter is required to immediately record kill for pheasant kills only.) Hunters may purchase more than one card during the season.

Hunter Orange Clothing Required. It shall be unlawful to hunt upland birds on the following Department of Wildlife-owned or controlled lands unless the hunter is wearing fluorescent hunter orange clothing: Lake Terrell and Tennant Lake Wildlife Areas; Skagit Wildlife Area; Snoqualmie Wildlife Area; Scatter Creek Wildlife Area; Vancouver Lake Shillapoo Wildlife Area; Voice of America Wildlife Area and Skookumchuck Wildlife Area. A minimum of 400 square inches of fluorescent hunter orange exterior clothing, worn above the waist, is required. A hunter orange shirt, jacket or vest satisfies this requirement.

Restricted weekend hunting hours for Lake Terrell, Tennant Lake, Snoqualmie*, and Skagit Wildlife Areas. Hunting hours are restricted on Saturdays and Sundays from 8:00 a.m. until 12 noon. Hunters with odd numbered hunting licenses will hunt on one day and hunters with even numbered hunting licenses will hunt the other weekend day. Hunters 14 years of age or younger may hunt on either weekend day provided they are accompanied by an adult with appropriate hunting license number (the Upland Game and Migratory Waterfowl Hunting Pamphlet fall calendar showing these dates.) *Stillwater, Cherry Valley, Two Rivers segments. **Headquarters and Smith Farm segments.

BIRD DOG TRAINING SEASON August 1, 1990 to March 15, 1991, except Sept. 29–Nov. 30, 1990, dog training is restricted from 8:00 a.m. to 4:00 p.m. on designated release sites. Game birds may be taken only during established bird hunting seasons.

Check Upland Game and Migratory Waterfowl Pamphlet for closing dates and other general hunting rules pertaining to game birds.

BAND-TAILED PIGEON

Western Washington: Sept. 15–23, 1990, except CLOSED in GMU 522 (Loo-wit).

Bag and possession limit: Four (4) band-tailed pigeons per day; four (4) band-tailed pigeons in possession. The band-tailed pigeon season has been modified from past years as a part of a multi-state effort to assist band-tailed pigeons recovering from recent record lows. In addition delay of the season opener is designed to decrease harvest of adult band-tails at mineral springs.

MOURNING DOVE

Statewide: Sept. 1–15, 1990, except CLOSED in GMU 522 (Loo-wit).

Bag and possession limit: Ten (10) mourning doves per day, 20 mourning doves in possession.

FOX

Bag Limit: No limit. Fox may be hunted statewide, Oct. 13, 1990–March 15, 1991, except CLOSED within the exterior boundaries of the Mount Baker/Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 405, 410, and 522.

RABBITS

Cottontail, Snowshoe Rabbit, Washington Hare, White-tailed Jack-rabbits. Sept. 1, 1990–March 15, 1991, Statewide; EXCEPT CLOSED in GMU 522 (Loo-wit).

Daily bag limit: 10 rabbits, straight or mixed bag.

Black-tailed Jackrabbit

Bag limit: 10 rabbits

OPEN SEASON: Year-around.

FALCONRY SEASONS

A Falconry License and a current hunting license are required for hunting with a raptor. In addition, an Upland Game Bird Stamp or Upland Game Bird Permit card is required for pheasant, quail, and partridge; and federal and state waterfowl stamps for hunting waterfowl.

Upland Game Birds – Falconry

Sept. 1, 1990–March 15, 1991, statewide.

Daily bag limit: 1 pheasant (either sex), 3 partridge, 5 quail, and 1 forest grouse (blue, ruffed, spruce).

Rabbits – Falconry

Aug. 1–31, 1990, statewide for cottontail, snowshoe or Washington hare.

Daily bag limit: 1 rabbit

Sept. 1, 1990–March 15, 1991, statewide for cottontails, snowshoe or Washington hare, whitetailed and black-tailed jackrabbits.
Daily bag limit: 10 rabbits.

Coyotes are unclassified wildlife and as such may be taken year round. A hunting license is required to hunt coyote.

Biological Information Request The University of Washington in cooperation with WDW is beginning a study of urban coyotes. We request that hunters save carcasses of coyotes killed in GMU 454 north of I-90. The carcass will be retrieved by study personnel. Hunter should report their coyote kills to the Mill Creek Office (206) 775-1311 or University of Washington (206) 543-7232.

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 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 90-06-098
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed March 7, 1990, 2:47 p.m.]

Original Notice.

Title of Rule: Amending WAC 388-49-600 Notices to households.

Purpose: Comply with PL 100-503, the Computer Matching and Privacy Protection Act of 1988.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Adds new subsection (b) to WAC 388-49-600(1) providing 30-day notice to households subject to adverse action directly resulting from information received as a result of the department doing certain computer matching with federal agencies. There are also editorial changes to add clarity.

Reasons Supporting Proposal: Amends rules to specify 30-day's notice of adverse action for clients subject to the results of computer matching.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Chuck Henderson, Income Assistance, 753-4912.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 100-503, October 18, 1988.

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on April 10, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by April 10, 1990.

Date of Intended Adoption: April 11, 1990.

March 7, 1990
Leslie F. James, Director
Administrative Services

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

WAC 388-49-600 NOTICES TO HOUSEHOLDS. (1) The department shall notify a certified household of any change:

- (a) At least ten days ~~((prior to))~~ before the change ~~((-or))~~;
- (b) At least thirty days before the change if the information causing the change is derived from computer matches the department conducts with federal agencies; or
- (c) By the date benefits are to be received for a household reporting changes on the monthly report.
- (2) The department ~~((shall))~~ is not ~~((be))~~ required to provide advance notice when:
- (a) The federal or state government makes mass changes ~~((;))~~;
- (b) The department determines all household members have died ~~((;))~~;
- (c) The household moves from the state ~~((;))~~;
- (d) The department restored lost benefits and notified the household in writing when the increased allotment would terminate ~~((;))~~;
- (e) The department notified the household at the time of certification that allotments would vary from month to month ~~((;))~~;
- (f) The ~~((household experiences reduction in))~~ household's benefits ~~((upon approval of))~~ are reduced because a public assistance grant ~~((;))~~ is approved; or
- (g) A household member is disqualified for intentional program violation or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.

WSR 90-06-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed March 7, 1990, 2:48 p.m.]

Original Notice.

Title of Rule: WAC 388-33-376 Advance and adequate notice—Suspension—Termination—Reduction of grant; and 388-33-382 Notification of suspension or termination or reduction of grant—Effect on eligibility and grant.

Purpose: To amend client notification rules to provide a 30-day advance notice to clients when an adverse action is planned because of information from federal computer matches. Clarifies that assistance to clients must be continued at least through the end of a required advance notice period.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: When the department plans to reduce, suspend, or terminate assistance to clients, and the adverse action is based on information from computer matches the department conduct with federal agencies, the department must give clients at least 30 days notice before taking the actions. Assistance must be paid to clients at least through the end of an advance notice period.

Reasons Supporting Proposal: This rule is necessary to comply with the Computer Matching and Privacy Protection Act of 1988, Public Law 100-503.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bill Hosford, Income Assistance/Assistance Programs, 586-1516.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, Public Law 100-503, October 18, 1988.

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on April 10, 1990, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by April 10, 1990.

Date of Intended Adoption: April 11, 1990.

March 7, 1990
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2755, filed 1/13/89)

WAC 388-33-376 ADVANCE AND ADEQUATE NOTICE—SUSPENSION—TERMINATION—REDUCTION OF GRANT. ~~((+))~~ In cases of planned actions to terminate, suspend, or reduce grants to recipients of AFDC, GA, medical assistance, or medical only, the department shall give advance and adequate notice, except as provided ~~((m))~~ under WAC 388-33-385 ~~((;))~~, as follows:

- ~~((+))~~ (1) "Advance notice" means ~~((that))~~:
- (a) The department mails the notice ~~((is mailed))~~ at least ten days before the date of action ~~((;))~~; or
- (b) For actions based on information from computer matches the department conducts with federal agencies, the department mails the notice at least thirty days before the date of action.
- (2) "Adequate notice" means a written statement of ~~((what))~~ the:
- (a) Action the department intends to take ~~((, the))~~;
- (b) Facts relating to the decision ~~((, the))~~;
- (c) Policy supporting the action ~~((, the))~~; and
- (d) Right to request a fair hearing, ~~((and))~~ including the circumstances under which assistance is continued if a hearing is requested.
- ~~((+))~~ (3) The department shall fully translate advance and adequate notice into the primary language of the limited English proficient recipient/enrollee ~~((;))~~;
- ~~((+))~~ (4) When advance notice of planned action is not required as provided ~~((m))~~ under WAC 388-33-385 ~~((;))~~:
- (a) ~~Notification of planned reduction shall be provided by state office;~~
- (b) ~~The local office shall notify the recipient of suspension or termination action as described in subsection (1)(b) of this section;), the department shall give adequate notice as provided under subsection (2) of this section; and~~
- ~~((+))~~ (5) When changes in either state or federal law require automatic grant adjustments for classes of recipients, notice shall be given including the specific change in law. ~~((The state office shall determine the method by which notice is given;))~~

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 1784, filed 4/1/82)

WAC 388-33-382 NOTIFICATION OF SUSPENSION OR TERMINATION OR REDUCTION OF GRANT—EFFECT ON ELIGIBILITY AND GRANT. ~~((+))~~ Rules ~~((governing the))~~ for notification, as provided under WAC 388-33-376, do not alter rules for effective dates of eligibility and grant changes resulting from changes in circumstances ~~((are not altered by rules on notification))~~.

~~((2) Compliance with a required advance notice period may in some instances necessitate issuing assistance on a partial month basis.~~

~~(a) When a proposed action cannot be effected on the date specified by rules on eligibility and grant changes, (1) The department shall continue assistance ((shall be continued)) unchanged at least until the end of ((the)) a required advance notice period((- Monthly payment shall be prorated for the number of days needed.~~

~~(b) Assistance granted during a required advance notice period is considered to be an overpayment when the client is ineligible for payment or when payment is received because the required advance notice period extends into the following month during which the recipient is not eligible), regardless of the effective dates specified in rules for eligibility and grant changes.~~

~~(2) The department shall establish an overpayment for assistance continued beyond the effective dates specified in rules for eligibility and grant changes.~~

WSR 90-06-100

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Order 041—Filed March 7, 1990, 3:08 p.m.]

Date of Adoption: March 5, 1990.

Purpose: To establish medical physician and physician assistant licensing fees. This emergency order replaces emergency filing WSR 90-04-093.

Citation of Existing Rules Affected by this Order: Amending WAC 308-52-590.

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.

March 5, 1990
Pam Campbell Mead
for 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) <u>600.00</u>
Examination or reexamination (component I)	((170.00)) <u>295.00</u>

Title of Fee	Fee
Examination or reexamination (component II)	((195.00)) <u>320.00</u>
Applicants (without full examination)	((150.00)) <u>300.00</u>
Renewal	((35.00)) <u>107.50</u>
Renewal effective April 1, 1991	<u>100.00</u>
Late renewal penalty	((15.00)) <u>50.00</u>
Disciplinary assessment	((35.00)) <u>107.50</u>
Disciplinary assessment effective April 1, 1991	<u>100.00</u>
Surcharge-impaired physician Certification	((25.00)) <u>50.00</u>
Duplicate license	<u>15.00</u>
Limited license:	
Limited license application	((75.00)) <u>200.00</u>
((Original license	45.00))
Renewal	((35.00)) <u>107.50</u>
Renewal effective April 1, 1991	<u>100.00</u>
Duplicate license	<u>15.00</u>
Disciplinary assessment	((35.00)) <u>107.50</u>
Disciplinary assessment effective April 1, 1991	<u>100.00</u>
Surcharge-impaired physician	<u>25.00</u>
Physician's assistants:	
Application	((25.00)) <u>50.00</u>
Renewal	((10.00)) <u>35.00</u>
Duplicate license	<u>15.00</u>

WSR 90-06-101

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 7, 1990, 3:11 p.m.]

Original Notice.

Title of Rule: WAC 308-39-220 Dental anesthesia permit fees.

Purpose: To set forth the fees to be charged in connection with the dental anesthesia permits issued pursuant to chapter 308-39 WAC.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250 and 18.32.640.

Summary: This rule sets fees for initial permits, renewals, late renewals, duplicate permits, and certification of permits, pertaining to the administration of dental anesthesia.

Reasons Supporting Proposal: Chapter 308-39 WAC is being considered for major amendments regarding dental anesthesia. One of the changes requires permits to administer certain types of anesthesia in dental procedures. These fees are necessary to offset the costs of this new program.

Name of Agency Personnel Responsible for Drafting: Chris Rose, 1300 Quince, Olympia, WA, (206) 753-3234; Implementation and Enforcement: Sherman Cox, 1300 Quince, Olympia, WA, (206) 753-2241.

Name of Proponent: Washington State 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 establishes fees for the permits issued pursuant to chapter 308-39 WAC, as being considered for major amendments for the Dental Disciplinary Board. The purpose and expected effects of this rule is to offset the costs of administering the new permit program being implemented by the board.

Proposal does not change existing rules.

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

Hearing Location: Ramada Inn at Sea-Tac, Salon E, 18118 Pacific Highway South, Seattle, WA 98118, on April 20, 1990, at 10:00 a.m.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by April 13, 1990.

Date of Intended Adoption: April 25, 1990.

March 5, 1990
Pam Campbell Mead
for Kristine Gebbie
Secretary

NEW SECTION

WAC 308-39-220 DENTAL ANESTHESIA PERMIT FEES. The following shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Permit application	\$ 50.00
Permit renewal	50.00
Duplicate permit	15.00
Certification of permit	25.00
Late renewal fee	125.00
On-site inspection fee	To be determined

There will be no charge other than the application fee for a temporary permit as allowed in this chapter.

WSR 90-06-102
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 90-10—Filed March 7, 1990, 3:21 p.m.]

Original Notice.

Title of Rule: Amending chapter 173-425 WAC, Open burning; chapter 173-430 WAC, Burning of field and forage and turf grasses grown for seed; chapter 173-433 WAC, Solid fuel burning device standards; chapter

173-434 WAC, Solid waste incinerator facilities; chapter 173-440 WAC, Sensitive areas; and chapter 173-495 WAC, Weather modification.

Purpose: To establish technically feasible and reasonably attainable standards and to establish rules generally applicable to the control and/or prevention of the emission of air contaminants.

Statutory Authority for Adoption: RCW 70.94.331.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: These changes incorporate housekeeping amendments. These amendments improve clarity, internal consistency, completeness and enforceability.

Reasons Supporting Proposal: The proposed revisions are intended to improve clarity, internal consistency, completeness and enforceability.

Name of Agency Personnel Responsible for Drafting: Daniel A. Radonski, PV-11, R6 #4, (206) 438-7608; Implementation: Michael J. Landon, PV-11, R6 #4, (206) 459-6247; and Enforcement: Joseph R. Williams, PV-11, R6 #4, (206) 459-6256.

Name of Proponent: Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are enacted under the provisions of the Washington Clean Air Act as amended, RCW 70.94-.395. The purpose of each of these rules is to establish technically feasible and reasonably attainable standards as new information and better technology are developed and become available.

Proposal Changes the Following Existing Rules: Housekeeping changes; clarification of rules; removes obsolete sections of rules; makes rules consistent; consolidates definitions into chapter 173-400 WAC; removes old compliance date schedules; and removes "Grandfather" clauses.

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

Small Business Economic Impact Statement: The Washington Regulatory Fairness Act, chapter 19.85 RCW, requires that proposed rules which have an economic impact on more than twenty percent of all industries or more than ten percent of any one industry shall be reviewed to determine if the cost of coming into compliance with the proposed agency rules will create a disproportionately higher economic burden on small business in comparison with the cost of compliance for large business. The act defines a small business as an employer with fifty or fewer employees.

The purpose of amending the air rules is to improve clarity, internal consistency, completeness and enforceability, and to comply with federal requirements. Most changes proposed are editorial. Large businesses bear most of the burden of the air rules, however small businesses do bear some of the costs. The air rules proposed for change have been reviewed. While most of the changes proposed have a negligible impact some changes are proposed as mitigation. Despite the mitigation proposed, the overall impact of the rule changes in negligible. Shown below is the Small Business Economic Impact Statement to provide more details about the changed rules.

The Department of Ecology determination of negligible impact is on file at Air Programs, Department of Ecology, PV-11, Lacey, Washington 98504-8711. This detailed statement covers each proposed change.

The purpose of amending Title 173 WAC, Air rules is to reduce the complexity of the rules, reduce duplication, and to comply with federal requirements. Most changes proposed are editorial. The following Small Business Economic Impact Statement considers the impact these changes would have on current regulatory practice.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an impact on more than twenty percent of all industry or ten percent of the businesses in any one industry be reviewed and altered to minimize their impact on small businesses. Large businesses bear most of the burden of the existing air rules, however, small businesses do bear some of the costs. The air rules amendments have been reviewed. Amendments required for federal compliance are automatically considered so have a negligible impact. Emissions must comply with federal rules regardless of their inclusion in state rules. While most of the state amendments proposed have a negligible impact, some amendments are proposed as mitigation under RCW 19.85.050. Public advisory workshops were held on July 18, 1989, in Lacey, Washington and on July 20, 1989, in Spokane, Washington. Despite the mitigation proposed, the overall impact of the rules changes is negligible for any entity. This statement reviews all changes which are not clearly editorial. Readers should read it with the draft rule amendment documents.

Chapter 173-425 WAC, Open burning, none of these amendments are expected to have a significant impact on any entity; WAC 173-425-010, has editorial changes which have no impact; WAC 173-425-020, has editorial changes which have no impact; WAC 173-425-030, has editorial changes to clarify the rules. Definition (4), "Forced Air Pit Destructor," was added to display an alternative to open burning. The reference to these chapters are being combined; WAC 173-425-036, the changes to this section of the air rules are editorial and create no effective change; WAC 173-425-055, has editorial changes which have no impact. (6) Is deleted to remove a date that has passed. (5) The prohibited fuels statement was removed as it was redundant; WAC 173-425-065, redundant items are deleted. Subsection (2)(a) is amended to clarify the burnable items to stay in compliance with solid waste legislation and listed priorities. Subsection (2)(b) is revised to eliminate the reference to nuisances. Nuisances are covered under chapter 173-400 WAC; WAC 173-425-075, redundant items are deleted. Editorial changes create no change in compliance costs. (2) The population density provision is currently used by authorities and was received in comments at the public advisory workshops; WAC 173-425-085, unnecessary references to episodes and impaired air quality are deleted. The deletions have no cost impact. The work "obnoxious" in WAC 173-425-085 (2)(c) is replaced by "harmful" at EPA's request. Subsection (3) includes a reference to population density. This was changed to meet current practice and to respond to public advisory workshop comments. All other changes are editorial;

WAC 173-425-095, has editorial changes that impose no costs. Subsection (1) clarifies that EPA siting criteria must be met rather than presuming that EPA siting criteria is used. Subsection (5) is added as required by EPA to assure that "no burn" areas are listed, on file and available to the public; WAC 173-425-100, to ensure that this rule is SIP approvable, EPA requires that the authority to enforce the rules as well as administer the permit program is properly delegated to any county formally requesting delegation of the agricultural open burning program. Other minor editorial changes were made; WAC 173-425-115, the title was changed to more accurately reflect the section. Subsection (2)(e) is added to allow an alternative to land clearing projects open burning. Other editorial changes which have no economic impact are also found in this section; WAC 173-425-120, subsection (2) is revised per public advisory workshop comments to clarify the DNR's role in smoke management. Changes also include these that are editorial only; and WAC 173-425-130 and 173-425-140 include editorial changes only.

Chapter 173-430 WAC, Burning of field and forage and turf grasses grown for seed, most changes to this chapter of the air rules are editorial and create no effective change; WAC 173-430-010 (1) and (2), changes are editorial and clarify the intent of the rule; WAC 173-430-020, incorporates chapter 173-400 WAC, several definitions were moved to chapter 173-400 WAC, has editorial changes which have no impact and "tear-out" is a definition added for clarification; WAC 173-430-030, changes are editorial and have no impact on costs. A mitigation may be included in that the rules are more readable and easier to understand; WAC 173-430-040, has editorial changes that will have no impact on costs, but will make this chapter consistent with chapter 173-400 WAC; WAC 173-430-050, all changes are editorial and do not affect costs; WAC 173-430-060, has editorial changes that impose no costs. The date referenced has passed and is of no further value. This date reference was eliminated; WAC 173-430-070, contains language that is editorial. No additional costs required; and WAC 173-430-080, this section contains editorial changes only.

Chapter 173-433 WAC, Solid fuel burning device standards; WAC 173-433-030, incorporates chapter 173-400 WAC, has editorial changes which have no impact and "treated wood" definition is clarified; WAC 173-433-100, reorganizes subsection (1) to make it more readable, editorial changes were made for clarity and dates were changed to correctly identify the referenced standards; WAC 173-433-110, minor editorial change with no cost impacts; WAC 173-433-120, prohibited fuels were clarified. A mitigation exists in that paper was not allowed to be burned. The intent was to be able to start a fire with paper, this is allowed with these revisions. Other editorial changes are included; WAC 173-433-130, the emission standards of chapter 173-400 WAC are incorporated into this section. The reference to "plant or animal" was added per comments from the public advisory workshops. It has been the intent of these rules to not allow harm to plants, animals,

property or people. Editorial changes with no cost impacts are also proposed; WAC 173-433-150, editorial changes with no cost impacts are proposed; WAC 173-433-170, subsection (2)(a) is revised to clarify the annual retail sales fee. Other editorial changes that impose no costs are proposed; and WAC 173-433-200, references are changed from chapter 173-403 WAC to chapter 173-400 WAC because these chapters were merged.

Chapter 173-434 WAC, Solid waste incinerators facilities; WAC 173-434-010, rules for solid waste incinerator facilities, the Washington Clean Air Act, chapter 70.94 RCW is referenced for clarity. This change does not affect compliance costs; WAC 173-434-020, the intention of this rule is to include all solid waste incineration. This is clarified. Other editorial changes are proposed. These changes will not affect compliance costs; WAC 173-434-030, has editorial changes. The definitions from chapter 173-400 WAC are incorporated; WAC 173-434-050, most existing language is deleted and replaced by a reference to WAC 173-400-110. This change will reduce the confusion between the applicability of the WACs. This will be a mitigation for many companies; WAC 173-434-070, this section is added to refer readers to chapter 173-400 WAC. This makes the air rules more consistent and more complete; WAC 173-434-090, this new section is added to improve consistency and completeness of the air quality rules. This will not increase compliance costs; WAC 173-434-100, editorial changes are made. The BACT reference is an EPA requirement. The proposed changes will not affect compliance costs or current regulatory practice; WAC 173-434-110, reference is made to WAC 173-400-115 for consistency. The rest of this section is deleted; WAC 173-434-120, most of this section is deleted. Reference is made to WAC 173-400-075 for consistency; WAC 173-434-130, provides clarification for the applicability of rules on a given source or emissions unit, editorial changes were made, WAC 173-434-130 (2) and (3) are revised to maintain current practice. No additional costs are associated with this addition, the subsections on odors, masking, fallout and other contaminants are deleted from this chapter. They are redundant to chapter 173-400 WAC. No additional costs are associated with this revision, source testing language is deleted and is replaced with a reference to chapter 173-400 WAC, the items listed above will simplify compliance. Previously, you were required to thoroughly examine and comply with three different chapters in Title 173 WAC. This is reduced to one chapter (chapter 173-400 WAC) and eliminates a duplication of words and conflicting regulations; WAC 173-434-160, has editorial changes to clarify the rule. Subsection (2) clarifies the temperature/time requirements for certain types of incineration facilities. Subsection (7) clarifies the intent of the rules to stop adding solid waste to the incinerator when emissions limits are being exceeded; WAC 173-434-170, subsection (1)(h) is deleted to be consistent with chapter 173-400 WAC. Other changes to this section are editorial and create no effective change; WAC 173-434-190, has editorial changes which have no impact; WAC 173-434-200, reference is made to chapter 173-400 WAC. To avoid duplication and conflicting

sections to the rules, a large portion is deleted. This will be a mitigation for some companies due to simplification; and WAC 173-434-210, has editorial changes that impose no costs.

Chapter 173-440 WAC, Sensitive areas, rules for sensitive areas, amendments are primarily editorial. WAC references are changed due to a reordering of language from this rule amendment process. None of the changes affect compliance costs; WAC 173-440-030, has editorial changes and incorporate chapter 173-400 WAC. This change will not affect compliance costs; and WAC 173-440-100, amendments are editorial to make the rule more readable.

Chapter 173-495 WAC, Weather modification, rules for weather modification, amendments are primarily editorial. WAC references are changed due to a reordering of language from the rule amendment process. None of the changes affect compliance costs; WAC 173-495-010, is amended. These editorial changes create no change in compliance costs; WAC 173-495-020, contains amendments to several definitions. The terms from chapter 173-400 WAC are incorporated for clarity and to remove redundancy. Most of these wording changes are purely editorial. Subsection (1) definition of "department" is no longer needed.... it is deleted. The new subsection (1) contains editorial changes. These changes have no impact on costs. Subsection (2) and (3) contain editorial changes only; WAC 173-495-040, contains editorial revisions only. The changes do not impact costs; WAC 173-495-045, changes the title name only; WAC 173-495-050, changes the title to be consistent with other subsections; WAC 173-495-060, contains minor editorial changes only; WAC 173-495-065, language was changed to clarify the intent of this subsection. No changes create compliance costs; WAC 173-495-070, repetitious language is deleted and editorial changes were made that do not affect compliance costs; WAC 173-495-080, minor editorial change, no cost affects; WAC 173-495-100, contains editorial changes that do not affect costs; and WAC 173-495-120, contains editorial changes.

Hearing Location: EFSEC Hearing Room, Lacey, Washington, on April 24, 1990, at 7-9 p.m.; and at the Spokane County Health Department Auditorium, Spokane, Washington, on April 26, 1990, at 7-9 p.m.

Submit Written Comments to: Daniel A. Radonski, PV-11, R6 #4, Lacey, Washington 98504, by May 3, 1990.

Date of Intended Adoption: June 12, 1990.

March 7, 1990
Fred Olson
Deputy Director

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-010 PURPOSE. This ((rule;)) chapter promulgated under chapter 70.94 RCW, the Washington ((State)) Clean Air Act, authorizes the department of ecology (ecology) to implement the provisions of that act. This rule establishes controls for open burning in the state in order to:

- (1) Minimize the impact of emissions from open burning;
- (2) Establish rules and procedures by which open burning may be conducted;

(3) Encourage the development and specify the use of alternate methods of disposal of combustible waste materials.

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-020 APPLICABILITY. This chapter applies to open burning in all of the state, except to:

(1) Burning of field and turf grasses grown for seed (governed by chapter 173-430 WAC).

(2) Open burning within the boundaries of any activated air pollution control authority, where that authority is enforcing its own controls for open burning. ~~((These))~~ Those controls shall not be less stringent than the requirements in this chapter.

(3) Open burning for activities subject to the permit issuing authority of the department of natural resources, as ~~((given))~~ established in RCW 70.94.660.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-030 DEFINITIONS. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter shall have the following meanings ~~((; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to open burning as defined below.))~~:

(1) "Agricultural open burning" means open burning conducted as part of any agricultural operation; including field fires over one-half acre but not including noncommercial yard and gardening activities connected with a residence.

(2) "Commercial open burning" means open burning conducted as part of any "nonagricultural" commercial or business operation, including land clearing when the land is cleared to change the use of the cleared land. ~~((Commercial open burning does not include agricultural open burning.))~~

(3) "Episode" means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as ~~((given))~~ defined in chapter 173-435 WAC.

(4) "Forced air pit destructor" means a unit consisting of a combustion pit and air blower designed to establish a curtain of high velocity air above the fire, so that the products of combustion are controlled by the air curtain before being emitted to the atmosphere.

(5) "Impaired air quality" means a condition declared by ~~((the department or an air))~~ ecology or an authority whenever:

(a) Meteorological conditions are conducive to an accumulation of air contamination concurrent with:

(i) Total suspended particulate at an ambient level of one hundred twenty-five micrograms per cubic meter measured on a twenty-four-hour average; or

(ii) Particulate that is ten micron and smaller in diameter (PM10) at an ambient level of ninety micrograms per cubic meter measured on a twenty-four-hour average; or

(iii) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight-hour average; or

(b) Air quality reaches other limits established by ~~((the department or an air))~~ ecology or an authority.

(5) "Land clearing" means removing structures, trees, shrubbery, or other natural vegetation from a plot of land.

(6) "No burn area" means an area designated by ~~((the department))~~ ecology as an area exceeding or threatening to exceed a state ambient air quality standard.

(7) "Open burning" means the combustion of material in an open fire or in ~~((an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion))~~ any outdoor device which is not approved as an incinerator. Open burning means the same as open fire or outdoor burning.

(8) "Small fire" means a fire not more than four feet in diameter or more than three feet high.

(9) "Silvicultural operation" means the growing of trees for commercial or recreational use, including preparing the land, planting, growing, and harvesting of trees.

(10) "Treated wood" means wood of any species that has been chemically impregnated, coated, painted, or similarly modified.

(11) "Wood waste residue" means residue of a natural character such as trees, stumps, shrubbery, or other natural vegetation arising from land clearing projects (RCW 70.94.750(2)).

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-036 CURTAILMENT DURING EPISODES OR IMPAIRED AIR QUALITY. (1) No open fire shall be ignited:

(a) Whenever ~~((the department))~~ ecology has declared an air pollution episode for the geographical area pursuant to chapter 173-435 WAC; or

(b) Whenever ~~((the department))~~ ecology or an ~~((air))~~ authority has declared impaired air quality for the geographical area.

(2) A person responsible for an open fire at the time an episode or impaired air quality is declared shall extinguish that fire. Open fires conducted under the auspices of the department of natural resources for the purpose of burning forest slash pursuant to RCW 70.94.660 through 70.94.700 are to be extinguished by withholding new fuel and allowing the fire to burn down.

(3) Smoke visible from a small fire after a time period of three hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful open burning.

(4) Smoke visible from a fire other than a small fire after a time period of ten hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful open burning.

(5) ~~((The department))~~ Ecology, air authorities, health departments, fire departments, or local police forces having jurisdiction in the area may enforce compliance with the above open burning curtailment rules.

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-055 EXCEPTIONS. Exceptions to this chapter shall be made only as follows:

(1) When ordered by a duly authorized health officer and when authorized by ~~((the department.))~~ ecology, the carcasses of diseased animals and other infested material may be burned, as required, to keep the infestation from spreading.

(2) When ordered by a fire protection agency and when authorized by ~~((the department))~~ ecology, fires to dispose of materials presenting a danger to life, property, or public welfare may be burned, if no approved practical alternate method of disposal is available.

(3) When approved by ~~((the department))~~ ecology or an authority, fires authorized by a fire protection agency as necessary for training may be burned.

(4) When approved by ~~((the department))~~ ecology or an authority, fires set as part of a defined research project may be burned.

(5) The following fires may be burned ~~((; if they do not contain prohibited materials, as provided in WAC 173-425-045))~~:

(a) Fires set for recreational, religious ceremony, food preparation, or social purposes;

(b) Small fires set for hand-warming purposes.

~~((6) At any solid waste disposal site, compliance with any schedule given in any comprehensive solid waste management plan approved by the department shall be considered compliance with this chapter. For any solid waste disposal site not subject to an approved plan, the department may authorize up to six months for a corrective program. If more time is needed, and no comprehensive solid waste management plan has been adopted covering a solid waste disposal site, a compliance schedule for meeting the requirements of this chapter will be adopted by the department for the site.))~~

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-065 RESIDENTIAL OPEN BURNING. (1) ~~((No open fire shall be allowed on the premises of any residence:~~

(a) Within a no burn area designated in WAC 173-425-095;

(b) During any stage of an episode (see WAC 173-425-035) or condition of impaired air quality;

(c) If the fire contains prohibited materials, as given in WAC 173-425-045;

(d) If the fire contains any material other than wood, paper, and natural vegetation; or

(e) If the fire is larger than a small fire.))

The premises of a residence include the real property immediately adjacent to the residence which is owned by the same person who owns the residence, and which is not devoted to agricultural use, other than yard and gardening activities connected with the residence.

(2) Small fires on the premises of a residence may be allowed to dispose of wood, paper, and natural vegetation, if:

(a) ~~((None of the provisions of subsection (1) of this section are violated.))~~ The wood and paper cannot be recycled and no feasible method of disposal is available;

(b) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits, ~~((to prevent or abate nuisances.))~~ or any local₁ county₂ or city ordinance or resolution ~~((pertaining to a nuisance.))~~; and

(c) Reasonable precautions are taken to prevent particulate emissions when paper is being burned.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-075 COMMERCIAL OPEN BURNING. (1) ~~((No permit shall be issued for commercial open burning, and commercial open burning shall not be conducted:~~

~~(a) Within a no burn area designated in WAC 173-425-095;~~

~~(b) During any stage of an episode (see WAC 173-425-035) or condition of impaired air quality;~~

~~(c) If the burning contains prohibited materials, as provided in WAC 173-425-045; or~~

~~(d) Where a practical alternate method of disposal listed in WAC 173-425-115(2), is reasonably available.~~

~~(2))~~ No commercial open burning shall be conducted without authorization from ~~((the department))~~ ecology or the authority. Open burning shall be authorized only if:

(a) The applicant shows that no approved practical alternate method of disposal is reasonably available; and

(b) The applicant shows that burning, as requested, is reasonably necessary to successfully carry out the enterprise the applicant is engaged in; and

(c) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits ~~((to prevent or abate nuisances.))~~ or any local₁ county₂ or city ordinance or resolution ~~((pertaining to a nuisance.))~~; and

~~(d) For commercial land clearing projects, refer to WAC 173-425-115.~~

~~((3))~~ (2) Considering population concentration and local conditions affecting air quality, ~~((the department))~~ ecology or the authority shall condition permits issued under this chapter. Permits shall be conditioned to minimize air pollution ~~((as much as practical))~~ but are not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions or prohibiting all burning within areas having a general population density of one thousand or more persons per square mile.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-085 AGRICULTURAL OPEN BURNING. (1) ~~((No permit shall be issued for agricultural open burning, and agricultural open burning shall not be conducted:~~

~~(a) Within a no burn area designated in WAC 173-425-095;~~

~~(b) During any stage of an episode (see WAC 173-425-035) or condition of impaired air quality;~~

~~(c) If the burning contains prohibited materials, described in WAC 173-425-045; or~~

~~(d) If the burning contains any material other than natural vegetation and wood wastes generated on the property, which is the burning site, or transported to the burning site by wind or water.~~

~~(2))~~ Except as provided in subsection ~~((3))~~ (2) of this section, agricultural open burning shall not be conducted without a permit from ~~((the department))~~ ecology or the authority. Permits shall be issued only if:

(a) ~~((None of subsection (1) of this section would be violated by the burning.))~~

~~(b))~~ The applicant shows that burning, as requested, is reasonably necessary to successfully carry out the enterprise the applicant is engaged in;

~~((c))~~ (b) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits ~~((to prevent or abate nuisances.))~~ or any local₁ county₂ or city ordinance or resolution ~~((pertaining to a nuisance.))~~; and,

~~((d))~~ (c) The burning is necessary to control disease or insect infestation, and other measures are not available; or

~~((c))~~ (d) The burning is necessary to develop physiological conditions conducive to increased crop yield, and other measures are not available.

In making a determination under (c) or (d) ~~((or (c)))~~ of this subsection, ~~((the department))~~ ecology will consult the county extension agent.

~~((3))~~ (2) Agricultural open burning may be conducted without a permit if:

(a) None of subsection (1) of this section would be violated by the burning;

(b) The burning will not violate any regulations of a local fire protection agency authorized to issue burning permits ~~((to prevent or abate nuisances.))~~ or any local₁ county₂ or city ordinance or resolution ~~((pertaining to a nuisance.))~~; and

(c) The fire covers one acre or less and the burning is done to destroy ~~((obnoxious))~~ harmful weeds or crop residue along fence rows, ditches, or in cultivated fields.

~~((4))~~ (3) Considering population concentration and local conditions affecting air quality, ~~((the department))~~ ecology or the authority shall condition permits issued under this chapter. Permits shall be conditioned to minimize air pollution ~~((as much as practical))~~. Conditions may include but are not limited to restricting the permissible hours of burning, restricting the size of fires, imposing requirements for good combustion practice, restricting burning to specified wind conditions or prohibiting all burning within areas having a general population density of one thousand or more persons per square mile.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-095 NO BURN AREA DESIGNATION. (1) ~~((The department))~~ Ecology shall designate as no burn areas those geographic areas where ambient air quality standards for particulate matter, as set forth in WAC 173-470-100, are being exceeded or are threatened to be exceeded. These designations shall be based on monitoring data gathered ~~((at primary air mass stations))~~ with monitoring equipment meeting EPA siting criteria.

(2) ~~((The department))~~ Ecology shall not designate "no burn" areas within the boundaries of any activated air pollution control authority, unless data exist to support that designation and the authority, after being notified, refuses to make such a designation.

(3) The designation of any area as a "no burn" area by ~~((the department))~~ ecology or an authority shall be made by rule-making procedure and only after public hearing.

(4) Open burning shall not be conducted in any designated "no burn" area.

(5) A list of any "no burn" areas will be kept on file at ecology or the authority that has jurisdiction over the area(s).

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-100 DELEGATION OF AGRICULTURAL OPEN BURNING PROGRAM. (1) When ~~((the department))~~ ecology finds that any county, which is outside the jurisdictional boundaries of an activated air pollution control authority, is capable of administering the permit program of WAC 173-425-085 and desires to do so, ~~((the department))~~ ecology may delegate the administration and authority of the program to the county.

(2) This delegation may be withdrawn if ~~((the department))~~ ecology finds that the county is not effectively administering and enforcing the permit program. Before withdrawing delegation, ~~((the department))~~ ecology shall give the county a chance to correct permit program deficiencies.

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-115 ~~((LIMITED OUTDOOR BURNING))~~ LAND CLEARING PROJECTS. (1) To further the policies of this chapter and policies expressed in RCW 70.94.745, ~~((the department))~~ ecology has determined ~~((;))~~ that alternate technology and methods exist for disposing of wood waste residue resulting from highway right of way land clearing projects or commercial land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards). Further, these methods and technology are considered less harmful to the environment than open burning. These alternates are ~~((also))~~ to be considered reasonably economical when the cost of disposal is nine hundred dollars or less per acre.

(2) These alternate methods and technology are:

(a) Chipping, with chips disposed of commercially or by on-site disposal, haul to landfill, ~~((burning in an approved way,))~~ or other approved methods~~((, as may be available))~~.

(b) Hauling for disposal elsewhere, such as landfill, commercial use, or other approved methods~~((, as may be available))~~.

(c) On-site disposal in landfill.

(d) On or off-site disposal by a waste combustion method capable of complying with the emission standards set forth in WAC 173-425-115(3).

(e) Combustion, using a forced air pit destructor capable of complying with the emission standards set forth in WAC 173-425-115(3).

(3) As a result of the determination made in WAC 173-425-115(1) for disposing of wood waste residue that results from highway right of way land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards) or from commercial land clearing projects which generate five hundred or more tons of wood waste residue (two thousand or more cubic yards):

(a) For on-site disposal no person shall cause or permit the emission, for more than three minutes in any one hour, of an air contaminant from any disposal method covered by WAC 173-425-115 (2)(d) and (e) which, at the emission point or within a reasonable distance from the emission point, exceeds twenty percent opacity, except as follows:

(i) The emission may exceed twenty percent opacity for the first fifteen minutes after a startup, for not more than two startups every twenty-four hours.

(ii) When the person responsible for the source can show that the emission over twenty percent opacity will not exceed fifteen minutes in any eight consecutive hours after startup.

(b) No person shall cause or permit the emission of particulate matter from any source, which then becomes deposited beyond the property directly controlled by the owner or operator of the source in sufficient quantity to interfere unreasonably with using and enjoying the property where the material was deposited. (WAC 173-400-040(2)).

(c) No person shall cause or permit the emission of any air contaminant or water vapor from any source, including any air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant or water vapor harms the health, safety, or welfare of any person or damages property or business. (WAC 173-400-040(5)).

(4) ((Using)) The alternates listed in WAC 173-425-115(2) ((ts)) are to be considered reasonably economical for the projects described in WAC 173-425-115(3) when the alternates can be provided without undue delay in the project ((which will create an economic or other hardship, and)) without costing more than nine hundred dollars per acre.

If the requirement to use an alternate will cause a delay of sixty days or more in completing a project, then the alternate will not be required. Any delay shorter than sixty days will be evaluated on a case-by-case basis.

If the cost of disposing of the wood waste residue is greater than nine hundred dollars per acre, then the alternate will not be required. The cost of clearing and grubbing will not be considered as part of the cost of disposal, unless certain additional costs are required to use the alternate, such as the cost of building a road which would not otherwise be required.

(5) ((Using)) Use of an alternate must comply with all other applicable statutes, regulations, ordinances, and/or resolutions of state or local government ~~((entities. These include noise regulations, solid waste regulations, and those requirements of local air pollution control authorities which are more stringent than those of the department))~~.

(6) The requirements for owner(s) or operator(s) of the source to comply with opacity standards per WAC 173-425-115 (3)(a) may be waived. Open burning may then be authorized by ~~((the department or air pollution control))~~ ecology or the authority, as appropriate, if the owner or operator of the source shows ~~((, to the department or air pollution control authority,))~~ that:

(a) A delay will result from using the alternates, causing an economic or other hardship;

(b) Other legal requirements may be violated;

(c) A bid cannot be obtained for disposal using an alternate described in WAC 173-425-115, at a cost of nine hundred dollars per acre or less; or

(d) The wood waste residue to be disposed of from the land clearing project is less than five hundred tons (two thousand cubic yards).

~~((The department or air pollution control))~~ Ecology or the authority may charge a fee to cover administrative costs of processing the waiver request.

(8) When an alternate is to be used at any site for six or more months, the requirements of WAC 173-400-110 (notice of construction) shall be met.

(9) In this chapter, land clearing projects located close to one another and burned near the same time, which appear to be a single project, shall be presumed to be one project.

(10) In this chapter, normal clearing and grubbing do not include any activity or action related to using alternate methods and technology listed in WAC 173-425-115(2).

(11) In this chapter, one cubic yard of wood waste residue equals five hundred pounds.

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-120 DEPARTMENT OF NATURAL RESOURCES—SMOKE MANAGEMENT PLAN. The department of natural resources has the responsibility for issuing and regulating burning permits for open fire in areas protected by the department of natural resources, when such fires are for:

- (1) Abating a forest fire hazard;
- (2) Preventing a fire hazard in a forested area;
- (3) Instructing public officials in methods of forest fire fighting;
- (4) Any silvicultural operation to improve the forest lands of the state.

Fires set for these purposes must be conducted according to the provisions of the smoke management plan administered by the department of natural resources in agreement with ~~((the department of))~~ ecology and other involved agencies.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-425-130 NOTICE OF VIOLATION. ~~((The department))~~ Ecology or an authority may issue a notice of violation to the person responsible for the fire when:

- (1) Conditions of a permit issued under this chapter are violated;
- (2) Any open fire is ignited or, if ignited, is not extinguished, when a condition of impaired air quality or any air pollution episode stage has been declared;
- (3) An open fire is ignited where, under this chapter, such fires are prohibited or where a permit is required and no such permit has been obtained;
- (4) Prohibited materials are burned in an open fire.

Procedures for notices of violation shall follow RCW 70.94.332.

AMENDATORY SECTION (Amending Order DE 77-19, filed 10/24/77)

WAC 173-425-140 REMEDIES. Any violation of this chapter may be subject to any penalty or other ~~((remedy given))~~ ecology action stated in chapter 70.94 RCW.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-010 PURPOSE. (1) ~~((These rules are enacted under the provisions of the Washington State Clean Air Act,))~~ This chapter, promulgated under chapter 70.94 RCW, as amended, is to assume state jurisdiction over and to control emissions from the burning of field and forage, and turf grasses grown for seed and for the proper development of the state's natural resources.

(2) Authority to enforce all provisions of this regulation, including establishing permit conditions and issuing permits, is delegated to and shall be carried out by all activated air pollution control authorities ~~((:fn))~~ or ecology for those areas not under the jurisdiction of ~~((any activated air pollution control))~~ an authority ~~((, the department of ecology shall enforce these regulations, including establishing permit conditions and issuing permits))~~.

(3) The purpose of this chapter is to:

- (a) Minimize adverse effects on air quality from the open burning of field and forage, and turf grasses grown for seed;
- (b) Provide for implementation of a research program to explore and identify economical and practical alternative agricultural practices to the open burning of field and forage, and turf grasses grown for seed;
- (c) Provide for interim regulation of such burning until practical alternatives are found.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-020 DEFINITIONS. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

- (1) ~~(Department: The department of ecology.~~
 (2) ~~Director: The director of the department of ecology.~~
 (3) ~~Emissions: A release of air contaminants into the outdoor atmosphere.~~
 (4) ~~Field and forage grasses: Canarygrass, bromegrass, oatgrass, timothy, wheatgrass, and orchardgrass, planted to produce seed.~~
 ((5) ~~Open burning: The combustion of material in the open or in a container, with no provisions for control of the combustion or control over the combustion products.~~
 (6) ~~Particulate: A small discrete mass of solid or liquid matter, not including uncombined water.~~
 (7) ~~Standard conditions: 60°F and 29.92 inches of mercury.~~
 (8) ~~(2) Straw: All material, other than seed, removed by swathing, combining, or cutting.~~
 ((9) ~~(3) Tear-out: Any operation that destroys the existing crop and prepares the area for next year's planting.~~
 (4) ~~Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.~~

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-030 PERMITS, CONDITIONS, AND RESTRICTIONS. (1) No open burning of field or forage grasses, or turf grasses shall be undertaken unless a permit has been obtained from ~~(the department or from an activated air pollution control)~~ ecology or an authority, as appropriate. The issuance, denial, or conditioning of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the amount of straw removal required, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution ~~(effects as far as practical)~~. Until approved alternatives become available, ~~(the department)~~ ecology or the authority may limit the number of acres, on a pro rata basis, among those affected for which permits to burn will be issued in order to control emissions ~~(from this source)~~.

(2) ~~(The department or activated air pollution control authority may deny permits or establish permit conditions based on the considerations cited in WAC 173-430-030(1).~~

~~Permit conditions may include requirements for straw removal and limits on acreage to be burned.)~~ Burning of acreage not previously under permit may be banned or subject to more restrictive conditions. Burning of field and forage grasses may be restricted, and other measures may be required to minimize air pollution ~~(effects)~~.

Permits issued before 1978 will establish a permit history for the applicant. This permit history will apply to an applicant and not to specific parcels of land ~~(except)~~ and is established only for the maximum amount of acreage included in any permit issued before 1978. Land transferred to a spouse, son, or daughter, will retain a permit history as established by the original applicant.

~~(Permit history will be established only for the maximum amount of acreage included in any permit issued before 1978.~~

~~Denying permits or establishing more restrictive permit conditions may become necessary. This)~~ Any permit denial or restriction may first be applied to applicants without a permit history and to amounts of acreage not included in an applicant's permit history.

Applicants who received permits before 1978 may be given priority for burning the amount of acreage cited in the permit history ~~(if any program is implemented to limit acreage burned or to impose more stringent permit conditions)~~.

(3) Open burning of field and forage grasses shall be prohibited. However, a permit using restrictions or conditions, may be issued to burn field and forage grasses for disease, pest, or weed control, if such need is certified by a county agent or other agricultural authority; or if such grasses were planted as part of a soil erosion control plan approved by a conservation district.

(4) ~~(Permit restrictions or conditions for burning turf grasses may be established for the reasons cited in WAC 173-430-030(3).~~

~~(5))~~ Open burning of all grasses scheduled for tear-out shall be prohibited unless a permit specifically allows such burning.

~~((6))~~ (5) Practical alternative production methods and disease controls which would reduce or eliminate open burning shall be used when reasonably available. These methods and controls shall be used regardless of specific provisions of the compliance program described in this section.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-040 MOBILE FIELD BURNERS. Mobile field burners, and other methods of incineration not classified as open burning, shall not be prohibited by the restrictions in WAC 173-430-030: PROVIDED, That emissions do not exceed the following standards:

(1) Visible emissions shall not exceed an opacity of 20 percent for more than three minutes in any one hour;

(2) Particulate emissions shall not exceed 0.1 grains per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen ~~(at standard conditions, dry)~~.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-050 OTHER APPROVALS. ~~(Nothing in this chapter shall relieve any applicant for a permit hereunder from obtaining)~~ A person applying for a permit under this chapter is still required to obtain permits, licenses, or approvals required by any other laws, regulations, or ordinances.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-060 STUDY OF ALTERNATIVES. ~~(The department)~~ Ecology shall conduct, cause to be conducted, or approve of a study or studies to explore and identify economical and practical alternative practices to open burning of field and forage, and turf grasses ~~(grown for seed)~~. To conduct any such study, ~~(the department)~~ ecology may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible. ~~(The department)~~ Ecology shall annually review the progress of such studies ~~(The department shall, by January 1, 1984),~~ review provisions of this regulation and available alternatives to open burning and determine if continuing open burning of field and forage, and turf grasses is justified.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-070 FEEES. (1) To support the study or studies described in WAC 173-430-060, ~~(the department or activated air pollution control)~~ ecology or an authority ~~(as appropriate)~~ shall collect a fee of fifty cents per acre of crop to be burned before any permit is issued under WAC 173-430-030. This fee shall be submitted with individual permit applications.

(2) When a permit is granted to burn fewer acres than requested in the permit application, ~~(the department or)~~ ecology or the authority ~~(as appropriate)~~ shall refund to the permit applicant ~~(that)~~ the unused part of the permit fee ~~(which applies to the acreage not permitted to burn)~~.

(3) ~~(Permits issued under this chapter grant approval to burn the number of acres specified in the permit. If, after receiving a permit, a grower burns fewer acres than allowed under the permit.)~~ No part of the permit fee will be refunded if a grower decides to burn fewer acres than the permit allows.

(4) After granting any permit and making any refund required under WAC 173-430-070(2), ~~(any)~~ the authority shall transfer the permit fee to ~~(the department)~~ ecology.

(5) ~~(The department)~~ Ecology shall deposit all permit fees in a special grass seed burning research account in the general fund.

(6) ~~(The department)~~ Ecology shall allocate moneys annually from this account to support approved studies provided for in WAC 173-430-060, up to the amount appropriated to ~~(the department)~~ ecology for such purpose.

(7) When ~~(the department)~~ ecology concludes that enough reasonably available alternative practices to the open burning of field and forage, and turf grasses grown for seed have been developed, and at such time as all costs of any studies have been paid, the grass seed

burning research account shall be dissolved. Any money remaining in the account shall revert to the general fund.

AMENDATORY SECTION (Amending Order DE 77-20, filed 11/9/77)

WAC 173-430-080 **CERTIFICATION OF ALTERNATIVES.** When enough information on alternative practices to open burning becomes available, ~~((the department))~~ ecology shall conduct public hearings to receive testimony from interested parties. If ~~((the department))~~ ecology then concludes that any procedure, program, technique, or device is a practical alternative to the open burning of field and forage ~~((; or))~~ and turf grasses grown for seed, ~~((the department))~~ ecology shall, by order, approve such alternative. After approval, any alternative that is reasonably available shall be used; and open burning of field and forage, and turf grasses grown for seed shall not be allowed.

AMENDATORY SECTION (Amending Order 88-38, filed 1/3/89)

WAC 173-433-030 **DEFINITIONS.** The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings ~~((; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to solid fuel burning devices as defined below))~~:

(1) "Adequate source of heat" means the ability to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a dwelling.

(2) "Certified" means that a woodstove meets emission performance standards when tested by an accredited independent laboratory according to EPA or DEQ procedures.

(3) "Coal-only heater" means an enclosed, coal burning appliance capable of and intended for residential space heating, domestic water heating, or indoor cooking, which has all of the following characteristics:

(a) An opening for emptying ash which is located near the bottom or the side of the appliance;

(b) A system which admits air primarily up and through the fuel bed;

(c) A grate or other similar device for shaking or disturbing the fuel bed or power driven mechanical stoker; and

(d) The model is listed by a nationally recognized safety testing laboratory for use of coal only, except for coal ignition purposes.

(4) "Dealer" means a person other than a manufacturer or a retailer who is engaged in selling solid fuel burning devices to retailers or others for resale.

(5) "DEQ" means Oregon department of environmental quality.

(6) "EPA" means United States Environmental Protection Agency.

(7) "Impaired air quality" means a condition declared by ~~((the department))~~ ecology or an ~~((air))~~ authority whenever:

(a) Meteorological conditions are conducive to an accumulation of air contamination concurrent with:

(i) Total suspended particulate at an ambient level of one hundred twenty-five micrograms per cubic meter measured on a twenty-four hour average; or

(ii) Particulate that is ten micron and smaller in diameter (PM10) at an ambient level of ninety micrograms per cubic meter measured on a twenty-four hour average; or

(iii) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight-hour average; or

(b) Air quality reaches other limits established by ~~((the department))~~ ecology or an ~~((air))~~ authority.

(8) "Manufacturer" means any person who constructs or imports a solid fuel burning device or parts for a solid fuel burning device.

(9) "New woodstove" means a woodstove that has not been sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer, and has not been so used as to become what is commonly known as "second hand" within the ordinary meaning of that term.

(10) "Retailer" means any person engaged in the sale of solid fuel burning devices directly to the public. A contractor who sells dwellings with solid fuel burning devices installed or a mail order outlet which sells solid fuel burning devices directly to the public is considered to be a solid fuel burning device retailer.

(11) "Seasoned wood" means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

(12) "Solid fuel burning device" (same as solid fuel heating device) means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour.

(13) "Treated wood" means wood of any species that has been chemically impregnated, painted, or similarly modified to prevent weathering, deterioration, and damage due to insects.

(14) "Woodstove" (same as "wood heater") means an enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets all of the following criteria:

(a) For the purposes of determining qualification under "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984: An air-to-fuel ratio in the combustion chamber less than 30.0 during the burning of ninety percent or more of the fuel mass consumed in the low firing cycle. The low firing cycle means less than or equal to twenty-five percent of the maximum burn rate achieved with the doors closed or the minimum burn rate achievable, whichever is greater; or

(b) For the purposes of determining qualification under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" dated February 26, 1988:

(i) An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;

(ii) A useable firebox volume of less than twenty cubic feet;

(iii) A minimum burn rate less than 5 kg/hr as determined by EPA Reference Method 28;

(iv) A maximum weight of 800 kg, excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a woodstove, is considered a woodstove.

AMENDATORY SECTION (Amending Order 88-38, filed 1/3/89)

WAC 173-433-100 **EMISSION PERFORMANCE STANDARDS.** (1) ~~((Requirements for sale of new woodstoves in Washington after July 1, 1988))~~ Woodstove sales. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a new woodstove in Washington unless it has been tested to determine its emission performance and heating efficiency and certified and labeled in accordance with procedures and criteria specified:

(a) Requirements for sale of new woodstoves in Washington after July 1, 1988;

(i) By the DEQ in "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984, ~~((and herein incorporated))~~ is adopted by reference and on file at ~~((the department))~~ ecology; or

~~((tb))~~ (ii) By the EPA in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" dated February 26, 1988, ~~((and herein incorporated))~~ is adopted by reference and on file at ~~((the department))~~ ecology.

~~((t))~~ (b) Requirements for sale of new solid fuel burning devices in Washington after July 1, 1990 ~~((:))~~; a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a new woodstove in Washington unless it has been tested to determine its emission performance and heating efficiency, certified and labeled in accordance with criteria and procedures specified by the EPA in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" dated February 26, 1988, and ~~((herein incorporated))~~ is adopted by reference and on file at ~~((the department))~~ ecology.

~~((t))~~ (2) Exemptions. The following solid fuel burning devices are exempt from the requirements of this section:

(a) Solid fuel burning devices sold at retail on or before July 1, 1988.

(b) Any solid fuel burning device exempted under "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984, bearing the appropriate labeling or written proof of exempt status furnished by the DEQ.

(c) Any solid fuel burning device exempted under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" (~~(dated February 26)~~) as amended through July 1, 1988, section 60.530, paragraphs (a), (b), (c), (e), (f), (g), (h), or (i), bearing the appropriate labeling or exempt status furnished by the EPA.

~~((4))~~ (3) General certification procedures. A solid fuel burning device that is exempt and therefore not eligible for certification under DEQ or EPA regulations may be tested to demonstrate its emission performance in accordance with criteria and procedures no less stringent than those imposed under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" (~~(dated February 26)~~) as amended through July 1, 1988, subject to the following conditions:

(a) All criteria and procedures shall be submitted by the applicant for review and approval by ~~((the department))~~ ecology prior to certification testing;

(b) Certification of the solid fuel burning device shall be granted by ~~((the department))~~ ecology upon approval of test results that demonstrate that the solid fuel burning device meets emission performance standards equivalent to those under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" (~~(dated February 26)~~) as amended through July 1, 1988.

(c) The certification of a woodstove shall be valid for only the specific model, design, plans and specifications that were originally submitted, tested and approved for certification.

~~((5))~~ (4) State-wide emission performance standards. An ~~((air))~~ authority shall not adopt or enforce emission performance standards for solid fuel burning devices that are more stringent than the state-wide standard.

~~((6))~~ (5) Emission performance standards for certification.

(a) A new woodstove advertised for sale, offered for sale, or sold in Washington after July 1, 1988, bearing a DEQ certification label shall not exceed the standards for particulate matter under Section 340-21-115, "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

(b) A new woodstove advertised for sale, offered for sale, or sold in Washington after July 1, 1988, bearing an EPA certification label shall not exceed the standards for particulate matter under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" (~~(dated February 26)~~) as amended through July 1, 1988.

~~((7))~~ (6) Labeling requirements.

(a) Woodstoves required to be labeled pursuant to subsection (1)(a)(i) of this section shall have labeling required by the DEQ in "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

(b) Woodstoves or other solid fuel burning devices required to be labeled pursuant to subsection (1)(~~(b)~~ or ~~(2)~~) (a)(ii) or (b) of this section shall have labeling required by the EPA under "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" dated February 26, 1988.

~~((8))~~ (7) Label alteration. A manufacturer, dealer, or retailer shall not alter either the permanent or removable label in any way from the label approved by the EPA or the DEQ.

~~((9))~~ (8) Woodstove alteration. A manufacturer, dealer, or retailer shall not remove or render inoperable any devices or components of any systems installed by the manufacturer of a woodstove for the purpose of controlling air contaminant emissions, other than for replacement or routine maintenance.

~~((10))~~ (9) Alternative testing procedure. A Washington state manufacturer who believes his solid fuel burning device, for technical reasons, should be subject to an alternative testing procedure to that established by the ~~((U.S. Environmental Protection Agency (USEPA)))~~ EPA may apply to ~~((the department))~~ ecology for an alternative or modified procedure. ~~((The department))~~ ecology will evaluate such applications. If disapproved, the solid fuel burning device shall remain subject to the ~~((USEPA))~~ EPA testing protocol. If the application is approved, the manufacturer shall propose an alternative or modified testing procedure. If the procedure is approved by ~~((the department))~~ ecology, it shall be the responsibility of the manufacturer to submit the device to an accredited testing laboratory and furnish ~~((the department))~~ ecology with final test reports. If test results are equivalent to those required by ~~((USEPA))~~ EPA testing, Washington certification may be issued. Interim certification, for a period not to exceed sixty days, may be issued by ~~((the department))~~ ecology to cover the testing period. Interim certification may be renewed.

AMENDATORY SECTION (Amending Order 87-44, filed 12/16/87)

WAC 173-433-110 OPACITY STANDARDS. (1) Phase 1 opacity level. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of forty percent opacity for six consecutive minutes in any one-hour period.

(2) Phase 2 opacity level. After July 1, 1990, a person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period.

(3) State-wide opacity standard. An ~~((air))~~ authority shall not adopt or enforce an opacity level for solid fuel burning devices that is more stringent than the state-wide standard.

(4) Test method and procedures. EPA reference method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources shall be used to determine compliance with subsections (1) and (2) of this section.

(5) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device. The provisions of this requirement shall:

(a) Be enforceable on a complaint basis.

(b) Not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

AMENDATORY SECTION (Amending Order 88-38, filed 1/3/89)

WAC 173-433-120 PROHIBITED FUEL TYPES. A person shall not cause or allow any of the following materials to be burned in a solid fuel burning device:

- (1) Garbage;
- (2) Treated wood;
- (3) Plastic and plastic products;
- (4) Rubber products;
- (5) Animal~~(s)~~ carcasses;
- (6) Asphaltic products;
- (7) Waste petroleum products;
- (8) Paints and chemicals; or

(9) Any substance, other than paper to start the fire, properly seasoned fuel wood, or coal with sulfur content less than 1.0% by weight burned in a ~~((coal stove))~~ coal-only heater, which normally emits dense smoke or obnoxious odors.

AMENDATORY SECTION (Amending Order 88-38, filed 1/3/89)

WAC 173-433-130 GENERAL EMISSION STANDARDS. In addition to the general applicability of chapter 173-400 WAC to all emission sources;

(1) Emissions ~~((of air contaminants))~~ detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, including any air contaminant whose emission is not otherwise prohibited by this chapter, if the air contaminant emission directly impacts the property of another so as to cause detriment to the health, safety, or welfare of a person, plant or animal, or causes damage to property or business. Direct impact means that emissions from an identifiable solid fuel burning device are present in amounts which reasonably constitute a threat to the health, safety, or welfare of a person(s).

(2) Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

AMENDATORY SECTION (Amending Order 87-44, filed 12/16/87)

WAC 173-433-150 CURTAILMENT. (1) A person in a residence or commercial establishment with an adequate source of heat other than the burning of solid fuel shall not burn solid fuel in any solid fuel burning device:

(a) Whenever ~~((the department))~~ ecology has declared an air pollution episode for the geographical area pursuant to chapter 173-435 WAC; or

(b) Whenever ~~((the department))~~ ecology or an ~~((air))~~ authority has declared impaired air quality for the geographical area, except when the solid fuel burning device is certified under WAC 173-433-100.

(2) A person responsible for a solid fuel burning device already in operation at the time an episode is declared shall ~~((extinguish that device by withholding))~~ withhold new solid fuel for the duration of the episode. A person responsible for a solid fuel burning device that is not certified under WAC 173-433-100 already in operation at the time impaired air quality is declared shall ~~((extinguish that device by withholding))~~ withhold new solid fuel for the duration of the impaired air quality. Smoke visible from a chimney, flue or exhaust duct after ~~((a time period of))~~ three hours has elapsed from the ~~((time of))~~ declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by ~~((an applicable))~~ a solid fuel burning device.

(3) ~~((The department, air))~~ Ecology, authorities, health departments, fire departments, or local police forces having jurisdiction in the area may enforce compliance with the above solid fuel burning device curtailment rules after ~~((a time period of))~~ three hours has elapsed from the ~~((time of))~~ declaration of the episode or impaired air quality.

AMENDATORY SECTION (Amending Order 88-38, filed 1/3/89)

WAC 173-433-170 RETAIL SALES FEE. (1) A person selling a solid fuel burning device at retail shall impose upon the buyer a fee, pursuant to RCW 70.94.483.

(2) The fee shall be:

(a) Set at a ~~((minimum))~~ maximum of five dollars, until January 1, 1989~~((, and annually thereafter it))~~. After January 1, 1989, the fee may be adjusted upward annually according to increases in the consumer price index;

(b) Applicable to all new and used solid fuel burning devices, with the exception of built-in masonry fireplaces;

(c) Collected by the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW.

(3) If the seller should fail to collect ~~((the fee herein imposed))~~ or remit the fee to the department of revenue as prescribed in chapter 82.08 RCW, the seller shall be personally liable to the state for the amount of the fee, with subsequent actions taken in accordance with the collection provisions of chapter 82.32 RCW.

AMENDATORY SECTION (Amending Order 87-44, filed 12/16/87)

WAC 173-433-200 REGULATORY ACTIONS AND PENALTIES. A person in violation of this chapter may be subject to the provisions of WAC ~~((173-403-170))~~ 173-400-230 Regulatory actions and WAC ~~((173-403-180))~~ 173-400-240 Criminal penalties.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-010 PURPOSE. This chapter, promulgated under chapter 70.94 RCW, establishes emissions standards, design requirements, and performance standards for solid waste incinerator facilities.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-020 APPLICABILITY. The provisions of this chapter shall apply state-wide to all solid waste ~~((incinerator facilities))~~ or solid waste derived fuel incinerator facilities that:

(1) Are constructed after January 1, 1985, which ~~((burn or))~~ are designed to burn twelve or more tons per day ~~((of solid waste))~~; or ~~((solid waste derived fuel, and facilities))~~

(2) Was constructed prior to January 1, 1985 ~~((that commence incineration of))~~, but begins to burn twelve or more tons per day ~~((of solid waste or solid waste derived fuel))~~ after January 1, 1985.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-030 DEFINITIONS. The definitions of terms contained in chapter 173-400 WAC are incorporated by reference. Unless a different meaning is clearly required by context, ~~((words and phrases))~~ the following words and phrases as used in this chapter, shall have the following meanings~~((, general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to solid waste incinerators as defined below))~~.

(1) "Incinerator facility" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located in one or more

contiguous or adjacent properties, and are under the control of the same person(s) ~~((for persons under common control))~~, whose activities are ancillary to the incineration of solid waste.

(2) "Residence time" means the minimum amount of time that a parcel of gas is subject to a given temperature.

(3) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials, which are not primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to septage from septic tanks, dangerous waste, and problem wastes. Solid waste does not include wood waste or sludge from waste water treatment plants.

(4) "Transmissometer" means a device that measures opacity and conforms to EPA Performance Specification Number 1 in Title 40 Code of Federal Regulations, Part 60, Appendix B as promulgated prior to ~~((December 1, 1986))~~ July 1, 1988.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-434-050 NEW SOURCE REVIEW (NSR). ~~((+))~~ Notice of construction: Construction shall not commence on any new source until a notice of construction has been approved by the department or cognizant local authority pursuant to WAC 173-403-050. The owner or operator of any source shall notify the department or cognizant local authority prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department or cognizant local authority may determine that a notice of construction is required:

(2) Prevention of significant deterioration (PSD). Construction shall not commence on any new source until applicability to prevention of significant deterioration rules is determined and, if required, a PSD permit is issued to the source per WAC 173-403-080.

(3) Operation and maintenance plan. As part of a condition of approval of the notice of construction, before initial start-up the owner or operator of the incinerator shall develop a plan for the operation and maintenance of all equipment and procedures that can cause or control air pollution. Every twenty-four months thereafter, the owner or operator must obtain approval of a new or updated plan. The owner or operator must obtain the department's or cognizant local authority's approval of the plan prior to commencing operation and shall not incinerate solid waste without an approved plan. The plan may include operating parameters, maintenance procedures and operation personnel training requirements and procedures.) The conditions of WAC 173-400-110 shall apply to each new source or emissions unit covered by this chapter.

NEW SECTION

WAC 173-434-070 PREVENTION OF SIGNIFICANT DETERIORATION (PSD). The conditions of WAC 173-400-141 shall apply to all new major sources and major modifications covered by this chapter.

NEW SECTION

WAC 173-434-090 OPERATION AND MAINTENANCE PLAN. As part of a condition of approval of the notice of construction, the owner or operator of the incinerator shall develop a plan for the operation and maintenance of all equipment and procedures that can cause or control air pollution. This plan must be approved by ecology or the authority prior to initial startup or testing. Every twenty-four months thereafter, the owner or operator must obtain approval of a new or updated plan to continue operation. The plan may include operating parameters, maintenance procedures and operation personnel training requirements and procedures to assure that the source will comply with all applicable rules, resolutions, regulations, safety practices, and ordinances.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-100 REQUIREMENT FOR BACT. (1) No incinerator facility shall cause or permit air contaminant emissions in excess of the limits described in this section, as modified by chapter ~~((173-403))~~ 173-400 WAC if applicable. ~~((Further,))~~ All ~~((solid waste))~~ incinerator facilities that are required to file a notice of construction are required to use best available control technology (BACT) ~~((as defined at the time of construction which may be determined))~~

which is determined on a case-by-case basis at the time of approval of the notice of construction. For some incinerator facilities ~~((to)), this may be more stringent than the emissions limitations of this chapter and may include fuel cleaning or separation.~~

(2) Whenever more than one regulation applies to the control of air contaminants from ~~((a solid waste incineration)) an incinerator facility,~~ the more stringent regulation, control, or emission limit shall govern.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-110 ~~((ADOPTION OF FEDERAL)) STANDARDS OF PERFORMANCE. ((Title 40, Code of Federal Regulations Part 60, Subparts A and E and Appendixes A, B, C, and D with the exception of Sections 60.5 (determination of construction or modification) and 60.6 (review of plans) as promulgated prior to December 1, 1986, is by this reference adopted and incorporated herein. For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the director of the department of ecology.)) Sources and emissions units to which this chapter is applicable, shall comply with any applicable provisions of WAC 173-400-115 "Standards of performance for new sources."~~

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-120 EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS. ~~((1) The National Emission Standards for Hazardous Air Pollutants (NESHAPS) Title 40, Code of Federal Regulation, Part 61, Subparts A, C, M and V and Appendixes A, B and C as promulgated prior to December 1, 1986, are by reference adopted and incorporated herein.~~

~~((2) The department or cognizant local authority, at any time after the effective date of this section, may conduct or require source tests and require access to: Records, books, files, and other information specific to the control, recovery, or release of asbestos, beryllium, mercury, or vinyl chloride in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities. Source testing, monitoring, and analytical methods for sources of the above named contaminants shall conform with the requirements of NESHAPS.~~

~~((3) This section shall not apply to any source operating pursuant to a waiver granted by the United States Environmental Protection Agency or an exemption granted by the president of the United States during the effective life of such waiver or exemption.)) Sources and emissions units to which this chapter is applicable shall comply with any applicable provisions of WAC 173-400-075 "Emission standards for sources emitting hazardous air pollutants."~~

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-130 EMISSION STANDARDS. In addition to the general applicability of chapters 173-400 and 173-490 WAC to all emission sources; no incinerator facility shall cause or permit air contaminant emissions in excess of the limits listed below. Specific emission standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.

(1) Particulate.

(a) For incinerator facilities that ~~((have the capability)) are capable of burning two hundred fifty or more tons of solid waste per day, ((the particulate)) emissions from each ((incinerator)) stack shall not exceed 0.046 grams of particulate per dry cubic meter at standards conditions (0.020 grains/dscf) corrected to seven percent oxygen for an hourly average.~~

(b) For incinerator facilities that have a maximum capability of burning less than two hundred fifty tons of solid waste per day, ~~((the particulate)) emissions from each ((incinerator)) stack shall not exceed 0.069 grams of particulate per dry cubic meter at standards conditions (0.030 grains/dscf) corrected to seven percent oxygen for an hourly average.~~

(2) Hydrogen chloride. The hydrogen chloride emissions from each ~~((incinerator)) stack shall not exceed fifty ppm on a volumetric dry basis corrected to seven percent oxygen for an hourly average, except if the owner or operator demonstrates that uncontrolled emissions of hydrogen chloride are reduced by at least eighty percent and a procedure acceptable to ((the department or cognizant local agency)) ecology or the authority for monitoring is developed.~~

(3) Sulfur dioxide. The sulfur dioxide emissions from each ~~((incinerator)) stack shall not exceed fifty ppm on a volumetric dry basis corrected to seven percent oxygen for an hourly average, except if the owner or operator demonstrates that the uncontrolled emissions of sulfur dioxide are reduced by at least eighty percent and a procedure acceptable to ((the department or cognizant local agency)) ecology or the authority for monitoring is developed. When more than fifty percent of the heat input is fossil fuel ((the department or cognizant local agency)), ecology or the authority may establish a higher sulfur dioxide limit provided that limit meets ((the)) BACT requirements ((of best available control technology)).~~

(4) Opacity.

(a) The opacity as measured visually from any incinerator stack shall not exceed an average of five percent opacity for more than six consecutive minutes in any sixty minute period.

(b) The opacity as measured by a transmissometer shall not exceed an average of ten percent opacity for more than six consecutive minutes in any sixty minute period.

(c) The opacity as measured visually shall not exceed an average of zero percent from any emissions unit except incinerator stacks for more than six consecutive minutes in any sixty minute period.

~~((5) ((Odors. Any person who shall cause or allow the generation of any odor from any source which may unreasonably interfere with any other property owner's use and enjoyment of his property shall use recognized good practices and procedures to reduce those odors to a reasonable minimum.~~

~~((6)) Fugitive emissions. Each ((incinerator)) operator or owner shall take reasonable precautions to prevent fugitive emissions which includes the paving of all normally traveled roadways within the plant boundary and enclosing or hooding material transfer points.~~

~~((7) Masking. No incinerator operator shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emissions of an air contaminant which would otherwise violate any provision of this chapter.~~

~~((8) Fallout. No incinerator owner or operator shall cause or permit the emission of particulate matter from any emissions unit which becomes deposited beyond the property boundary under direct control of the owner or operator of the incinerator facility in such quantities or of such character or duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or will interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.~~

~~((9) Other contaminants. No incinerator owner or operator shall cause or permit air contaminants or water droplets including an air contaminant whose emissions are not otherwise prohibited by this chapter, in such quantities or of such characteristics or duration as is, or is likely to be, injurious to human health, plant or animal life or property, or which unreasonably interferes with use or enjoyment of property, or may cause a public safety hazard.~~

~~((10)) ((6) Source testing. ((In order)) To demonstrate compliance with this chapter, ((the department or cognizant local authority may require that a test be made of any emissions unit using procedures contained in Source Test Manual - Procedures for Compliance Testing, state of Washington, department of ecology, on file at the department. The operator of a source shall be required to provide the necessary platform and sampling ports for the department or cognizant local authority personnel to perform a test of an emissions unit. The department or cognizant local authority shall be allowed to obtain a sample from any emissions unit. The operator shall be given an opportunity to observe the sampling and to obtain a sample at the same time)) refer to WAC 173-400-105.~~

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-160 DESIGN AND OPERATION. (1) Combustion zone temperature. Whenever solid waste is being burned, the temperature of the final combustion zone shall not be below 982°C (1800° F) for a fifteen minute average ~~((At no time when solid waste is being burned shall the temperature of the final combustion zone fall)) nor below 871°C (1600°F) for any reading.~~

(2) Residence time. The minimum combustion chamber temperature must be maintained for at least one second (1.0 second) in a zone after the last over fire air has entered the combustion chamber. If overfire air is not used, the combustion chamber shall maintain the minimum combustion temperature or greater for at least one second with all combustion gases. Procedures for determining the residence time shall be a part of the new source review.

(3) Excess air. The combustion gases leaving the final combustion zone must contain at least three percent (~~(free)~~) oxygen measured on a wet basis.

(4) Combustion air. To minimize odor (~~(and)~~), fugitive emissions and to maintain a negative pressure in the tipping area, the combustion air shall be withdrawn from the tipping area, or shall utilize an equivalent means of odor and fugitive emission control acceptable to (~~(the department or cognizant local)~~) ecology or the authority.

(5) Combustion air distribution and control. The air distribution shall be fully controllable (~~(at each location)~~) where pressurized air is introduced and the air flow shall be (~~(measured and)~~) monitored (~~(continuously)~~) and recorded.

(6) Particulate control device temperature. The (~~(average)~~) inlet temperature of the primary (~~(most efficient)~~) particulate control device shall not exceed 177°C (350°F) (~~(whenever solid waste is being burned)~~).

(7) Operation. At all times, (~~(including periods of abnormal operation and upset conditions)~~) the owner or operator shall, to the extent practicable, maintain and operate any incinerator facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. This may mean that if the emissions limits are being exceeded, no more waste should be fed into the incinerator until the problem is corrected. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to (~~(the department or cognizant local)~~) ecology or the authority which may include, but is not limited to, monitoring and recording results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-170 MONITORING AND REPORTING. The owners or operators of each incinerator facility shall conduct routine monitoring of emissions in accordance with a program that has been approved by (~~(the department or cognizant local)~~) ecology or the authority. The program must contain quality control and quality assurance procedures.

(1) Monitoring. (~~(As part of the program)~~) The owners or operators shall install, operate, and maintain continuous monitors and recorders for the following:

- (a) Opacity;
- (b) Combustion zone temperature;
- (c) Particulate control device temperature;
- (d) Hydrogen chloride and/or sulfur dioxide;
- (e) Oxygen;
- (f) Carbon monoxide;
- (g) Combustion air distribution(;
- (h) Pollution control equipment bypass conditions).

The monitors for opacity, sulfur dioxide, carbon monoxide, and oxygen shall comply with EPA performance specifications in Title 40, Code of Federal Regulations, Part 60, Appendix B as promulgated prior to (~~(December 1, 1986)~~) July 1, 1989.

(2) Reporting. Results of the monitoring shall be reported within (~~(thirty)~~) fifteen days of the end of each calendar month and shall include but may not be limited to data such as:

(a) The average daily maximum and the daily maximum concentration of each monitored pollutant and the daily amount of solid waste burned.

(b) The date, time, and magnitude of any periods during which the standards were exceeded, and what corrective action was or will be taken.

(c) Any period(s) of monitor down time.

(3) Testing. The owners or operators shall conduct emission tests for particulate, sulfur dioxide and hydrogen chloride on a regular basis. These tests may be used to (~~(help)~~) determine acceptable operating parameters. (~~(The)~~) Testing shall be at least (~~(annual)~~) annually for incinerator facilities capable of burning two hundred fifty tons or more of solid waste per day and (~~(biennial)~~) biennially for other facilities.

(4) Other data. Each owner or operator shall furnish upon request (~~(of the department or cognizant local authority, such other pertinent data as the department or cognizant local authority may require)~~) by ecology or the authority, other data required to evaluate the incinerator's emissions or emissions control program.

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-190 CHANGES IN OPERATION. If a startup, shutdown, breakdown, or upset condition occurs which could result in

an emissions violation or a violation of an ambient air quality standard, the owner or operator of the source shall take the following actions as applicable:

(1) For a planned condition, such as a startup or shutdown, the condition shall be reported to (~~(the department or cognizant local)~~) ecology or the authority not less than twenty-four hours in advance of its occurrence. For incinerator facilities that normally operate for less than twenty-four hours per day, this provision may be waived provided that daily startup and shutdown procedures are developed that are acceptable to (~~(the department or cognizant local)~~) ecology or the authority.

(2) For unplanned conditions, such as a breakdown or upset, the condition shall be reported to (~~(the department or cognizant local)~~) ecology or the authority as soon as possible, but no later than the end of the next business day.

If, upon reviewing the available information, (~~(the department or cognizant local)~~) ecology or the authority determines that continued operation of any emissions unit is likely to cause a significant risk to the public, it may order an immediate shutdown of the emissions unit.

Upon request (~~(of the department or cognizant local)~~) ecology or the authority, the owner or operator of the source shall submit a full written report including known causes of (~~(the)~~) any infraction, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirement of WAC 173-434-100, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-434 WAC nor from the resulting liabilities for failure to comply.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-434-200 EMISSION INVENTORY. The owner or operator of any solid waste incinerator shall submit an inventory of emissions (~~(from the sources each year upon and according to instructions from the department of ecology)~~) that complies with WAC 173-400-105. The inventory shall include but may not be limited to stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, nitrogen oxides, carbon monoxide, volatile organic compounds, hydrogen chloride, and other contaminants(~~(, and shall be submitted when required. The inventory shall include total emissions of each pollutant for the year in tons per year and an estimate of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at capacity. The report shall include the average sulfur content of any fossil fuel used which will result in emissions of more than twenty-four tons per year of sulfur dioxide)~~).

AMENDATORY SECTION (Amending Order 86-38, filed 3/16/87)

WAC 173-434-210 SPECIAL STUDIES. (~~(The department or cognizant local)~~) Ecology or the authority may require such additional special studies relevant to process emissions and establish completion dates as it determines necessary. These special studies may include the requirement to conduct studies of dioxin emissions and control measures.

AMENDATORY SECTION (Amending Order 87-15, filed 9/16/87)

WAC 173-440-010 PURPOSE. This chapter, promulgated under RCW 70.94.305 and 70.94.331 designates certain geographical areas of the state as sensitive areas after considering population, development and recreational and scenic values; and provides for the imposition of more stringent standards and compliance requirements for certain stationary source categories within these areas than apply to such categories outside sensitive areas.

AMENDATORY SECTION (Amending Order 87-15, filed 9/16/87)

WAC 173-440-030 DEFINITIONS. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, words and phrases as used in this chapter shall have the following meaning(~~(s)~~): (~~(General terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to sensitive areas as follows)~~) "Sensitive area" means a geographical area designated by this chapter.

AMENDATORY SECTION (Amending Order 87-15, filed 9/16/87)

WAC 173-440-100 STANDARDS. In addition to all other applicable regulations, the following more restrictive standards shall apply in sensitive areas for stationary sources in the categories listed.

Wigwam burners. All wigwam burners shall comply with the requirements of WAC 173-400-070 (1)(d).

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-010 PURPOSE. ~~((The department of ecology, under the authority vested in it by chapter 43.37 RCW, is charged with))~~ This chapter, promulgated under chapters 43.37 and 70.94 RCW establishes the responsibilities for the supervision and control of all weather modification activities within the state, and representation by the state in all interstate contacts relating to weather modification and control. This regulation provides the basic framework for carrying out the state's responsibility for such a program through the establishment of license and permit requirements and procedures, ~~((report requirements))~~ reporting, and fee requirements. The provisions of this chapter shall apply to all weather modification activities in all parts of the state except as specifically exempted in this chapter ~~((on in chapter 43.37 RCW))~~.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-020 DEFINITIONS. ~~((As used in these regulations unless the context requires otherwise))~~ The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, words and phrases as used in this chapter shall have the following meanings:

(1) ~~((("Department" means the department of ecology.~~
(2)) "Operation" means the performance of weather modification and control activities ~~((pursuant to a single contract entered into))~~ using a single permit or license under contract for the purpose of producing or attempting to produce a ~~((certain))~~ weather modifying effect within ~~((one))~~ a geographical area ~~((over one continuing time interval not exceeding one year, or in the case of the performance of weather modification and control activities, individually or jointly, by a person or persons to be benefited and not undertaken pursuant to a contract, operation means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area and one continuing time interval not exceeding one year))~~.

~~((3))~~ (2) "Research and development" means theoretical analysis, exploration and experimentation, and the extension of investigative findings of theories of a scientific or technical nature into practical application for experimental and demonstration purposes ~~((including))~~. This includes the experimental production and testing of models, devices, equipment, materials, and processing.

~~((4))~~ (3) "Weather modification and control" means changing or ~~((controlling, or))~~ attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-030 REQUIREMENT FOR LICENSES AND PERMITS. No person shall engage in weather modification activities except under and in accordance with a license and a permit issued by ~~((the department))~~ ecology, unless specifically exempt from this requirement in WAC ~~((173-495-050))~~ 173-495-040.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-040 REQUIREMENTS FOR EXEMPT ACTIVITIES ~~((REQUIREMENTS OF THOSE EXEMPTED))~~. The following weather modification and control activity shall be exempt from the license requirement of RCW 43.37.100, the permit requirements of RCW 43.37.100, and the liability requirements of RCW 43.37.190:

(1) All research and experiments related to weather modification control conducted within laboratories.

(2) Those weather modification operations designed to alleviate sudden, unexpected, hazardous conditions which require expeditious localized action for:

- (a) Protection against fire
- (b) Prevention of frost
- (c) Dispersal of fog

(3) Field research and development by institutions of higher learning.

(4) Any person(s) proposing to conduct weather modification and control activities as described in subsection (2) ~~((above))~~ of this section shall ~~((make every reasonable effort prior thereto to notify the))~~ notify air programs, department of ecology, headquarters offices in Olympia, Washington, before proceeding of the type of activity to be carried out, the person carrying out the activity and the materials and technique of application to be used.

(5) Any person proposing to conduct weather modification and control activities as described in subsection (3) above shall provide a written description of the proposed program, notice of actual operations ten days prior to commencement, and quarterly reports of operations and status to the headquarters office department of ecology, Olympia, Washington.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-045 ~~((QUALIFICATIONS FOR))~~ REQUIREMENTS FOR A REGULAR LICENSE ~~((REGULAR))~~. All applicants for a weather modification license shall be certified professional members of the American Meteorological Society or possess the academic achievements and professional experience necessary to receive such certification. In cases where the applicant is an organization, the individual or individuals who will be in control and in charge of the weather modification and control activities shall be required to meet the above standard.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-050 ~~((QUALIFICATIONS FOR))~~ REQUIREMENTS FOR A RESTRICTED LICENSE ~~((RESTRICTED LICENSE))~~. (1) A restricted license may be issued to an applicant ~~((for such license))~~ when:

- (a) The applicant's proposed weather modification activities are limited solely to those designed to disperse fog over airports; and
- (b) The applicant will be fully advised of the pertinent weather information by the meteorologist on duty during the ~~((carrying out of the))~~ airport fog dispersal activities.

(2) Applicants for restricted licenses are not required to meet the qualifications otherwise imposed by WAC 173-495-040.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-060 PROCEDURES FOR ISSUING LICENSE.

(1) Any person or organization desiring to obtain a license or restricted license shall make an application to ~~((the department of))~~ ecology on the form prescribed, listing name, business address, etc.

(2) ~~((The department))~~ Ecology may require additional information of the applicant to determine competency in the field of meteorology. Such additional information shall be requested of the applicant by certified mail, and shall be submitted in writing.

(3) Prior to the issuance of any license, the applicant shall pay a fee of \$100 to the state of Washington.

(4) The application shall be deemed received by ~~((the department of))~~ ecology when received at the Headquarters Offices, Department of Ecology, Olympia, Washington, 98504.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-065 PERIOD OF LICENSE. (1) Licenses issued pursuant to chapter 43.37 RCW and these regulations shall be effective for a period of one year, to terminate at the end of the calendar year of issuance.

(2) No later than thirty days prior to the end of the calendar year, the licensee may request a renewal of the license. ~~((The department shall review said))~~ Ecology shall review the license ~~((upon the payment of))~~ renewal request after receiving a renewal fee of ~~(((\$100))~~ one hundred dollars made payable to the state of Washington.

(3) In the determination of whether or not to grant ~~((such))~~ a license renewal ~~((request, the department))~~, ecology shall consider ~~((; and the applicant shall provide, information as to whether))~~ information provided by the applicant of the facts and circumstances ~~((relied on in the issuance of the original permit have))~~ used to issue the original permit that were changed or altered. If ~~((the department))~~ ecology determines that the licensee no longer meets the requirements of competency in the field of meteorology, ~~((the department))~~ ecology may refuse to renew said license.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-070 PERMITS REQUIREMENTS. (1) Each weather modification operation not specifically exempted by statute or these regulations shall require a permit. A separate permit shall be issued for each operation.

(2) A license holder desiring to conduct a weather modification operation shall submit an application for a permit to ~~((the department of))~~ ecology.

(3) The permit applicant must hold a valid weather modification license from the state of Washington.

(4) The applicant shall publish notice of intention at least once a week for three consecutive weeks in a legal newspaper having general circulation and published within any county in which the operation is to be conducted ~~((and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is))~~ or affected. If no legal newspaper is published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county.

(5) Proof of publication of the notice of intention ~~((, made in the manner provided herein,))~~ shall be filed by the licensee with ~~((the department))~~ ecology within fifteen days from the date of last publication of the notice.

(6) The notice of intention shall contain at least the following:

- (a) The name and address of the licensee;
- (b) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (c) The area in which and the appropriate time during which the operation will be conducted;
- (d) The area ~~((which is))~~ intended to be affected by the operation; and
- (e) The materials and methods to be used in conducting the operation.

(7) The applicant shall furnish proof of financial responsibility, as described in WAC 173-495-120 of this chapter.

(8) The applicant shall pay a permit fee of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by ~~((the department))~~ ecology from ~~((evidence))~~ available ~~((to it))~~ data.

(9) Prior to issuance of a permit ~~((the department))~~, ecology shall ~~((make a determination))~~ state in writing that the weather modification and control activities proposed ~~((to be conducted under authority of the permit))~~ have been determined to be for the general welfare and public good.

(10) ~~((The department))~~ Ecology shall hold an open public hearing at its headquarters office in Olympia prior to any such permit issuance.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-080 PERMITTEE'S REPORT OF OPERATIONS—REQUIREMENT. The permittee shall be required to maintain reports on all operations on a daily basis, and submit twice a month (1st day and 15th day) to ~~((the department of))~~ ecology. The semi-monthly reports shall include the following information:

- (1) Number of days under contract.
- (2) Number of days of operation and number of hours of each day, for all stations operated.
- (3) The consumption rate and name of seeding agent used.
- (4) A brief summary statement evaluating the past fifteen day period in regard to the seeding potential and experience.
- (5) Location of operations.

(6) Name and mailing address of each individual, other than the licensee, participating or assisting in the operation.

(7) A brief statement of projected plans for the coming fifteen day period.

(8) In the event operations are unexpectedly terminated, a special report covering that fraction of the half-month period of operation is required. All reports must be post-marked not later than one day after due date.

(9) All such records are public records which shall be open to public inspection.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-100 REVOCATION, SUSPENSION, MODIFICATION. (1) All permits authorized by RCW 43.37.110 shall contain the following provisions: "~~((The department))~~ Ecology may, if it appears that continuing operation under this permit will cause immediate injury to persons or property, terminate or otherwise modify the terms of this permit in order to alleviate an emergency situation by giving notice to the permittee by telegram or other writing."

(2) All permits authorized by RCW 43.37.110 may be revoked, suspended, or modified when ~~((the department))~~ ecology has reason to believe that good cause exists and that the revocation, suspension, or modification is required for the general welfare and public good. Any such revocation, suspension, or modification shall not be undertaken prior to written notice by certified mail to the permittee. Opportunity for comment by the permittee shall be allowed. Any final ~~((department))~~ ecology decision shall be in writing.

(3) In the event the applicant desires to appeal any permit revocation, modification, or suspension action by ~~((the department))~~ ecology such appeal must be filed with the pollution control hearings board in Olympia within thirty days of ~~((the department's))~~ ecology's action. An appeal does not constitute a stay.

AMENDATORY SECTION (Amending Order DE 77-29, filed 12/29/77)

WAC 173-495-120 PROOF OF FINANCIAL RESPONSIBILITY. A permit applicant shall furnish proof of financial responsibility to ~~((the department of))~~ ecology by one of the following:

- (1) Copy of insurance policy or binder for the operator.
- (2) A current balance sheet showing sufficient assets to demonstrate financial responsibility.
- (3) Bond for safe performance.
- (4) Such other information as the applicant may provide ~~((the department))~~ ecology, in writing, if one of the alternate methods ~~((+))~~ ~~((; above))~~ contained in subsections (1) through (3) of this section, is not feasible or available, provided the applicant explains the infeasibility or unavailability.

WSR 90-06-103

PROPOSED RULES

**DEPARTMENT OF LABOR AND INDUSTRIES
(Apprenticeship and Training Council)**

[Filed March 7, 1990, 3:50 p.m.]

Original Notice.

Title of Rule: Apprenticeship committees, WAC 296-04-001 and 296-04-160.

Purpose: Establish additional guidelines for approval and operation of apprenticeship committees.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.010, 49.04-030 and 49.04.040.

Summary: WAC 296-04-001, expressing council policy regarding the operation of apprenticeship committees; and WAC 296-04-160, if existing committees refuse to provide access to all employers, council shall act to remove restrictions to access.

Reasons Supporting Proposal: Increasing numbers of employers seeking to train employees through apprenticeship programs. The proposed rules clarify criteria used by the council in determining whether to approve a new program or require the training to occur in an existing program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way S.E., Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed revisions clarify council policy regarding the operation and establishment of apprenticeship committees. This clarification should assist employers who seek to provide apprenticeship training in determining whether to propose a new program or whether to seek training through an existing program. Because existing programs are required to offer training opportunities to all employers on an equal basis, those that fail to do so may be decertified by the council.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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

These rules clarify the operating standards for existing apprenticeship committees and set forth criteria used by the council in determining whether to approve new committees. The rules will assist all sponsors of new programs in understanding criteria for council approval. There is no economic impact to business and no additional paperwork required by this rule.

Hearing Location: Holiday Inn, Yakima, Nine North Ninth Street, on April 19, 1990, at 1:30 p.m.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, by May 18, 1990.

Date of Intended Adoption: July 19, 1990.

March 7, 1990
Harold G. Wilson
Chairman

AMENDATORY SECTION (Amending Order 71-3, filed 3/25/71)

WAC 296-04-001 FOREWORD. The Washington State Apprenticeship and Training Act, RCW 49.04.010 - 49.04.910, establishes the council and its administrative arm, the apprenticeship and training division of the department of labor and industries. The intention of the council and department in promulgating and adopting these rules is to establish a uniform procedure to be followed by state and local apprenticeship and training committees in presenting matters to the state apprenticeship and training council and further to establish standards by which the council can operate to effectuate its statutory obligations set forth in the apprenticeship act.

The Washington state apprenticeship and training council recognizes the importance of quality apprenticeship programs to meet the growing needs of employers and employees for high quality training. The council also recognizes that rapid changes in our state's economy and technological change necessitates skilled workers who meet industry-wide standards in order to compete successfully in the changing marketplace. Employers will benefit by knowing that skilled workers who have graduated from a state recognized apprenticeship program have been trained to industry-wide standards and not exclusively in response to the needs of an individual employer or group of employers.

The council also recognizes that the delivery and regulation of apprenticeship programs should be conducted in a manner which avoids needless duplication on the part of the department of labor and industries, community colleges, and vocational-technical institutes. It is important that approved apprenticeship programs be structured to maximize the protection of the apprentice by providing a meaningful process which allows the apprentice to ensure that his or her rights as an apprentice are protected throughout the term of the apprenticeship.

The council further recognizes that the number of apprentices in a trade or group of trades in any geographic area must be sufficient to meet the needs of all employers and not be so large as to create an oversupply of apprentices. Because quality apprenticeship training requires reasonably continuous on-the-job training, an oversupply of apprentices in any geographic area is to be avoided, if possible, in an effort to maintain ongoing quality training.

The council further recognizes that the attainment of quality apprenticeship training and the planning of numbers of new apprentices in a trade or group of trades will be accomplished best by the establishment of one joint apprenticeship and training committee serving the entire trade or group of trades in a specified geographic area. A single committee is best able to train to industry-wide standards which will enable workers to move between firms when economic necessity requires. A single committee is best able to determine the number of apprentices needed in an entire trade or group of trades in a specified geographic area.

The council also recognizes the benefit apprentices gain in having the widest range of employers and their apprentices represented in the related and supplemental training classes. The intermingling of apprentices representing the widest array of firms possible, in related and supplemental training classes, exposes apprentices to the widest possible range of work experiences. This sharing of work experiences increases the quality of training, benefiting both apprentices and employers.

The council intends that apprenticeship programs be available to meet the training needs of all employers in the state of Washington. These programs are open to all employers on an equal and nondiscriminatory basis. The need for continued quality training, equal treatment of apprentices, and efficient delivery of training suggest that these training needs are best met through existing programs.

As provided in WAC 296-04-160, committees approved by the council shall offer training opportunities on an equal basis to all employers. Existing committees are expected to provide apprenticeship and training opportunities for employers not currently participating in the program:

- (1) At a reasonable cost that is equivalent to the cost incurred by employers and apprentices currently participating;
- (2) With equal treatment and opportunity for all apprentices; and
- (3) With reasonable working and training conditions that apply to all apprentices uniformly and equally.

All policies and rules of the council are designed to strengthen apprenticeship and training in the state of Washington, as well as to explain related factors established under existing state and federal laws. The council, as the responsible legislative organ governing apprenticeship and training, requests the cooperation and assistance of all interested persons, organizations, and agencies functioning within the framework of the rules and regulations.

AMENDATORY SECTION (Amending Order 78-21, filed 11/14/78)

WAC 296-04-160 APPRENTICESHIP COMMITTEES. (1) Apprenticeship committees shall be appointed in accordance with the provisions of RCW 49.04.040. Such committees shall have the duties prescribed by statute, these rules and the approved standards under which they operate. Committees shall function, administrate or relinquish authority only with the consent of the council. On any petition addressed to the council or the supervisor, only the signature of the elected chairman and secretary of the committee shall be accepted unless the apprenticeship committee has petitioned the council to recognize and accept the signature of another person. Such a petition must be signed by a quorum of the members of the petitioning apprenticeship committee.

(2) Committees approved by the council shall offer training opportunities on an equal basis to all employers. If an existing committee refuses to provide access to apprenticeship and training opportunities to all employers, the council shall take action as necessary to remove all restrictions to access. Council action may include, but is not limited to, the decertification of the existing committee and recognition of a

new committee in order to carry out the intent of chapter 49.04 RCW and the rules adopted under its authority.

(3) It is the council's view that joint apprenticeship and training committees are not state agencies but rather only quasi-public entities performing services jointly for management and labor by assistance to the apprenticeship program.

WSR 90-06-104

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

(Apprenticeship and Training Council)

[Filed March 7, 1990, 3:52 p.m.]

Original Notice.

Title of Rule: Apprenticeship council voting.

Purpose: Establish a tie-breaking procedure for council meetings.

Statutory Authority for Adoption: RCW 49.04.010.

Statute Being Implemented: RCW 49.04.010.

Summary: A tie-breaking committee is established in case of a tie vote on proposed apprenticeship standards at a council meeting.

Reasons Supporting Proposal: State law requires a tie-breaking procedure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark M. McDermott, 406 Legion Way S.E., Olympia, (206) 753-3487.

Name of Proponent: Washington State Apprenticeship and Training Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is proposed to comply with RCW 49.04.010 requiring that a procedure be established in case an impasse occurs. Even with a seven-member council, a tie vote may occur when a member is absent. This rule establishes a tie-breaking procedure to resolve an impasse within thirty days of the tie vote.

Proposal does not change existing rules.

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

The proposed rule only affects council operations and has no impact on business.

Hearing Location: Holiday Inn, Yakima, Nine North Ninth Street, on April 19, 1990, at 1:30 p.m.

Submit Written Comments to: Mark M. McDermott, Supervisor of Apprenticeship, by May 18, 1990.

Date of Intended Adoption: July 19, 1990.

March 7, 1990

Harold G. Wilson
Chairman

NEW SECTION

WAC 296-04-042 VOTING. The council shall establish a standing committee to be known as the tie-breaker committee, comprised of the chairman, vice-chairman, and the public member. In case of a tie vote on proposed standards at any meeting of the council, the tie-breaker committee shall meet, review the record, and render a decision on the proposal within thirty days. The supervisor or a designee of the supervisor shall act as secretary to the committee and furnish all information necessary for a decision.

WSR 90-06-105

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed March 7, 1990, 4:16 p.m.]

This is to officially request that the proposal to amend the rules relating to bean seed quarantine, WAC 16-494-001 through 16-494-062, and the rules relating to bean seed standards, WAC 16-316-260 through 16-316-290, filed on WSR 90-03-090 on January 23, 1990, be withdrawn.

At the public hearing held in Yakima at 1:15 p.m. on March 6, 1989, substantive issues were identified and substantial changes were proposed to the rule proposal. We will be redrafting the proposal, in consultation with the affected parties, and will file an amended rule proposal at a later date.

William E. Brookreson
Assistant Director
Plant Services Division

WSR 90-06-106

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 7, 1990, 4:29 p.m.]

Original Notice.

Title of Rule: Fees for radiation protection programs.

Purpose: Updates fee schedules to cover current program costs, consolidates fee schedules in one chapter and edits and clarifies text.

Statutory Authority for Adoption: Chapter 43.70 RCW.

Statute Being Implemented: RCW 43.70.110.

Summary: Fees for radioactive material licenses, x-ray registrations, air emission permits, low-level waste and uranium mills are consolidated into chapter 402-70 WAC. Increased fees are proposed for radioactive material and uranium mills.

Reasons Supporting Proposal: Fees for radiation protection programs are removed from the Department of Social and Health Services chapter 440-44 WAC and placed in the Department of Health chapter 402-70 WAC. Increased fees are needed to cover actual program costs.

Name of Agency Personnel Responsible for Drafting: Terry C. Frazee, Radioactive Materials Section, 753-3461; Implementation and Enforcement: T. R. Strong, Division of Radiation Protection, 586-8949.

Name of Proponent: Division of Radiation Protection, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule adjusts fees to meet actual and anticipated costs of operating the various programs of the Division of Radiation Protection. All fees pertaining to radiation users are brought into one chapter of the administrative code. The language is clarified to improve readability and references to Department of Social and

Health Services are changed to Department of Health. The purpose of the rule is to provide necessary revenue to fund radiation protection programs and to consolidate all rules affecting radiation users.

Proposal Changes the Following Existing Rules: In addition to moving existing rules on fees from chapter 440-44 WAC to chapter 402-70 WAC, radioactive materials license fees are increased an average of 23% (range 17% to 84%); the maximum x-ray registration fee is changed; uranium mill fees are increased to cover anticipated costs; and radioactive waste site fees are set according to statutory limits. New fee categories are added for medial diagnostic devices and x-ray plan review.

Small Business Impact Statement: The Department of Health licenses approximately 430 persons or firms located within the state to possess or use radioactive materials. An annual fee is imposed to support the regulatory program within the Department of Health. This fee is based on the cost of providing the regulatory oversight for each category of use. Licensees within each fee category may come from a number of different standard industrial classification (SIC) categories.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20 percent of all industries or more than 10 percent of the businesses in any one industry (as defined by the 3 digit SIC code) be reviewed and altered to minimize their impact on small business. The annual fees imposed in chapter 402-70 WAC clearly have a direct economic impact on radioactive materials licensees. There are 40 different classes of licensees for fee purposes. The fee is based on the cost of providing health and safety inspections and license reviews commensurate with the type of use and hazard of the licensed radioactive material in each fee classification. By law, all licensees must meet the same radiation safety requirements. Since the use of radioactive material is frequently only a minor aspect of the business's overall activity, the cost of the license fee per employee shows a disproportionate burden for the small business. For example, the fee for a portable gauge user (proposed to be \$445 per year) would cost \$89 per employee per year in a five employee business versus \$4.45 per employee per year in a 100 employee business. Similarly, the fee for a diagnostic nuclear medicine license (proposed to be \$2190 per year) would cost \$219 per employee per year in a 10 employee clinic versus about \$22 in a 100 employee hospital.

While licensees as a group constitute far less than 20 percent of all industry in the state, approximately one in twenty represents 10 percent or more of the industries in their particular SIC category. Since some licensees do fall within the scope of the Regulatory Fairness Act, the department has taken the position that a mechanism should be provided to minimize the impact of license fees for all qualifying small businesses. This is without regard to whether or not the rule impacts 10 percent or more of the businesses in any particular industry as defined by the SIC category. To meet the legislative requirement to minimize the proportionately higher burden on small businesses, a small business discount of 25% is authorized in proposed WAC 402-70-040 for

any licensee meeting the definition of a small business as set forth in the Regulatory Fairness Act. The small business discount is currently given to 101 of the department's 426 licensees and registrants.

DIVISION OF RADIATION PROTECTION FEES 1990 FEE ADJUSTMENT AND CONSOLIDATION

The purpose of this regulatory change is to adjust fees to meet actual and anticipated costs of operating the various programs of the Division of Radiation Protection; to consolidate all fees pertaining to radiation users into one chapter; and to clarify and edit language used in the regulations. Fees for radioactive materials licenses, large x-ray facilities, and uranium mills are adjusted.

Background

The annual radioactive material license fees currently produce 23% less than the amount necessary to support the radioactive material section's actual costs to run the program during this biennium. The budget allotment for the 89-91 biennium represents an annual revenue need of \$456,455. The current fees bring in about \$399,000 once the small business discount has been taken.

A small business discount is the mechanism used to comply with the Regulatory Fairness Act and accounts for one third of the 23% increase needed. In effect all licensees, including qualified small businesses, pay for the overall cost of mitigating the effect of disproportionate fees on small business. To account for the impact of the small business discount, the fee structure must generate approximately \$488,400 per year.

In addition, the proposed fee increase must include revenue to cover departmental costs since the start of the biennium. The proposed fees, estimated to become effective May 1, 1990, include revenue estimated at \$50,000 to cover all costs incurred during the 89-91 biennium. Adjustments in individual fees have been made to adjust significant discrepancies between actual costs and the revenue produced by the fees.

Changes in the proposed fees for the largest x-ray facilities and uranium mills are based on the actual expenses incurred during the last biennium. Consolidation of all fees into one chapter in Title 402 WAC will give radiation users a single title applicable only to them rather than requiring reference to several chapters in several titles. Finally, language is clarified in all sections in chapter 402-70 WAC to improve readability and to change references from Department of Social and Health Services to Department of Health.

Radioactive Material License Fees

A recent survey of all licenses (with 1 in 5 responding) showed a clear preference (66%) for an across the board percentage increase as the most appropriate method to adjust fees. However, the assumptions used to set the current fees date to 1985 and actual time spent on some fee categories can be shown to be considerably different from those assumptions. To minimize the sudden economic impact of radical increases in some fee categories and to follow the preference for a simple percentage adjustment, individual adjustments are proposed only for fee categories where the actual time data exceeded more than double the predicted time. Three fee categories (approximately 10 licensees) are adjusted upward by 10% to 12% while one fee category (two licensees) requires a 49% increase due to a serious underestimation in 1985 of the time necessary to regulate this category. This adjustment is intended to begin an extended process of aligning predicted and actual costs without causing sudden economic stress for licensees.

The proposed fees are also adjusted to pay for implementing new air emission regulations which require additional work not previously considered in the radioactive material license fees. These regulations do not apply to all fee categories and are not included in the across the board increase. Where applicable, adjustment from 2% to 10% are proposed based on the anticipated increase in workload. An across the board increase of 22% is then proposed to recover all program costs for the biennium.

Finally, the proposed regulations clarify the fee status of licensees who operate in more than one location of use or storage; and fee categories have been grouped for easier use.

X-ray Facilities

The fee for x-ray facilities consists of a base registration fee plus a fee for each x-ray tube at the facility. Currently, there is a lid of \$3000 for facilities under one administration. Since the cost of inspecting the facility is correlated with the number of tubes, the lid on

the fee means very large institutions pay less than the proportionate cost of conducting the inspection. This is contrary to the Regulatory Fairness Act. The provision for a lid on x-ray fees is modified so that it applies only to state operated educational facilities. The change impacts only two x-ray registrants whose fees will rise because of the number of x-ray tubes, to approximately \$4000 and \$5000 respectively.

The x-ray control section also reviews and approves x-ray facility floor plans and shielding calculations. The proposed regulations include a fee for this service.

Uranium Mills

Current fees for regulating uranium mill operations, preparing environmental impact statements, and overseeing mill closure plans contain limits set in 1979. The proposed regulations update the limits on these activities to assure adequate revenue to cover the department's anticipated costs of these program requirements.

Summary of Proposed Changes

WAC 402-70-010 Purpose and scope, edited to reflect other changes in this chapter; WAC 402-70-020 Definitions, moves definitions from WAC 440-44-058 which is repealed and adds definitions for "registration," "emission unit," "facility"; WAC 402-70-030 Payment of fees, deletes uranium mill fee information which is moved to WAC 402-70-077. Sets forth the types of fees and moves current requirements from WAC 440-44-057 which is repealed. Copies language from WAC 440-44-010; WAC 402-70-040 Small business discount provision and optional fee payment schedule applicable to radioactive material licensees, moves language from WAC 440-44-059 which is repealed; WAC 402-70-045 Denial, revocation, suspension, and reinstatement, copies language from WAC 440-44-015; WAC 402-70-050 Method of payment, clarifies language; WAC 402-70-055 Radiation machine facility registration and plan review fees, moves language from WAC 440-44-050 which is repealed, removes maximum fee limitation from large facilities and adds \$100 fee for plan review; WAC 402-70-060 Fees for specialized radioactive material licenses, moves and clarifies language from WAC 440-44-057 which is repealed and adjusts fees to cover program costs; WAC 402-70-062 Fees for medical and veterinary radioactive material licenses, moves and clarifies language from WAC 440-44-057 which is repealed, adds new fee category for use of sealed sources for diagnostic purposes, adjusts fees to cover program costs and sets fee for multiple locations of use; WAC 402-70-064 Fees for industrial radioactive material licenses, moves and clarifies language from WAC 440-44-057 which is repealed, adjusts fees to cover program costs and sets fee for multiple locations of permanent storage; WAC 402-70-066 Fees for laboratory radioactive material licenses, moves and clarifies language from WAC 440-44-057 which is repealed, adjusts fees to cover program costs and sets fee for multiple locations of use; WAC 402-70-068 Fees for reciprocity, moves and clarifies language from WAC 440-44-057 which is repealed; WAC 402-70-070 Fees for licensing and compliance actions, moves uranium mill language to WAC 402-70-077, moves language from WAC 440-44-058 which is repealed and adjusts fees to reflect current costs; WAC 402-70-073 Radioactive waste site surveillance fee, moves and clarifies language from WAC 440-44-061 which is repealed, sets forth current practice of reimbursing site operator and allows fee to float with statutory limit; WAC 402-70-077 Fees for uranium, thorium and other mineral processors, moves and clarifies language from WAC 402-70-030, 402-70-070 and 440-44-057 and adjusts fees to reflect current costs; WAC 402-70-080 Fees for perpetual care and maintenance, clarifies language; WAC 402-70-085 Fees for airborne emissions of radioactive materials, moves and clarifies language from WAC 440-44-062 and changes "emission source" to "emission unit" to conform to federal law; WAC 402-70-090 Failure by applicant or licensee to pay prescribed fees, clarifies language; and repealing WAC 440-44-050, 440-44-057, 440-44-058, 440-44-059, 440-44-060, 440-44-061 and 440-44-062, these sections only apply to licensees, permittees and registrants of the Department of Health and should not continue in the Department of Social and Health Services title of WAC.

Hearing Location: General Administration Building, First Floor, 11th and Columbia, Olympia, Washington, on April 11, 1990, at 10:00.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street, Olympia, WA 98504, by April 10, 1990.

Date of Intended Adoption: April 16, 1990.

March 2, 1990
Pam Campbell Mead
for Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-010 PURPOSE AND SCOPE. This chapter establishes fees charged for licensing, permitting, registration, and inspection services rendered by the ((office)) division of radiation protection as authorized under ((RCW 70-121-030)) chapters 70.98 and 70.121 RCW. These fees apply to owners and operators of radiation generating machines, users of radioactive material, operators of low-level radioactive waste disposal facilities, owners and operators of facilities emitting airborne radioactivity, and owners and operators of certain mineral processing and uranium or thorium milling operations and their associated tailings or waste.

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-020 DEFINITIONS. As used in this chapter, the following definitions apply:

(1) "Application" means a completed RHF-1 or equivalent with supporting documentation requesting the department to grant authority to receive, possess, use, transfer, own or acquire radioactive material((s)).

(2) "Compliance inspection" means a routinely scheduled visit to the licensee's facility and/or temporary job site(s) for the purpose of determining compliance with the radioactive material license and applicable regulations. This service is covered by the annual fee for the radioactive material license.

(3) "Department" means the department of ((social and)) health ((services)) which has been designated as the state radiation control agency.

((+)) (4) "Direct staff time" means all work time directly applicable to or associated with a specific radioactive material licensee and includes license file review, inspection preparation, on-site visits, report writing, review and acknowledgement of correspondence, review of license applications, renewals and amendment requests, telephone contacts, and staff or management conferences specifically related to the license. Travel time is not considered direct staff time.

(5) "Emission unit" means the point of release of airborne emissions of radioactive material.

(6) "Environmental cleanup monitoring" means an on-site visit by the department to a licensee's facility or site of operation to determine the status of corrective actions to remove environmental radiation contamination resulting from the licensee's operation. Such a monitoring visit may include, but is not limited to, the review of the licensee's records pertaining to the environmental cleanup, observation of the licensee's cleanup work, sampling by the department for analysis, associated laboratory work, and the analysis of the information collected by the department.

(7) "Facility" means all buildings, structures and operations on one contiguous site.

(8) "Follow-up inspection" means an on-site visit to a licensee's facility, required to verify licensee corrective actions when, in the department's judgment, the preceding compliance inspection or investigation revealed health and safety concerns or significant items of non-compliance which must be corrected. The first follow-up inspection is covered by the annual fee for the radioactive material license.

(9) "Inspection" means an official examination or observation by the department including but not limited to tests, surveys and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the department.

((+)) (10) "Investigation" means an on-site visit to a licensee's facility or site of operation when, in the department's judgment, it is required for the purpose of reviewing specific conditions, allegations, or other information regarding unusual conditions, operations, or practices. This service is covered by the annual fee for the radioactive material license.

(11) "License" means a license issued by the department in accordance with the regulations adopted by the department.

((+)) (12) "New license application" means a request to use radioactive material from a person not currently a licensee or from a current licensee requesting authorization to use radioactive material in a new way such that a change of fee category is required.

(13) "Perpetual care and maintenance" means further maintenance, surveillance or other care of milling or tailings impoundment sites after termination of the site operator's decommissioning responsibilities and license.

(14) "Registration" means registration with the department by any person possessing a source of ionizing radiation in accordance with regulations adopted by the department.

(15) "Sealed source and device evaluation" means a radiological safety evaluation performed by the department on the design, manufacture, and test data of any single sealed source and/or device model for the purpose of registering the sealed source or device with the United States Nuclear Regulatory Commission.

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-030 PAYMENT OF FEES. ~~((+)) Application: Each application shall be accompanied by a remittance in the full amount of the initial application fee. No application will be processed prior to payment of the full amount specified. Applications for which no remittance is received may be returned to the applicant. The applicant shall pay any additional actual costs involved with processing the application, and will be billed on a calendar quarter basis. The initial application fee shall be a credit to the applicant's quarterly billings.~~

~~(2) Operations: A charge shall be made to each uranium or thorium milling operation covering the actual expenses incurred by the department in determining compliance with the provisions of established regulations and conditions of the license. The licensee will be billed each calendar quarter until the license is terminated by the department. The quarterly bills will delineate the manpower, laboratory and support service costs associated with routine regulatory activities completed by the department.~~

~~(3) Amendment: The actual costs incurred in reviewing and processing an amendment to a license will be added to and included with the department's calendar quarter charge for routine regulatory activities.~~

~~(4) Renewal: The actual costs incurred in reviewing and processing an application for renewal will be added to and included with the department's calendar quarter charge for routine regulatory activities.)~~

(1) Applicants, licensees, permittees, and registrants requesting licenses, permits, registrations, and actions or services by the department shall pay the applicable fee or fees for the license, permit, registration, and action or service provided by the department.

(2) The department shall charge a fee for each:

- (a) Radiation machine facility registration;
- (b) X-ray facility plan review;
- (c) Radioactive material license;
- (d) Service or action with respect to a radioactive material license not otherwise covered by fees;
- (e) Cubic foot of low-level radioactive waste volume received at a commercial disposal site;
- (f) Kilogram of uranium or thorium milled from ore; and
- (g) Air emission permit.

(3) The department shall charge a fee for each radioactive material license based on the single highest fee category describing activities subject to the conditions of the license.

(4) The department shall charge the applicable license fee for each category when multiple licenses are required.

(5) The department may require multiple radioactive material licenses based upon:

- (a) Physical separation of operations;
- (b) Organizational separations within a licensee's operation;
- (c) Complexity of uses of radioactive material such that two or more fee categories would apply to the operation.

(6) Each licensee, permittee, or registrant shall:

(a) Remit the full fee (i) at the fee rate established by these rules at the time such fee is paid, and (ii) at least thirty days prior to the annual anniversary date for licensees or the biennial expiration date for registrants or (iii) on a payment schedule as provided in WAC 402-70-040.

(b) Consider the annual anniversary to be the month and day of the expiration date of the existing radioactive material license.

(7) The department shall refund one-half of the fee if an application is withdrawn prior to issuance of a radioactive material license.

(8) If there is a change by the applicant, licensee, permittee or registrant resulting in a higher fee category, the applicant, licensee, permittee, or registrant shall pay an additional fee prorated for the remainder of the fee interval.

(9) Each licensee, permittee, or registrant shall remit the full amount of any quarterly billing or individual billing for licensing or compliance actions within thirty days of receipt of the bill.

(10) The department shall consider fees due on or after the effective date of these regulations at the rate provided in this chapter.

NEW SECTION

WAC 402-70-040 SMALL BUSINESS DISCOUNT PROVISION AND OPTIONAL FEE PAYMENT SCHEDULE APPLICABLE TO RADIOACTIVE MATERIAL LICENSEES. (1) Small business may receive a twenty-five percent discount on radioactive material license fees specified in WAC 402-70-060 through 402-70-066.

(2) To qualify for the discount, the business shall:

- (a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;
- (b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company); and
- (c) Have fifty or fewer employees.

(3) To receive the discount, the license applicant at the time of initial license request, or the licensee at the time of annual billing shall:

- (a) Certify, on the business' letterhead or appropriate departmental form, the conditions in subsection (2) of this section were met;
- (b) Sign the certification as the chief executive officer of the business or as an official designee;
- (c) Have the certification notarized;
- (d) Enclose the payment with the certification; and
- (e) Submit the certification and payment in accordance with instructions provided by the department.

(4) The department may verify certifications and shall suspend any radioactive material license if the applicant/licensee:

- (a) Failed to pay the required fee; or
- (b) Made an invalid or false certification.

(5) Upon request of any radioactive material licensee or license applicant, the department may accept semiannual or quarterly payments in lieu of the required annual license fee, provided:

- (a) A written payment schedule setting specific due dates and payment amounts is submitted; and
- (b) The total payments per the schedule equal the fee in effect at the time such fee payment schedule is accepted by the department.

NEW SECTION

WAC 402-70-045 DENIAL, REVOCATION, SUSPENSION, AND REINSTATEMENT. The department shall:

- (1) Refund no fees if a license, permit or registration is denied, revoked, or suspended;
- (2) Require reapplication for a license, permit, or registration after denial or revocation including fees as required under this chapter.

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-050 METHOD OF PAYMENT. Licensees, permittees and registrants shall:

(1) ~~((Fee payments shall be))~~ Submit fee payments by check, draft or money order made payable to the department of ~~((social and))~~ health ~~((services)); and~~

(2) ~~((Fees are due and payable upon submission of))~~ Include fee payment with the application for license or ~~((within thirty days of receipt of a bill for actual costs incurred per calendar quarter))~~ submit the fee by mail, in person, or by courier to the address provided in the bill or bill correspondence.

NEW SECTION

WAC 402-70-055 RADIATION MACHINE FACILITY REGISTRATION AND PLAN REVIEW FEES. (1) Persons owning and/or leasing and using radiation-producing machines shall submit for each radiation machine facility a fifty dollar registration fee to the department at the time of application and every two years thereafter. In addition to each registration fee:

- (a) For dental, veterinary, and podiatric practices, add:
 - (i) Sixty dollars for the first tube; and
 - (ii) Twenty dollars for each additional tube.
- (b) For hospitals and medical or chiropractic practices, add:
 - (i) One hundred eighty dollars for the first tube; and
 - (ii) Sixty dollars for each additional tube.
- (c) For industrial, research, and other uses, add:

- (i) One hundred dollars for the first tube; and
- (ii) Thirty dollars for each additional tube.

(2) The department shall charge a maximum of three thousand dollars total fee for any state operated educational facility.

(3) X-ray facilities shall submit an additional fee of one hundred dollars when submitting shielding calculations and floor plans for x-ray machine installation review as described under WAC 402-28-032. This fee applies to facilities practicing allopathic, osteopathic, naturopathic, and chiropractic medicine except for hospitals which follow plan review and fee requirements as described under WAC 440-44-035. The facility shall submit the fee with the submittal of floor plans and shielding calculations.

NEW SECTION

WAC 402-70-060 FEES FOR SPECIALIZED RADIOACTIVE MATERIAL LICENSES. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) Seven thousand six hundred eighty dollars for operation of a single radioactive waste facility allowing processing, volume reduction, or waste treatment, but not permitting commercial on-site disposal.

(b) Three thousand five hundred fifty dollars for operation of a single nuclear pharmacy.

(c) Five thousand nine hundred ten dollars for operation of a single nuclear laundry.

(d) Five thousand five hundred sixty dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(e) Two thousand forty dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(f) Four thousand two hundred sixty dollars for a license authorizing decontamination services operating from a single facility.

(g) One thousand eight hundred eighty dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) Eight hundred ten dollars for a license authorizing equipment servicing involving:

- (i) Incidental use of calibration sources;
- (ii) Maintenance of equipment containing radioactive material; or
- (iii) Possession of sealed sources for purpose of sales demonstration only.

(i) One thousand six hundred sixty dollars for a license authorizing health physic services, leak testing, or calibration services.

(j) Nine hundred forty dollars for a civil defense license.

(k) Three hundred dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) Eleven thousand six hundred twenty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Five thousand three hundred fifty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) Four thousand six hundred thirty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

NEW SECTION

WAC 402-70-062 FEES FOR MEDICAL AND VETERINARY RADIOACTIVE MATERIAL LICENSES. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) Three thousand two hundred ten dollars for operation of a mobile nuclear medicine program.

(b) Two thousand two hundred ten dollars for a license authorizing groups II and III of WAC 402-22-200 for diagnostic nuclear medicine at a single facility.

(c) One thousand eight hundred seventy dollars for a license authorizing groups IV and V of WAC 402-22-200 for medical therapy at a single facility.

(d) Three thousand ten dollars for a license authorizing groups II or III and groups IV or V of WAC 402-22-200 for full diagnostic and therapy services at a single facility; and

(e) One thousand five hundred dollars for a license authorizing groups VI of WAC 402-22-200 for brachytherapy at a single facility.

(f) Eight hundred seventy dollars for a license authorizing brachytherapy or teletherapy at a single facility.

(g) One thousand four hundred ninety dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand two hundred ten dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at single facility.

(i) Eight hundred thirty dollars for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) Seven hundred eighty dollars for a license authorizing group I as defined in WAC 402-22-200 or in vitro uses of radioactive material at a single facility.

(k) Four hundred fifty dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

NEW SECTION

WAC 402-70-064 FEES FOR INDUSTRIAL RADIOACTIVE MATERIAL LICENSES. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Three thousand seven hundred ten dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Four thousand four hundred forty dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) One thousand seven hundred forty dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) Four hundred fifty dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Four hundred eighty dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in gas chromatograph at a single facility.

(f) Three hundred thirty dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) Eight hundred ninety dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) One thousand three hundred ninety dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) Four thousand five hundred twenty dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) One thousand six hundred forty dollars for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of fifty dollars to the department.

NEW SECTION

WAC 402-70-066 FEES FOR LABORATORY RADIOACTIVE MATERIAL, LICENSES. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) Two thousand five hundred eighty dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

- (i) One millicurie of I-125 or I-131; or
- (ii) One hundred millicuries of H-3 or C-14; or
- (iii) Ten millicuries of any single isotope.

(b) One thousand two hundred forty dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or
- (ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or
- (iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) Nine hundred ninety dollars for a license authorizing possession at a single facility of unsealed sources in amounts less than or equal to:

- (i) 0.1 millicurie of I-125 or I-131; or
- (ii) Ten millicuries of H-3 or C-14; or
- (iii) One millicurie of any other single isotope.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) In vitro registrants required to file Form RHF-15 shall forward an annual fee of fifty dollars to the department.

NEW SECTION

WAC 402-70-068 FEES FOR RECIPROCITY. (1) The department shall charge fees for reciprocal recognition of other agreement state, licensing state or United States Nuclear Regulatory Commission licenses based upon the actual amount of radioactive material or type of devices being transported into Washington state or the type of service to be performed involving radioactive material.

(2) The department shall charge a fee equal to one hundred percent of the fee specified under WAC 402-70-060 through 402-70-066.

(3) The department shall permit the reciprocally recognized licensee to possess and use radioactive material in the state of Washington up to one hundred eighty days during the twelve-month period following payment of each fee.

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-070 FEES FOR LICENSING AND COMPLIANCE ACTIONS. ~~((+) Licenses specifically authorizing the receipt, possession or use of natural uranium and its decay daughters for the extraction of uranium or thorium compounds or for the reclamation and disposal of the associated tailings or waste shall be subject to quarterly payment of expenses incurred by the department. Expenses of the department include those activities which determine licensee's compliance with terms and conditions of the license, review licensing requests and requirements, or maintain a uranium mill program which is compatible with the requirements of the United States Nuclear Regulatory Commission.~~

~~(2) The initial application fee shall be twenty-five thousand dollars. Annual costs shall not exceed ninety thousand dollars for any licensee, except when an environmental impact statement shall be prepared in accordance with chapter 173-11 WAC in which case annual costs shall not exceed two hundred thousand dollars for any licensee. (1) In addition to the fee for each radioactive material license as described under WAC 402-70-060 through 402-70-066, a licensee shall pay a service fee for each additional licensing and compliance action as follows:~~

~~(a) For a second follow-up inspection and each additional follow-up inspection, a fee equal to the number of hours in half-hour increments of direct staff time associated with each follow-up inspection at the rate of eighty dollars per hour, but not to exceed a maximum of six hundred forty dollars per follow-up inspection.~~

~~(b) For each environmental cleanup monitoring visit, a fee equal to the number of hours in half-hour increments of direct staff time associated with each environmental cleanup monitoring visit at the rate of eighty dollars per hour, but not to exceed a maximum of two thousand dollars per visit.~~

~~(c) For each new license application, the fee of one hundred sixty dollars in addition to the required annual fee.~~

~~(d) For each sealed source and device evaluation, a fee equal to the number of hours in half-hour increments of direct staff time associated with each sealed source and device evaluation at the rate of eighty dollars per hour, but not to exceed a maximum of two thousand four hundred dollars per evaluation.~~

~~(2) The licensee or applicant shall pay the additional service fee at the time of application for a new license or within sixty days of the date of the billing for all other licensing and compliance actions.~~

~~(3) The department shall process applications only upon receipt of the new application fee and the annual fee.~~

~~(4) The department may take action to modify, suspend, or terminate the license or sealed source and device registration if the licensee fails to pay the fee for additional licensing and compliance actions billed by the department.~~

NEW SECTION

WAC 402-70-073 RADIOACTIVE WASTE DISPOSAL SITE SURVEILLANCE FEE. (1) The department shall charge a fee for radioactive waste site surveillance.

(2) The department shall authorize by contract the operator of a low-level radioactive waste disposal site to collect a fee from waste generators and brokers.

(3) The department shall provide for reimbursement of the site operator for collection costs.

(4) The department shall calculate the fee collected from waste generators and brokers as required under RCW 70.98.085 and not to exceed the statutory limit specified in that section.

(5) The site operator shall remit the fee to the department as follows:

- (a) Quarterly for the first seven quarters of each biennium.
- (b) By July 15 for the final quarter of the biennium.

NEW SECTION

WAC 402-70-077 FEES FOR URANIUM, THORIUM AND OTHER MINERAL PROCESSORS. (1) Persons licensed or authorized to receive, possess, or use natural uranium and its decay daughters for the extraction of uranium or thorium compounds or for the reclamation and disposal of the associated tailings or waste shall pay:

(a) Initial application fee of thirty-five thousand dollars; and

(b) Quarterly billings not to exceed one hundred fifty thousand dollars annually or not to exceed two hundred fifty thousand dollars annually when an environmental impact statement is being prepared in accordance with chapter 173-11 WAC.

(2) The department shall bill the licensee quarterly for the department's actual cost of:

- (a) Reviewing and issuing a license in excess of the initial application fee;
 - (b) Determining the licensee's compliance with terms and conditions of the license;
 - (c) Reviewing license amendment requests;
 - (d) Maintaining a uranium mill program which is compatible with the requirements of the United States Nuclear Regulatory Commission; and
 - (e) Reviewing and processing an application for renewal.
- (3) The department shall delineate in the quarterly billing the staff, laboratory, and support service costs.

(4) The department:

- (a) Shall process any initial application only upon receipt of the full fee specified; and
- (b) May return an application to an applicant if no payment is received.

(5) The department shall credit the initial application fee to the applicants' quarterly billing.

(6) Mineral processors requiring licenses for naturally occurring radioactive material in excess of exempt concentrations shall pay:

- (a) Initial application fee of twenty-seven thousand dollars; and
- (b) Quarterly billings not to exceed forty thousand dollars.

(7) The department shall bill mineral processor licensees quarterly for the department's actual cost of:

- (a) Processing and issuing a license in excess of the initial application fee;
- (b) Determining the licensee's compliance with terms and conditions of the license;
- (c) Reviewing and processing amendment and renewal requests; and

(d) Determining and assuring compliance with chapter 173-11 WAC.

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-080 FEES FOR PERPETUAL CARE AND MAINTENANCE. (1) Persons with licenses specifically authorizing the receipt, possession, or use of natural uranium and its decay daughters for the extraction of uranium or thorium compounds or for the reclamation and disposal of the associated tailings or waste shall ~~((be subject to))~~;

(a) Make quarterly payments of twenty cents per kilogram of uranium or thorium compound milled out of the raw ore((-));

(b) Remit this payment ~~((is due))~~ within thirty days after the end of each calendar quarter((-); and

(c) Accrue a minimum ~~((charge))~~ of two hundred fifty thousand dollars (1978 dollars) ~~((accrued as specified in WAC 402-22-070 (6)(d)))~~ to cover the costs of long-term surveillance ~~((shall be paid by each mill operator to the department))~~ prior to the termination of a uranium or thorium mill license.

(2) Licensees under this section may make additional payments to meet the minimum, however, the maximum amount paid by each licensee for perpetual care and maintenance shall not exceed one million dollars.

NEW SECTION

WAC 402-70-085 FEES FOR AIRBORNE EMISSIONS OF RADIOACTIVE MATERIALS. (1) The department shall include fees for emission units at facilities licensed by the department, as part of the license fees specified in WAC 402-70-060 through 402-70-066.

(2) For emission units at all other facilities, the department shall assess fees for air emission permits as follows:

(a) Application. Applicants shall submit the initial application fee of one thousand dollars for each air emission permit with:

(i) Each application for an emission permit accompanied by the full amount of the initial application fee;

(ii) Department processing of the application only upon receipt of the full amount of the payment specified;

(iii) Department return of applications to the applicant when no remittance is received;

(iv) Applicants paying any additional actual costs involved with processing the application upon receipt of the department bill on a calendar quarter basis; and

(v) The department crediting the initial application fee to the applicant's quarterly billings.

(b) Operations. The department shall charge each emission unit operator the actual expenses incurred by the department in determining compliance with the provisions of established regulations and conditions of the air emission permit, and:

(i) Bill the operator each calendar quarter until the permit is terminated by the department;

(ii) Specify in the quarterly bill the manpower, laboratory, and support service costs associated with the regulatory activities conducted by the department.

(c) Amendment. The department shall add and include the actual costs incurred by the department in reviewing and processing an amendment to an air emission permit in the department's calendar quarter charge for regulatory activities.

AMENDATORY SECTION (Amending Order 2450, filed 12/11/86)

WAC 402-70-090 FAILURE BY APPLICANT OR LICENSEE TO PAY PRESCRIBED FEES. In any case where the department finds that an applicant, a permittee, a registrant, or a licensee ~~((has))~~ failed to pay a prescribed fee or actual costs incurred during a calendar quarter, the department ~~((will))~~: (1) Shall not process any application and (2) may suspend or revoke any license, permit, registration, or approval involved; or (3) may issue an order with respect to licensed, permitted, or registered activities as the department determines ~~((to be))~~ appropriate or necessary in order to carry out the provisions of this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 440-44-050 RADIATION MACHINE FACILITY REGISTRATION FEES.

WAC 440-44-057 LICENSE FEES FOR RADIOACTIVE MATERIALS.

WAC 440-44-058 FEES FOR ADDITIONAL SERVICE.

WAC 440-44-059 SMALL BUSINESS DISCOUNT PROVISION AND OPTIONAL FEE PAYMENT SCHEDULE APPLICABLE TO RADIOACTIVE MATERIALS LICENSEES.

WAC 440-44-060 SITE USE PERMIT FEE.

WAC 440-44-061 RADIOACTIVE WASTE SITE SURVEILLANCE FEE.

WAC 440-44-062 FEES FOR AIRBORNE EMISSIONS OF RADIOACTIVE MATERIALS.

WSR 90-06-107

**NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION**

[Memorandum—March 6, 1990]

The State Board of Education schedule of meeting dates and locations for the 1990 calendar year, filed with the state code reviser on August 11, 1989, WSR 89-17-043, is amended as follows:

On March 29-30, 1990, the regular meeting of the State Board of Education will convene at 9:00 a.m. in the gymnasium at Sunset Elementary School (in the Issaquah School District), 4229 180th Avenue S.E., Bellevue, Washington.

The dates of the July meeting of the State Board of Education have been changed from July 26-28, 1990, to July 25-27, 1990.

WSR 90-06-108

**PROPOSED RULES
PARKS AND RECREATION COMMISSION**

[Filed March 7, 1990, 4:50 p.m.]

Original Notice.

Title of Rule: Sno-park permit—Fee.

Purpose: The sno-park permit fee charged by state parks pays for snow removal in sno-park parking lots.

Statutory Authority for Adoption: RCW 43.51.050.

Statute Being Implemented: RCW 43.51.300.

Summary: This WAC change allows state parks to issue two snow park permits rather than one annual permit.

Name of Agency Personnel Responsible for Drafting: Dennis Smith, State Parks, 7150 Cleanwater Lane, Olympia, 98502, 753-5766; Implementation and Enforcement: James Horan, State Parks, 7150 Cleanwater Lane, Olympia, 98502, 586-1253.

Name of Proponent: 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 establishes a seasonal and a three-day permit for parking in sno-parks which are maintained by Washington state park's winter recreation program. Fees are \$15.00 and \$10.00 respectively.

Proposal Changes the Following Existing Rules: Changes existing rule which only allowed state parks to issue one annual permit at \$10.00 each.

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

Hearing Location: Ocean Shores Convention Center, Chance a La Mer and Minard, Ocean Shores, Washington, on April 20, 1990, at 9:00 a.m.

Submit Written Comments to: Dennis Smith, Assistant Director, Administrative Services, by April 15, 1990.

Date of Intended Adoption: April 20, 1990.

March 7, 1990
Nina Carter
Executive Assistant

AMENDATORY SECTION (Amending Order 63, filed 9/21/82)

WAC 352-32-270 SNO-PARK PERMIT-FEE. The fees and commencement and expiration dates for a winter recreational area parking permits issued by the state of Washington shall be (~~(\$10.00 annually)~~) as follows:

(1) Seasonal permit - \$15.00 per vehicle per season - commences October 1 and expires May 1 of the winter season for which it is issued.

(2) Three day permit - \$10.00 per vehicle - commences on the date identified on the permit in the space provided and expires no later than twelve midnight two consecutive days later.

**WSR 90-06-109
PROPOSED RULES
PARKS AND RECREATION COMMISSION**

[Filed March 7, 1990, 4:52 p.m.]

Original Notice.

Title of Rule: Ocean beaches: Recreation management plans for North, South and Long Beach Peninsula.

Purpose: To repeal ocean beach vehicular traffic rules as provided for in chapter 352-36 WAC.

Statutory Authority for Adoption: RCW 43.51.050.

Statute Being Implemented: RCW 43.51.685 - [43.51.]765.

Summary: The 1988 legislature required local governments to adopt ocean beach recreation management plans and submit them to state parks for approval, once approved these plans usurped the present chapter 352-36 WAC and became new chapter 352-37 WAC.

Name of Agency Personnel Responsible for Drafting: Jan Tveten, State Parks, 7150 Cleanwater Lane, Olympia, WA, 753-5758; Implementation and Enforcement: John Johns, State Parks, 7150 Cleanwater Lane, Olympia, WA, 753-7143.

Name of Proponent: 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: The 1988 legislature amended the 1967 Seashore Conservation Area Act, RCW 43.51.650 - [43.51.]685, by adopting SHB 1862 now codified as RCW 43.51.685 - [43.51.]765. Specifically, SHB 1862 required local governments to prepare and adopt beach recreation management plans for approval by the Washington State Parks and Recreation Commission. The plans were

submitted to the commission by September 1, 1989, and set aside at least 40 percent of each beach (North Beach, South Beach and Long Beach Peninsula) for "pedestrian use" for the period of April 15 to the day following Labor Day of each year. Commission approval of the beach recreation management plans has the effect of repealing the current vehicular traffic rules as written in chapter 352-36 WAC.

Proposal Changes the Following Existing Rules: The repealed WAC is replaced by a new chapter 352-37 WAC as published in WSR 90-04-106.

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

Hearing Location: Ocean Shores Convention Center, Chance a La Mer and Minard, Ocean Shores, Washington, on April 20, 1990, at 9:00 a.m.

Submit Written Comments to: Jan Tveten, Director, by April 15, 1990.

Date of Intended Adoption: April 20, 1990.

March 7, 1990

Nina Carter
Executive Assistant

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 352-36-010 DEFINITIONS.
- WAC 352-36-020 VEHICULAR TRAFFIC—WHERE PERMITTED—GENERALLY.
- WAC 352-36-025 EQUESTRIAN TRAFFIC.
- WAC 352-36-030 PEDESTRIANS TO BE GRANTED RIGHT OF WAY.
- WAC 352-36-040 RESTRICTED AREAS.
- WAC 352-36-050 PARKING.
- WAC 352-36-060 OVERNIGHT PARKING OR CAMPING PROHIBITED.
- WAC 352-36-070 OPERATOR'S LICENSE REQUIRED.
- WAC 352-36-080 SPEED LIMITS.
- WAC 352-36-090 CERTAIN PRACTICES PROHIBITED.
- WAC 352-36-100 RULES OF THE ROAD INCORPORATED.
- WAC 352-36-110 CERTAIN VEHICLE LIGHTING AND EQUIPMENT STANDARDS INCORPORATED.
- WAC 352-36-115 AIRCRAFT.
- WAC 352-36-120 VIOLATIONS—PENALTY.
- WAC 352-36-130 EXCLUDED/LIMITED RECREATION ACTIVITIES.
- WAC 352-36-140 SPECIAL GROUP RECREATION EVENT PERMIT.

**WSR 90-06-110
PROPOSED RULES
PARKS AND RECREATION COMMISSION**

[Filed March 7, 1990, 4:56 p.m.]

Original Notice.

Title of Rule: Boat sewage pumpout contract program allows state parks to enter into contracts with public and private marinas to install dock-side pumps to remove human sewage from holding tanks on recreational boats.

Purpose: The purpose is to prevent untreated sewage from being dumped in Washington's waterways.

Statutory Authority for Adoption: RCW 43.51.050.

Statute Being Implemented: Chapter 392, Laws of 1989, SB 5372.

Summary: Established eligibility criteria and application procedures for marinas wishing to contract with State Parks to install sewage pumpout.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peggy Britt, State Parks, 7150 Cleanwater Lane, Olympia, 98504, 586-2283.

Name of Proponent: 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 sets up eligibility criteria and application procedures for marinas if they want to enter into a contract with State Parks to install sewage pumpout stations. This program was established by the 1989 legislation through SB 5372.

Proposal does not change existing rules.

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

Hearing Location: Ocean Shores Convention Center, Chance a La Mer and Minard, Ocean Shores, Washington, on April 20, 1990, at 9:00 a.m.

Submit Written Comments to: Peggy Britt, State Parks, KY-11, Olympia, Washington 98504, by April 12, 1990.

Date of Intended Adoption: April 20, 1990.

March 7, 1990

Nina Carter
Executive Assistant

Chapter 352-75 WAC
BOATING PUMPOUT GRANTS

NEW SECTION

WAC 352-75-010 **PURPOSE.** The purpose of this chapter is to set forth parameters for the allocation and uses of moneys administered by the parks and recreation commission from a portion of the income derived from the watercraft excise tax found in RCW 82.49.030. These moneys shall provide financial assistance to applicants throughout the state of Washington for the construction of sewage pumpout or sewage dump station facilities in the achievement of clean waterways.

In order to prevent the despoliation of the waters of Washington state and to derive the most benefit for the state in protecting a valuable, recreational resource, it is necessary to establish criteria for the award and use of funds made available under chapter 88.36 RCW. This chapter will set forth the following:

- (1) The limitations on the allocation and uses of the funds;
- (2) The criteria to be considered for determining who will be eligible to receive funds;
- (3) The process to be followed for the award of the funds; and
- (4) Other related issues.

NEW SECTION

WAC 352-75-020 **DEFINITIONS.** (1) "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.

(2) "Boater" means any person on a vessel on waters of the state of Washington.

(3) "Boat wastes" shall include, but are not limited to: Sewage, garbage, marine debris, discarded plastics, contaminated bilge water, cleaning solvents, paint scrapings, or discarded petroleum products associated with the use of vessels.

(4) "Commission" means the Washington state parks and recreation commission.

(5) "Director" means the director of the Washington state parks and recreation commission, pursuant to RCW 43.51.060(8).

(6) "Eligible cost" for sewage pumpout and dump stations means the cost of that portion of the facility that can be financed under the provisions of this chapter and guidelines developed pursuant to this chapter.

(7) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

(8) "Final offer list" is the list of projects approved by the commission which can receive funding from the account during the time period that the offer list is effective.

(9) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(10) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes or other pollutants at unacceptable levels, based on applicable water quality and shellfish standards.

(11) "Private entity" means any individual firm, corporation, association, partnership, consortium, joint venture, industry, or any other nonpublic entity which operates or has the potential to operate a boat sewage pumpout or portable dump station facility.

(12) "Project" means sewage pumpout or dump station facility(ies) for which a public or private entity applies for and receives funding or financial assistance.

(13) "Priority ranking list" means the list of rated and ranked projects for which state financial assistance is requested.

(14) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

(15) "Sewage dump station" means any receiving chamber or tank designed to receive vessel sewage from a portable container.

(16) "Sewage pumpout station" means a mechanical device, generally stationed on a dock, pier, float, barge, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

NEW SECTION

WAC 352-75-030 **PROVISION OF GUIDELINES.** State parks will provide all financial recipients a set of financial guidelines for contracts administration. These guidelines will include all state forms and will describe in detail state procedures for recordkeeping, reporting, reimbursement, and auditing.

NEW SECTION

WAC 352-75-040 **USE OF FUNDS.** Funds in the boat sewage pumpout and dump station account will be used to contract with public and private entities to install sewage pumpout or sewage dump stations located on both fresh waters and marine waters during the period from July 1, 1989, until June 30, 1995.

NEW SECTION

WAC 352-75-050 **COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS, AND OTHER REQUIREMENTS.** (1) A public or private entity which enters into a contract with the commission shall comply fully with all applicable federal, state, and local laws, orders, regulations, and will be required to obtain all required permits.

(2) A public or private entity applying for funds from the commission for a sewage pumpout and/or sewage dump station must comply with design criteria for such sewage pumpout and/or sewage dump station developed by the Washington department of ecology. Applicants will be provided with these design criteria as part of the application materials.

NEW SECTION

WAC 352-75-060 **RESPONSIBILITIES FOR COSTS.** The commission shall not be held responsible for payment of salaries, consultant's fees, and other overhead costs relating to a contract entered into with the commission by a public or private entity.

NEW SECTION

WAC 352-75-070 **FUNDING PROCESSES.** (1) Funding cycle. The funding cycle shall be conducted on an annual basis, unless after adequate public notice and comment, the director determines that

funding on a biennial basis is in the best interest of the program. The amount of money available on an annual basis shall be approximately equal to one-half of the biennial appropriation less prior obligations, such as extended payment contracts, plus any money available from previous years.

(2) Application process. To be considered by the commission for receipt of boat sewage pumpout or dump station funds, an eligible public or private entity must complete an application on a form prescribed by state parks and file the application on or before the filing date set by state parks in the application form. Included with the submitted application forms shall be a copy of a shoreline substantial development permit application. The application for funding will be rated as described in subsections (3), (4), (5), and (6) of this section.

(3) Ranking criteria. Applications will be evaluated and prioritized in accordance with the following procedures:

(a) State parks will log in all applications as received.

(b) State parks will review all applications for compliance with the minimum qualification requirements as set forth in RCW 88.36.040 and WAC 352-75-080. Applicants which do not meet the minimum qualifications will be notified in writing of the disqualification.

(c) State parks will perform a preliminary evaluation of all remaining applications. The director may establish an application review committee to serve in an advisory capacity to state parks in the preliminary review and evaluation of applications. This review committee will include representatives from state natural resource agencies, marina operators, boater groups, and unaffiliated boaters.

(d) Applications will be ranked according to the following criteria:

- (i) Approval of site by local jurisdiction;
- (ii) Proximity to existing sewage pumpout or sewage dump stations;
- (iii) Resource sensitivity;
- (iv) Boater use;
- (v) Size of marina;
- (vi) Economics of installation;
- (vii) Feasibility of installation; and
- (viii) Geographic balance.

(4) Priority ranking list. Based on the process set forth in subsection (3) of this section, state parks shall establish a priority ranking list. This list will rank all remaining applications in priority order and propose for funding those applicants above a minimum rank set by state parks.

(5) Public review. The priority ranking lists will be available for at least 30 days for public review and comment. One or more public hearings may be conducted if state parks determines there is significant public interest. Comments received during the public review period will be considered before the priority ranking lists are submitted to the commission for approval.

(6) Commission deliberations. State parks will provide the commission with the preliminary evaluation and ranking of the applications, including a summary of each proposal for funding. The commission will consider, adjust the ranked list of applications based on the information provided to them by state parks, if desired, and approve the applications.

(7) Final offer list. As a result of the commission's decision, a final offer list will be developed and issued. The final offer list will be effective until the next final offer list is issued. All offers are automatically cancelled after the effective period. If an applicant on the final offer list does not sign a contract with the commission during the effective period, the applicant may reapply and must compete for funding during a subsequent funding cycle.

NEW SECTION

WAC 352-75-080 ELIGIBILITY CRITERIA. (1) The commission may award contracts to publicly owned, tribal or privately owned marinas, boat launches, or boater destination sites.

(2) The commission shall designate a marina, boat launch, or boater destination as eligible to apply for funding for the installation of a sewage pumpout or sewage dump station based on the following criteria:

(a) The marina, boat launch, or boater destination is located in an environmentally sensitive or polluted area; or

(b) The marina has one hundred twenty-five slips or more and there is a lack of sewage pumpouts within one-fourth mile.

(3) The commission may at its discretion designate a marina, boat launch, or boater destination as eligible to apply for funding for the installation of a sewage pumpout and/or sewage dump station if it meets the following criteria:

(a) There is a demonstrated need for a sewage pumpout or sewage dump station at the marina, boat launch, or boater destination based on professionally conducted studies undertaken by federal, state, or local government, or the private sector; and

(b) The marina, boat launch, or boater destination provides commercial services, such as sales of food, fuel or supplies, or overnight or live-aboard moorage opportunities; and

(c) The marina is located at a heavily used boater destination or on a heavily traveled route as determined by the commission; or

(d) There is a lack of adequate sewage pumpout station capacity within a reasonable distance.

(4) The commission may make exceptions to the eligibility to apply for funding for the installation of sewage pumpout and/or sewage dump station requirements under subsections (2)(a) and (b) of this section if the marina, boat launch, or boater destination lacks available sewer, septic, water, or electrical services.

(5) State parks shall notify owners or operators of marinas, boat launches and destination sites of the availability of funding to support installation of appropriate sewage pumpouts or sewage dump stations. State parks shall also notify such operators or owners of which waters of the state have been designated as environmentally sensitive or polluted for the purpose of this program.

NEW SECTION

WAC 352-75-090 GENERAL CONTRACT REQUIREMENTS. Contracts entered into with the commission shall include the following terms:

(1) Eligible costs, as deemed reasonable by the commission, may be reimbursed. Eligible costs include purchase, installation, or major renovation of the sewage pumpout or sewage dump stations, including sewer, water, electrical connections, and those costs attendant to the purchase, installation, and other necessary appurtenances, such as required pier space, as determined by state parks.

(2) For privately owned marinas, ownership of the sewage pumpout or sewage dump station will be retained by the commission. For publicly owned marinas, ownership of the sewage pumpout or sewage dump station will be retained by the public entity.

(3) Operation, normal and expected maintenance, and ongoing utility costs will be the responsibility of the marina or boat launch owner.

(4) The marina owner agrees to allow the installation, existence, and use of the sewage pumpout or sewage dump station by granting an easement at no cost for such purposes.

(5) Contracts awarded shall be subject to the following conditions for a period of at least ten years:

(a) That the applicant allow the boating public access to the sewage pumpout or sewage dump station during marina operating hours;

(b) That the applicant agree to monitor the use of sewage pumpout and/or sewage dump station by installing a use counter mechanism.

(c) That the applicant agree to encourage the use of the sewage pumpout or sewage dump station by installing a "pumpout station" and/or "dump station" sign, and an instruction decal developed or approved by state parks, and by providing instruction in proper use to anyone requesting assistance;

(d) That the applicant agree to cooperate in any related boater environmental education program administered or approved by state parks. Such educational programs will include but not be limited to distribution of brochures developed or approved by state parks, and installation of interpretive signage developed or approved by state parks;

(e) That the applicant agree not to charge a fee for the use of the sewage pumpout or sewage dump station;

(f) That the applicant agree to arrange and pay a reasonable fee for a periodic inspection of the sewage pumpout facility by the local health department or appropriate authority. The local health department or appropriate authority will set the fee and the interval of inspection; and

(g) That the funding recipient agrees to allow State Parks access to inspect the pumpout facility.

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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16-86-093	NEW-E	90-05-049	16-318-360	NEW	90-03-026	50-36-090	AMD-P	90-03-105
16-228-190	AMD-C	90-06-014	16-318-365	NEW	90-03-026	51-04-010	AMD	90-02-108
16-228-700	NEW-C	90-06-012	16-318-370	NEW	90-03-026	51-04-015	NEW	90-02-108
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16-230-835	AMD-P	90-04-109	16-318-400	NEW	90-03-026	51-04-037	NEW	90-02-108
16-230-839	NEW-P	90-04-109	16-318-405	NEW	90-03-026	51-04-040	NEW	90-02-108
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132H-108-100	REP-P	90-03-077	132L-108-010	NEW-E	90-03-074	132T-104-265	REP	90-03-065
132H-108-100	REP-E	90-03-079	132L-108-010	NEW	90-05-005	132T-104-270	REP	90-03-065
132H-108-110	REP-P	90-03-077	132L-108-020	NEW-E	90-03-074	132T-104-280	REP	90-03-065
132H-108-110	REP-E	90-03-079	132L-108-020	NEW	90-05-005	132U-03-010	NEW	90-05-043
132H-108-120	REP-P	90-03-077	132L-108-030	NEW-E	90-03-074	132U-03-020	NEW	90-05-043
132H-108-120	REP-E	90-03-079	132L-108-030	NEW	90-05-005	132U-03-030	NEW	90-05-043
132H-108-130	REP-P	90-03-077	132L-108-040	NEW-E	90-03-074	132U-108-010	NEW	90-05-043
132H-108-130	REP-E	90-03-079	132L-108-040	NEW	90-05-005	132U-108-020	NEW	90-05-043
132H-108-140	REP-P	90-03-077	132L-108-050	NEW-E	90-03-074	132U-108-021	NEW	90-05-043
132H-108-140	REP-E	90-03-079	132L-108-050	NEW	90-05-005	132U-108-030	NEW	90-05-043
132H-108-150	REP-P	90-03-077	132L-108-060	NEW-E	90-03-074	132U-116-030	AMD	90-05-043

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
132U-400-010	NEW 90-05-043	173-19-420	AMD-C 90-05-077	173-340-030	REP-W 90-02-097
132V-400-010	NEW-P 90-03-094	173-19-4201	AMD-P 90-05-076	173-340-030	REP-P 90-02-098
132V-400-020	NEW-P 90-03-094	173-19-4202	AMD-P 90-05-076	173-340-040	REP-W 90-02-097
132V-400-030	NEW-P 90-03-094	173-19-4203	AMD-P 90-05-076	173-340-040	REP-P 90-02-098
132V-400-040	NEW-P 90-03-094	173-19-4204	AMD-P 90-05-076	173-340-050	REP-W 90-02-097
132Y-108-010	NEW-P 90-02-062	173-19-4205	AMD-P 90-05-076	173-340-050	REP-P 90-02-098
132Y-108-020	NEW-P 90-02-062	173-19-4206	AMD-P 90-05-076	173-340-100	NEW-W 90-02-097
132Y-108-030	NEW-P 90-02-062	173-158-030	RE-AD 90-06-059	173-340-100	NEW-P 90-02-098
132Y-108-040	NEW-P 90-02-062	173-158-060	RE-AD 90-06-059	173-340-110	NEW-W 90-02-097
132Y-108-050	NEW-P 90-02-062	173-166	AMD-P 90-02-096	173-340-110	NEW-P 90-02-098
132Y-108-060	NEW-P 90-02-062	173-166	AMD-C 90-05-048	173-340-120	NEW-W 90-02-097
132Y-108-070	NEW-P 90-02-062	173-166	AMD-C 90-06-010	173-340-120	NEW-P 90-02-098
132Y-108-080	NEW-P 90-02-062	173-166-010	AMD-P 90-02-096	173-340-130	NEW-W 90-02-097
132Y-133-020	NEW-P 90-02-063	173-166-020	AMD-P 90-02-096	173-340-130	NEW-P 90-02-098
139-05-925	NEW-P 90-03-085	173-166-030	AMD-P 90-02-096	173-340-140	NEW-W 90-02-097
154-04-035	REP-P 90-02-086	173-166-040	AMD-P 90-02-096	173-340-140	NEW-P 90-02-098
154-04-035	REP 90-05-078	173-166-050	AMD-P 90-02-096	173-340-200	NEW-W 90-02-097
154-04-041	NEW-P 90-02-086	173-166-060	AMD-P 90-02-096	173-340-200	NEW-P 90-02-098
154-04-041	NEW 90-05-078	173-166-070	AMD-P 90-02-096	173-340-210	NEW-W 90-02-097
154-04-110	REP-P 90-02-086	173-166-080	NEW-P 90-02-096	173-340-210	NEW-P 90-02-098
154-04-110	REP 90-05-078	173-166-090	NEW-P 90-02-096	173-340-300	NEW-W 90-02-097
154-08-050	AMD-P 90-02-086	173-166-100	NEW-P 90-02-096	173-340-300	NEW-P 90-02-098
154-08-050	AMD 90-05-078	173-166-110	NEW-P 90-02-096	173-340-310	NEW-W 90-02-097
154-12-010	AMD-P 90-02-086	173-166-120	NEW-P 90-02-096	173-340-310	NEW-P 90-02-098
154-12-010	AMD 90-05-078	173-166-130	NEW-P 90-02-096	173-340-320	NEW-W 90-02-097
154-12-015	AMD-P 90-02-086	173-221A-010	NEW-P 90-06-071	173-340-320	NEW-P 90-02-098
154-12-015	AMD 90-05-078	173-221A-020	NEW-P 90-06-071	173-340-330	NEW-W 90-02-097
154-12-030	AMD-P 90-02-086	173-221A-030	NEW-P 90-06-071	173-340-330	NEW-P 90-02-098
154-12-030	AMD 90-05-078	173-221A-100	NEW-P 90-06-071	173-340-340	NEW-W 90-02-097
154-12-050	AMD-P 90-02-086	173-221A-150	NEW-P 90-06-071	173-340-340	NEW-P 90-02-098
154-12-050	AMD 90-05-078	173-303	PREP 90-06-002	173-340-350	NEW-W 90-02-097
154-12-070	AMD-P 90-02-086	173-306-010	NEW-P 90-02-088	173-340-350	NEW-P 90-02-098
154-12-070	AMD 90-05-078	173-306-050	NEW-P 90-02-088	173-340-360	NEW-W 90-02-097
154-12-080	AMD-P 90-02-086	173-306-100	NEW-P 90-02-088	173-340-360	NEW-P 90-02-098
154-12-080	AMD 90-05-078	173-306-150	NEW-P 90-02-088	173-340-400	NEW-W 90-02-097
154-12-085	AMD-P 90-02-086	173-306-200	NEW-P 90-02-088	173-340-400	NEW-P 90-02-098
154-12-085	AMD 90-05-078	173-306-300	NEW-P 90-02-088	173-340-410	NEW-W 90-02-097
154-12-086	AMD-P 90-02-086	173-306-310	NEW-P 90-02-088	173-340-410	NEW-P 90-02-098
154-12-086	AMD 90-05-078	173-306-320	NEW-P 90-02-088	173-340-420	NEW-W 90-02-097
154-12-087	AMD-P 90-02-086	173-306-330	NEW-P 90-02-088	173-340-420	NEW-P 90-02-098
154-12-087	AMD 90-05-078	173-306-340	NEW-P 90-02-088	173-340-430	NEW-W 90-02-097
154-12-090	AMD-P 90-02-086	173-306-345	NEW-P 90-02-088	173-340-430	NEW-P 90-02-098
154-12-090	AMD 90-05-078	173-306-350	NEW-P 90-02-088	173-340-500	NEW-W 90-02-097
154-12-107	REP-P 90-02-086	173-306-400	NEW-P 90-02-088	173-340-500	NEW-P 90-02-098
154-12-107	REP 90-05-078	173-306-405	NEW-P 90-02-088	173-340-510	NEW-W 90-02-097
154-12-110	AMD-P 90-02-086	173-306-410	NEW-P 90-02-088	173-340-510	NEW-P 90-02-098
154-12-110	AMD 90-05-078	173-306-440	NEW-P 90-02-088	173-340-520	NEW-W 90-02-097
154-24-010	AMD-P 90-02-086	173-306-450	NEW-P 90-02-088	173-340-520	NEW-P 90-02-098
154-24-010	AMD 90-05-078	173-306-470	NEW-P 90-02-088	173-340-530	NEW-W 90-02-097
154-32-010	AMD-P 90-02-086	173-306-480	NEW-P 90-02-088	173-340-530	NEW-P 90-02-098
154-32-010	AMD 90-05-078	173-306-490	NEW-P 90-02-088	173-340-540	NEW-W 90-02-097
154-32-020	AMD-P 90-02-086	173-306-495	NEW-P 90-02-088	173-340-540	NEW-P 90-02-098
154-32-020	AMD 90-05-078	173-306-500	NEW-P 90-02-088	173-340-550	NEW-W 90-02-097
154-40	AMD-P 90-02-086	173-306-900	NEW-P 90-02-088	173-340-550	NEW-P 90-02-098
154-40	AMD 90-05-078	173-306-9901	NEW-P 90-02-088	173-340-560	NEW-W 90-02-097
154-40-010	AMD-P 90-02-086	173-336-010	REP-W 90-02-097	173-340-560	NEW-P 90-02-098
154-40-010	AMD 90-05-078	173-336-010	REP-P 90-02-098	173-340-600	NEW-W 90-02-097
154-44-010	AMD-P 90-02-086	173-336-020	REP-W 90-02-097	173-340-600	NEW-P 90-02-098
154-44-010	AMD 90-05-078	173-336-020	REP-P 90-02-098	173-340-610	NEW-W 90-02-097
154-64-050	AMD-P 90-02-086	173-336-030	REP-W 90-02-097	173-340-610	NEW-P 90-02-098
154-64-050	AMD 90-05-078	173-336-030	REP-P 90-02-098	173-340-700	NEW-W 90-02-097
173-18-090	AMD-C 90-02-107	173-338-010	REP-W 90-02-097	173-340-700	NEW-P 90-02-098
173-18-090	AMD 90-06-068	173-338-010	REP-P 90-02-098	173-340-800	NEW-W 90-02-097
173-18-090	AMD-E 90-06-069	173-338-020	REP-W 90-02-097	173-340-800	NEW-P 90-02-098
173-18-200	AMD-C 90-02-107	173-338-020	REP-P 90-02-098	173-340-810	NEW-W 90-02-097
173-18-200	AMD 90-06-068	173-338-030	REP-W 90-02-097	173-340-810	NEW-P 90-02-098
173-18-200	AMD-E 90-06-069	173-338-030	REP-P 90-02-098	173-340-820	NEW-W 90-02-097
173-19-1104	AMD 90-02-105	173-338-040	REP-W 90-02-097	173-340-820	NEW-P 90-02-098
173-19-220	AMD-P 90-03-112	173-338-040	REP-P 90-02-098	173-340-830	NEW-W 90-02-097
173-19-2505	AMD 90-06-067	173-338-050	REP-W 90-02-097	173-340-830	NEW-P 90-02-098
173-19-2512	AMD 90-02-106	173-338-050	REP-P 90-02-098	173-340-840	NEW-W 90-02-097
173-19-2519	AMD 90-02-101	173-340	AMD-W 90-02-097	173-340-840	NEW-P 90-02-098
173-19-2520	AMD-P 90-05-074	173-340	AMD-P 90-02-098	173-340-850	NEW-W 90-02-097
173-19-3514	AMD-P 90-03-110	173-340-010	REP-W 90-02-097	173-340-850	NEW-P 90-02-098
173-19-360	AMD-P 90-03-111	173-340-010	REP-P 90-02-098	173-340-860	NEW-W 90-02-097
173-19-360	AMD-C 90-06-024	173-340-020	REP-W 90-02-097	173-340-860	NEW-P 90-02-098
173-19-3601	AMD-P 90-05-075	173-340-020	REP-P 90-02-098	173-340-870	NEW-W 90-02-097

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
174-128-090	REP	90-04-011	174-168-070	NEW-P	90-04-028	180-86-050	NEW	90-02-076
174-128-990	REP	90-04-011	174-168-080	NEW-P	90-04-028	180-86-055	NEW	90-02-076
174-130-010	NEW	90-04-011	174-276-010	NEW	90-04-011	180-86-065	NEW	90-02-076
174-130-020	NEW	90-04-011	174-276-020	NEW	90-04-011	180-86-070	NEW	90-02-076
174-131-010	NEW	90-04-011	174-276-030	NEW	90-04-011	180-86-075	NEW	90-02-076
174-132	AMD	90-04-011	174-276-040	NEW	90-04-011	180-86-085	NEW	90-02-076
174-132-010	AMD	90-04-011	174-276-050	NEW	90-04-011	180-86-090	NEW	90-02-076
174-132-020	REP	90-04-011	174-276-060	NEW	90-04-011	180-86-095	NEW	90-02-076
174-132-030	REP	90-04-011	174-276-070	NEW	90-04-011	180-86-097	NEW	90-02-076
174-132-040	REP	90-04-011	174-276-080	NEW	90-04-011	180-86-100	NEW	90-02-076
174-132-050	REP	90-04-011	174-276-090	NEW	90-04-011	180-86-105	NEW	90-02-076
174-132-060	REP	90-04-011	174-276-100	NEW	90-04-011	180-86-110	NEW	90-02-076
174-132-070	REP	90-04-011	174-276-110	NEW	90-04-011	180-86-115	NEW	90-02-076
174-132-080	REP	90-04-011	174-276-120	NEW	90-04-011	180-86-120	NEW	90-02-076
174-132-090	REP	90-04-011	174-280-010	NEW	90-04-011	180-86-130	NEW	90-02-076
174-132-100	REP	90-04-011	174-280-015	NEW	90-04-011	180-86-135	NEW	90-02-076
174-132-110	REP	90-04-011	174-280-020	NEW	90-04-011	180-86-140	NEW	90-02-076
174-132-120	REP	90-04-011	174-280-025	NEW	90-04-011	180-86-145	NEW	90-02-076
174-133-010	NEW	90-04-011	174-280-030	NEW	90-04-011	180-86-150	NEW	90-02-076
174-133-020	NEW	90-04-011	174-280-035	NEW	90-04-011	180-86-155	NEW	90-02-076
174-135-010	NEW	90-04-011	174-280-040	NEW	90-04-011	180-86-160	NEW	90-02-076
174-136-010	REP	90-04-011	174-280-045	NEW	90-04-011	180-86-165	NEW	90-02-076
174-136-011	REP	90-04-011	174-400-010	NEW	90-05-031	180-86-170	NEW	90-02-076
174-136-012	REP	90-04-011	180-25-025	AMD	90-04-031	180-86-175	NEW	90-02-076
174-136-013	REP	90-04-011	180-25-300	REP	90-04-032	180-86-180	NEW	90-02-076
174-136-014	REP	90-04-011	180-27-050	AMD	90-04-031	180-86-185	NEW	90-02-076
174-136-015	REP	90-04-011	180-27-058	AMD	90-04-031	180-86-200	NEW	90-02-076
174-136-016	REP	90-04-011	180-27-425	NEW	90-04-031	180-87-001	NEW	90-02-075
174-136-017	REP	90-04-011	180-29-300	REP	90-04-032	180-87-003	NEW	90-02-075
174-136-018	REP	90-04-011	180-75-005	AMD	90-02-073	180-87-005	NEW	90-02-075
174-136-019	REP	90-04-011	180-75-018	REP	90-02-073	180-87-010	NEW	90-02-075
174-136-02001	REP	90-04-011	180-75-019	REP	90-02-073	180-87-015	NEW	90-02-075
174-136-021	REP	90-04-011	180-75-020	REP	90-02-073	180-87-020	NEW	90-02-075
174-136-022	REP	90-04-011	180-75-025	REP	90-02-073	180-87-025	NEW	90-02-075
174-136-060	REP	90-04-011	180-75-026	REP	90-02-073	180-87-030	NEW	90-02-075
174-136-080	REP	90-04-011	180-75-027	REP	90-02-073	180-87-035	NEW	90-02-075
174-136-090	REP	90-04-011	180-75-030	REP	90-02-073	180-87-040	NEW	90-02-075
174-136-100	REP	90-04-011	180-75-033	REP	90-02-073	180-87-045	NEW	90-02-075
174-136-110	REP	90-04-011	180-75-034	REP	90-02-073	180-87-050	NEW	90-02-075
174-136-120	REP	90-04-011	180-75-035	REP	90-02-073	180-87-055	NEW	90-02-075
174-136-130	REP	90-04-011	180-75-037	REP	90-02-073	180-87-060	NEW	90-02-075
174-136-140	REP	90-04-011	180-75-038	REP	90-02-073	180-87-065	NEW	90-02-075
174-136-160	REP	90-04-011	180-75-039	REP	90-02-073	180-87-070	NEW	90-02-075
174-136-170	REP	90-04-011	180-75-040	REP	90-02-073	180-87-080	NEW	90-02-075
174-136-210	REP	90-04-011	180-75-042	REP	90-02-073	180-87-085	NEW	90-02-075
174-136-220	REP	90-04-011	180-75-043	REP	90-02-073	180-87-090	NEW	90-02-075
174-136-230	REP	90-04-011	180-75-044	REP	90-02-073	180-87-095	NEW	90-02-075
174-136-240	REP	90-04-011	180-75-045	AMD	90-02-073	182-12-115	AMD-P	90-04-087
174-136-250	REP	90-04-011	180-75-081	AMD	90-02-073	196-08-030	REP	90-06-071
174-136-300	REP	90-04-011	180-75-084	REP	90-02-073	196-24-090	AMD	90-05-071
174-136-310	REP	90-04-011	180-75-086	REP	90-02-073	196-24-092	NEW	90-05-071
174-136-320	REP	90-04-011	180-75-199	REP	90-02-073	196-26-020	AMD	90-03-028
174-136-330	REP	90-04-011	180-78-191	AMD	90-02-074	196-26-020	AMD-E	90-04-010
174-157-600	REP	90-04-011	180-78-191	AMD	90-02-104	196-27-020	AMD	90-05-071
174-157-610	REP	90-04-011	180-78-192	REP	90-02-074	204-36-030	AMD-P	90-04-023
174-157-620	REP	90-04-011	180-78-192	REP	90-02-104	204-36-040	AMD-P	90-04-023
174-157-990	REP	90-04-011	180-78-193	REP	90-02-074	204-36-050	AMD-P	90-04-023
174-160-010	REP	90-04-011	180-78-193	REP	90-02-104	204-36-060	AMD-P	90-04-023
174-160-020	REP	90-04-011	180-78-194	REP	90-02-074	204-44-010	AMD	90-06-055
174-160-030	REP	90-04-011	180-78-194	REP	90-02-104	204-44-030	AMD	90-06-055
174-160-040	REP	90-04-011	180-78-195	REP	90-02-074	204-88-030	AMD	90-06-056
174-162-010	REP	90-04-011	180-78-195	REP	90-02-104	212-17-300	AMD-P	90-04-097
174-162-015	REP	90-04-011	180-78-197	REP	90-02-074	212-17-305	AMD-P	90-04-097
174-162-020	REP	90-04-011	180-78-197	REP	90-02-104	212-17-310	AMD-P	90-04-097
174-162-025	REP	90-04-011	180-78-198	REP	90-02-074	212-17-315	AMD-P	90-04-097
174-162-030	REP	90-04-011	180-78-198	REP	90-02-104	212-17-317	NEW-P	90-04-097
174-162-035	REP	90-04-011	180-78-199	REP	90-02-074	212-17-325	AMD-P	90-04-097
174-162-040	REP	90-04-011	180-78-199	REP	90-02-104	212-17-330	AMD-P	90-04-097
174-162-045	REP	90-04-011	180-86-003	NEW	90-02-076	212-17-335	AMD-P	90-04-097
174-168-010	NEW-W	90-03-037	180-86-005	NEW	90-02-076	220-12-01000B	NEW-E	90-06-058
174-168-010	NEW-P	90-04-028	180-86-010	NEW	90-02-076	220-16	AMD-C	90-06-025
174-168-020	NEW-W	90-03-037	180-86-012	NEW	90-02-076	220-16-410	AMD	90-03-068
174-168-020	NEW-P	90-04-028	180-86-015	NEW	90-02-076	220-16-420	NEW	90-03-068
174-168-030	NEW-P	90-04-028	180-86-020	NEW	90-02-076	220-16-440	NEW-P	90-02-112
174-168-040	NEW-P	90-04-028	180-86-030	NEW	90-02-076	220-16-440	NEW	90-06-026
174-168-050	NEW-P	90-04-028	180-86-035	NEW	90-02-076	220-16-450	NEW-P	90-02-112
174-168-060	NEW-P	90-04-028	180-86-040	NEW	90-02-076	220-16-450	NEW	90-06-026

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
220-20	AMD-C 90-06-043	220-56-38000H	NEW-E 90-04-041	232-28-022	NEW-P 90-04-100
220-20-010	AMD-P 90-06-079	220-56-400	AMD-P 90-02-112	232-28-218	REP-P 90-04-100
220-20-020	AMD-P 90-02-111	220-56-400	AMD 90-06-026	232-28-219	NEW-P 90-06-093
220-20-020	AMD 90-06-045	220-57	AMD-C 90-06-025	232-28-220	NEW-P 90-06-094
220-20-025	AMD-P 90-02-111	220-57	AMD-C 90-06-042	232-28-221	NEW-P 90-06-095
220-20-025	AMD 90-06-045	220-57-140	AMD-P 90-02-112	232-28-222	NEW-P 90-06-096
220-22-020	AMD 90-03-068	220-57-140	AMD 90-06-026	232-28-223	NEW-P 90-06-097
220-28-41303	NEW-E 90-02-065	220-57-160	AMD-P 90-02-112	232-28-61728	NEW 90-02-070
220-32-05100X	REP-E 90-04-046	220-57-160	AMD 90-06-026	232-28-61729	NEW 90-02-071
220-32-05100Y	NEW-E 90-04-046	220-57-220	AMD-P 90-02-112	232-28-61730	NEW-E 90-03-072
220-32-05700E	NEW-E 90-03-006	220-57-220	AMD 90-06-026	232-28-61802	NEW-E 90-02-067
220-33-01000L	REP-E 90-05-008	220-57-242	NEW-P 90-02-112	232-28-61802	NEW-P 90-04-101
220-33-01000M	NEW-E 90-05-008	220-57-260	AMD-P 90-02-112	232-28-61803	NEW-E 90-02-068
220-33-01000M	REP-E 90-05-030	220-57-260	AMD 90-06-026	232-28-61803	NEW-P 90-04-102
220-33-01000N	NEW-E 90-05-030	220-57-270	AMD-P 90-02-112	232-28-61804	NEW-E 90-02-069
220-44-050	AMD-P 90-06-080	220-57-270	AMD 90-06-026	232-28-61804	NEW-P 90-04-103
220-44-05000B	REP-E 90-04-047	220-57-290	AMD-P 90-02-112	232-28-61805	NEW-E 90-02-066
220-44-05000C	NEW-E 90-04-047	220-57-290	AMD 90-06-026	232-28-61805	NEW-P 90-04-104
220-48-01500D	NEW-E 90-06-001	220-57-315	AMD-P 90-02-112	232-28-61806	NEW-P 90-06-086
220-52-07300H	NEW-E 90-03-067	220-57-328	NEW-P 90-02-112	232-28-61807	NEW-P 90-06-087
220-55-086	AMD 90-03-068	220-57-465	AMD-P 90-02-112	232-28-712	REP 90-03-083
220-55-150	NEW 90-03-068	220-57-465	AMD 90-06-026	232-28-713	NEW 90-03-083
220-56	AMD-C 90-06-025	220-57-497	NEW-P 90-02-112	232-28-811	REP-P 90-04-105
220-56-105	AMD-P 90-02-112	220-57-497	NEW 90-06-044	232-28-812	NEW-P 90-04-105
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220-56-115	AMD 90-06-026	220-57-515	AMD-P 90-02-112	248-08-001	REP 90-06-018
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220-56-126	AMD 90-06-026	220-57A-080	AMD 90-06-026	248-08-040	REP 90-06-018
220-56-127	NEW-P 90-02-112	220-57A-180	AMD-P 90-02-112	248-08-050	REP 90-06-018
220-56-127	NEW 90-06-026	220-57A-180	AMD 90-06-026	248-08-060	REP 90-06-018
220-56-128	AMD-P 90-02-112	220-69-220	AMD 90-03-068	248-08-070	REP 90-06-018
220-56-128	AMD 90-06-026	220-69-237	AMD 90-03-068	248-08-075	REP 90-06-018
220-56-156	AMD-C 90-06-081	220-69-238	AMD 90-03-068	248-08-080	REP 90-06-018
220-56-160	AMD-P 90-02-112	220-69-260	AMD 90-03-068	248-08-090	REP 90-06-018
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220-56-165	AMD-P 90-02-112	220-140-001	NEW 90-04-026	248-08-110	REP 90-06-018
220-56-165	AMD 90-06-026	220-140-010	NEW 90-04-026	248-08-120	REP 90-06-018
220-56-175	AMD-P 90-02-112	220-140-020	NEW 90-04-026	248-08-130	REP 90-06-018
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220-56-197	AMD 90-06-026	230-08-125	AMD-P 90-05-034	248-08-220	REP 90-06-018
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220-56-205	AMD 90-06-026	230-20-325	AMD 90-05-032	248-08-240	REP 90-06-018
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220-56-230	NEW 90-06-026	230-30-052	NEW-P 90-05-034	248-08-260	REP 90-06-018
220-56-235	AMD-P 90-02-112	230-30-070	AMD 90-05-032	248-08-270	REP 90-06-018
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220-56-282	AMD-P 90-02-112	230-50-012	AMD-P 90-03-060	248-08-310	REP 90-06-018
220-56-282	AMD 90-06-026	230-50-012	AMD-E 90-03-061	248-08-320	REP 90-06-018
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220-56-307	NEW 90-06-026	230-60-020	REP 90-03-064	248-08-340	REP 90-06-018
220-56-310	AMD-P 90-02-112	230-60-025	AMD 90-03-064	248-08-350	REP 90-06-018
220-56-310	AMD 90-06-026	230-60-100	NEW 90-05-032	248-08-360	REP 90-06-018
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220-56-38000F	NEW-E 90-03-007	232-12-191	AMD-P 90-06-088	248-08-430	REP 90-06-018
220-56-38000F	REP-E 90-03-027	232-12-251	RE-AD-P 90-06-090	248-08-431	NEW 90-06-018
220-56-38000G	NEW-E 90-03-027	232-12-254	RE-AD-P 90-06-090	248-08-434	NEW 90-06-018
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248-08-452	NEW	90-06-018	248-36-025	AMD	90-06-019	250-20-011	AMD	90-04-067
248-08-460	REP	90-06-018	248-36-035	AMD	90-06-019	250-20-015	AMD	90-04-067
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248-08-490	REP	90-06-018	248-55-235	NEW	90-06-019	250-20-051	AMD	90-04-067
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248-08-510	REP	90-06-018	248-55-250	REP	90-06-019	250-69-010	NEW-P	90-04-068
248-08-515	NEW	90-06-018	248-55-260	REP	90-06-019	250-69-020	NEW-P	90-04-068
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248-08-530	REP	90-06-018	248-59-040	REP	90-06-019	250-69-050	NEW-P	90-04-068
248-08-535	NEW	90-06-018	248-59-050	REP	90-06-019	250-69-060	NEW-P	90-04-068
248-08-540	REP	90-06-018	248-59-060	REP	90-06-019	250-69-070	NEW-P	90-04-068
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248-08-560	REP	90-06-018	248-63-025	AMD	90-06-049	250-69-100	NEW-P	90-04-068
248-08-565	NEW	90-06-018	248-91-060	AMD	90-06-019	250-69-110	NEW-P	90-04-068
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248-08-575	NEW	90-06-018	248-97-135	NEW	90-06-049	251-09-085	NEW-W	90-06-082
248-08-580	REP	90-06-018	248-98-001	AMD-P	90-02-072	251-09-090	AMD-C	90-06-083
248-08-590	REP	90-06-018	248-98-003	NEW-P	90-02-072	251-09-092	NEW-C	90-06-083
248-08-700	REP	90-06-018	248-98-005	NEW-P	90-02-072	251-09-094	NEW-C	90-06-083
248-08-705	REP	90-06-018	248-98-010	AMD-P	90-02-072	275-16-055	AMD-C	90-04-019
248-08-710	REP	90-06-018	248-98-015	NEW-P	90-02-072	275-16-055	AMD	90-04-075
248-08-715	REP	90-06-018	248-98-020	AMD-P	90-02-072	275-19-050	AMD-C	90-04-017
248-08-720	REP	90-06-018	248-98-025	NEW-P	90-02-072	275-19-050	AMD	90-04-073
248-08-725	REP	90-06-018	248-98-030	AMD-P	90-02-072	275-20-080	AMD-C	90-04-018
248-08-730	REP	90-06-018	248-98-035	NEW-P	90-02-072	275-20-080	AMD	90-04-074
248-08-735	REP	90-06-018	248-98-040	AMD-P	90-02-072	275-26-022	AMD-C	90-04-018
248-08-740	REP	90-06-018	248-98-045	NEW-P	90-02-072	275-26-022	AMD	90-04-074
248-08-750	REP	90-06-018	248-98-050	AMD-P	90-02-072	275-27-500	AMD-C	90-04-018
248-08-755	REP	90-06-018	248-98-060	AMD-P	90-02-072	275-27-500	AMD	90-04-074
248-08-760	REP	90-06-018	248-98-080	AMD-P	90-02-072	275-36-310	AMD-C	90-04-018
248-08-765	REP	90-06-018	248-98-085	NEW-P	90-02-072	275-36-310	AMD	90-04-074
248-08-770	REP	90-06-018	248-98-090	AMD-P	90-02-072	275-38-960	AMD-C	90-04-018
248-08-775	REP	90-06-018	248-98-095	NEW-P	90-02-072	275-38-960	AMD	90-04-074
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248-08-785	REP	90-06-018	248-98-100	AMD-P	90-02-072	275-56-010	AMD	90-03-113
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248-08-800	REP	90-06-018	248-98-104	NEW-P	90-02-072	275-56-016	NEW	90-03-113
248-08-805	REP	90-06-018	248-98-110	AMD-P	90-02-072	275-56-017	NEW	90-03-113
248-08-810	REP	90-06-018	248-98-120	AMD-P	90-02-072	275-56-020	AMD	90-03-113
248-08-815	REP	90-06-018	248-98-130	NEW-P	90-02-072	275-56-025	AMD	90-03-113
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248-08-825	REP	90-06-018	248-98-998	NEW-P	90-02-072	275-56-035	AMD	90-03-113
248-08-830	REP	90-06-018	248-98-999	REP-P	90-02-072	275-56-040	AMD	90-03-113
248-08-835	REP	90-06-018	248-100-016	AMD-P	90-02-095	275-56-042	NEW	90-03-113
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248-14-070	AMD	90-04-071	248-106-001	NEW	90-02-094	275-56-060	AMD	90-03-113
248-15-110	AMD	90-06-019	248-106-010	NEW	90-02-094	275-56-065	AMD	90-03-113
248-16-031	AMD	90-06-019	248-106-020	NEW	90-02-094	275-56-070	AMD	90-03-113
248-17-060	AMD	90-06-019	248-140-200	AMD	90-05-038	275-56-075	AMD	90-03-113
248-17-230	AMD	90-06-019	248-144-031	AMD	90-06-049	275-56-080	AMD	90-03-113
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248-19-220	AMD	90-02-093	248-170-020	NEW	90-04-082	275-56-087	NEW	90-03-113
248-19-480	AMD	90-06-019	248-170-100	NEW	90-04-082	275-56-088	NEW	90-03-113
248-21-005	AMD	90-05-038	248-170-130	NEW	90-04-082	275-56-089	NEW	90-03-113
248-22-005	AMD	90-06-019	248-170-160	NEW	90-04-082	275-56-090	AMD	90-03-113
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248-27-045	AMD	90-06-019	248-320-340	NEW	90-06-018	275-56-110	AMD	90-03-113
248-27-055	AMD	90-06-019	248-320-350	NEW	90-06-018	275-56-115	AMD	90-03-113
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248-31-035	AMD	90-06-019	248-320-400	NEW	90-06-018	275-56-130	REP	90-03-113
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275-56-150	AMD	90-03-113	284-55-035	REP-P	90-04-089
275-56-155	REP	90-03-113	284-55-040	REP-P	90-04-089
275-56-160	REP	90-03-113	284-55-045	REP-P	90-04-089
275-56-165	REP	90-03-113	284-55-050	REP-P	90-04-089
275-56-170	AMD	90-03-113	284-55-060	REP-P	90-04-089
275-56-175	AMD	90-03-113	284-55-065	REP-P	90-04-089
275-56-180	AMD	90-03-113	284-55-067	REP-P	90-04-089
275-56-185	AMD	90-03-113	284-55-070	REP-P	90-04-089
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275-56-195	AMD	90-03-113	284-55-090	REP-P	90-04-089
275-56-200	AMD	90-03-113	284-55-095	REP-P	90-04-089
275-56-205	AMD	90-03-113	284-55-115	REP-P	90-04-089
275-56-210	AMD	90-03-113	284-55-120	REP-P	90-04-089
275-56-215	AMD	90-03-113	284-55-125	REP-P	90-04-089
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275-56-250	REP	90-03-113	284-55-180	REP-P	90-04-089
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275-56-260	AMD	90-03-113	284-55-190	REP-P	90-04-089
275-56-265	REP	90-03-113	284-55-205	REP-P	90-04-089
275-56-270	REP	90-03-113	284-55-210	REP-P	90-04-089
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275-56-280	REP	90-03-113	284-66-020	NEW-P	90-04-089
275-56-285	AMD	90-03-113	284-66-030	NEW-P	90-04-089
275-56-290	AMD	90-03-113	284-66-040	NEW-P	90-04-089
275-56-295	AMD	90-03-113	284-66-050	NEW-P	90-04-089
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275-56-305	AMD	90-03-113	284-66-070	NEW-P	90-04-089
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275-56-315	REP	90-03-113	284-66-090	NEW-P	90-04-089
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275-56-330	REP	90-03-113	284-66-120	NEW-P	90-04-089
275-56-335	AMD	90-03-113	284-66-130	NEW-P	90-04-089
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275-56-345	REP	90-03-113	284-66-150	NEW-P	90-04-089
275-56-350	REP	90-03-113	284-66-160	NEW-P	90-04-089
275-56-355	AMD	90-03-113	284-66-170	NEW-P	90-04-089
275-56-360	REP	90-03-113	284-66-180	NEW-P	90-04-089
275-56-365	AMD	90-03-113	284-66-190	NEW-P	90-04-089
275-56-370	REP	90-03-113	284-66-200	NEW-P	90-04-089
275-56-375	REP	90-03-113	284-66-210	NEW-P	90-04-089
275-56-380	REP	90-03-113	284-66-220	NEW-P	90-04-089
275-56-385	AMD	90-03-113	284-66-230	NEW-P	90-04-089
275-56-390	REP	90-03-113	284-66-240	NEW-P	90-04-089
275-56-395	REP	90-03-113	284-66-250	NEW-P	90-04-089
275-56-400	AMD	90-03-113	284-66-260	NEW-P	90-04-089
275-56-405	REP	90-03-113	284-66-270	NEW-P	90-04-089
275-56-410	REP	90-03-113	284-66-300	NEW-P	90-04-089
275-56-415	REP	90-03-113	284-66-310	NEW-P	90-04-089
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
275-56-430	REP	90-03-113	284-66-340	NEW-P	90-04-089
275-56-435	REP	90-03-113	284-66-350	NEW-P	90-04-089
275-56-440	REP	90-03-113	284-66-400	NEW-P	90-04-089
275-56-445	AMD	90-03-113	292-08-010	NEW-P	90-03-095
275-56-450	REP	90-03-113	292-08-020	NEW-P	90-03-095
275-56-465	NEW	90-03-113	292-08-030	NEW-P	90-03-095
275-56-475	NEW	90-03-113	292-08-040	NEW-P	90-03-095
275-56-485	NEW	90-03-113	292-08-050	NEW-P	90-03-095
275-56-495	NEW	90-03-113	292-12-010	NEW-P	90-03-095
275-56-505	NEW	90-03-113	292-12-020	NEW-P	90-03-095
275-56-515	NEW	90-03-113	292-12-030	NEW-P	90-03-095
284-12-010	REP	90-04-060	292-12-040	NEW-P	90-03-095
284-12-030	REP	90-04-060	292-12-050	NEW-P	90-03-095
284-12-040	REP	90-04-060	292-12-060	NEW-P	90-03-095
284-12-080	AMD	90-04-042	292-12-070	NEW-P	90-03-095
284-17-121	NEW	90-04-060	292-12-080	NEW-P	90-03-095
284-17-122	NEW	90-04-060	292-12-090	NEW-P	90-03-095
284-17-123	NEW	90-04-060	292-12-110	NEW-P	90-03-095
284-55-010	REP-P	90-04-089	292-12-120	NEW-P	90-03-095
292-12-130	NEW-P	90-03-095	296-04-089	NEW-P	90-06-103
292-12-140	NEW-P	90-03-095	296-04-001	AMD-P	90-06-103
292-12-150	NEW-P	90-03-095	296-04-042	NEW-P	90-06-104
292-12-160	NEW-P	90-03-095	296-04-160	AMD-P	90-06-103
292-12-170	NEW-P	90-03-095	296-06-010	AMD-P	90-02-089
292-12-180	NEW-P	90-03-095	296-06-020	AMD-P	90-02-089
296-04-001	AMD-P	90-06-103	296-06-030	AMD-P	90-02-089
296-04-042	NEW-P	90-06-104	296-06-040	AMD-P	90-02-089
296-04-160	AMD-P	90-06-103	296-06-080	AMD-P	90-02-089
296-06-010	AMD-P	90-02-089	296-06-090	AMD-P	90-02-089
296-06-020	AMD-P	90-02-089	296-06-100	AMD-P	90-02-089
296-06-030	AMD-P	90-02-089	296-06-110	AMD-P	90-02-089
296-06-040	AMD-P	90-02-089	296-06-120	AMD-P	90-02-089
296-06-080	AMD-P	90-02-089	296-06-130	AMD-P	90-02-089
296-06-090	AMD-P	90-02-089	296-06-140	AMD-P	90-02-089
296-06-100	AMD-P	90-02-089	296-06-150	AMD-P	90-02-089
296-06-110	AMD-P	90-02-089	296-06-170	AMD-P	90-02-089
296-06-120	AMD-P	90-02-089	296-06-990	REP-P	90-02-089
296-06-130	AMD-P	90-02-089	296-06-99001	REP-P	90-02-089
296-06-140	AMD-P	90-02-089	296-14-400	AMD	90-04-007
296-06-150	AMD-P	90-02-089	296-20-010	AMD	90-04-057
296-06-170	AMD-P	90-02-089	296-20-01002	AMD	90-04-057
296-06-990	REP-P	90-02-089	296-20-015	AMD	90-04-057
296-06-99001	REP-P	90-02-089	296-20-02001	AMD	90-04-057
296-14-400	AMD	90-04-007	296-20-02010	AMD	90-04-057
296-20-010	AMD	90-04-057	296-20-022	AMD	90-04-057
296-20-01002	AMD	90-04-057	296-20-024	AMD	90-04-057
296-20-015	AMD	90-04-057	296-20-03001	AMD	90-04-057
296-20-02001	AMD	90-04-057	296-20-045	AMD	90-04-057
296-20-02010	AMD	90-04-057	296-20-075	AMD	90-04-057
296-20-022	AMD	90-04-057	296-20-124	AMD	90-04-007
296-20-024	AMD	90-04-057	296-20-680	AMD	90-04-007
296-20-03001	AMD	90-04-057	296-23A-150	AMD	90-04-057
296-20-045	AMD	90-04-057	296-23A-170	AMD	90-04-057
296-20-075	AMD	90-04-057	296-24-020	AMD	90-03-029
296-20-124	AMD	90-04-007	296-24-102	NEW	90-03-029
296-20-680	AMD	90-04-007	296-24-10203	NEW	90-03-029
296-23A-150	AMD	90-04-057	296-24-12009	AMD	90-03-029
296-23A-170	AMD	90-04-057	296-24-15001	AMD	90-03-029
296-24-020	AMD	90-03-029	296-24-16507	AMD	90-03-029
296-24-102	NEW	90-03-029	296-24-16515	AMD	90-03-029
296-24-10203	NEW	90-03-029	296-24-16517	AMD	90-03-029
296-24-12009	AMD	90-03-029	296-24-20503	AMD	90-03-029
296-24-15001	AMD	90-03-029	296-24-20700	AMD-P	90-03-093
296-24-16507	AMD	90-03-029	296-24-550	AMD	90-03-029
296-24-16515	AMD	90-03-029	296-24-58513	AMD	90-03-029
296-24-16517	AMD	90-03-029	296-24-75009	AMD	90-03-029
296-24-20503	AMD	90-03-029	296-24-76503	AMD	90-03-029
296-24-20700	AMD-P	90-03-093	296-24-78007	AMD	90-03-029
296-24-550	AMD	90-03-029	296-24-81003	AMD	90-03-029
296-24-58513	AMD	90-03-029	296-24-81005	AMD	90-03-029
296-24-75009	AMD	90-03-029	296-24-82503	AMD	90-03-029
296-24-76503	AMD	90-03-029	296-24-870	AMD-P	90-03-093
296-24-78007	AMD	90-03-029	296-24-87001	AMD-P	90-03-093
296-24-81003	AMD	90-03-029	296-24-87003	REP-P	90-03-093
296-24-81005	AMD	90-03-029	296-24-87005	REP-P	90-03-093
296-24-82503	AMD	90-03-029	296-24-87007	REP-P	90-03-093
296-24-870	AMD-P	90-03-093	296-24-87009	AMD-P	90-03-093
296-24-87001	AMD-P	90-03-093	296-24-87011	NEW-P	90-03-093
296-24-87003	REP-P	90-03-093	296-24-87013	NEW-P	90-03-093
296-24-87005	REP-P	90-03-093	296-24-87015	NEW-P	90-03-093
296-24-87007	REP-P	90-03-093	296-24-87017	NEW-P	90-03-093
296-24-87009	AMD-P	90-03-093	296-24-87019	NEW-P	90-03-093
296-24-87011	NEW-P	90-03-093	296-24-87031	NEW-P	90-03-093
296-24-87013	NEW-P	90-03-093	296-24-87033	NEW-P	90-03-093
296-24-87015	NEW-P	90-03-093	296-24-87035	NEW-P	90-03-093
296-24-87017	NEW-P	90-03-093	296-24-87037	NEW-P	90-03-093
296-24-87019	NEW-P	90-03-093	296-52-417	AMD	90-03-029
296-24-87031	NEW-P	90-03-093	296-52-419	AMD	90-03-029
296-24-87033	NEW-P	90-03-093	296-52-461	AMD	90-03-029
296-24-87035	NEW-P	90-03-093	296-52-473	REP	90-03-029
296-24-87037	NEW-P	90-03-093	296-52-477	AMD	90-03-029

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296-52-509	AMD	90-03-029	308-31-260	NEW-P	90-06-064	308-124E-014	AMD-P	90-02-103
296-52-510	NEW	90-03-029	308-31-270	NEW-P	90-06-064	308-124E-014	AMD-C	90-05-073
296-54-569	AMD-P	90-03-093	308-31-280	NEW-P	90-06-064	308-124H	AMD-P	90-02-102
296-62-07007	REP-P	90-03-093	308-32-090	AMD-P	90-03-107	308-124H	AMD-C	90-05-072
296-62-07107	AMD-P	90-03-093	308-32-090	AMD	90-06-052	308-124H-011	NEW-P	90-02-102
296-62-07314	AMD	90-03-029	308-33-105	AMD-P	90-03-107	308-124H-011	NEW-C	90-05-072
296-62-07507	AMD	90-03-029	308-33-105	AMD	90-06-052	308-124H-020	REP-P	90-02-102
296-62-07515	AMD	90-03-029	308-34-170	AMD	90-04-094	308-124H-020	REP-C	90-05-072
296-62-07517	AMD-P	90-03-093	308-39-100	AMD-P	90-06-065	308-124H-021	NEW-P	90-02-102
296-62-07521	AMD	90-03-029	308-39-110	AMD-P	90-06-065	308-124H-021	NEW-C	90-05-072
296-62-07531	AMD-P	90-03-093	308-39-120	REP-P	90-06-065	308-124H-025	NEW-P	90-02-102
296-62-07540	AMD	90-03-029	308-39-125	NEW-P	90-06-065	308-124H-025	NEW-C	90-05-072
296-62-07544	AMD	90-03-029	308-39-130	NEW-P	90-06-065	308-124H-030	REP-P	90-02-102
296-62-3110	AMD-P	90-03-093	308-39-140	NEW-P	90-06-065	308-124H-030	REP-C	90-05-072
296-99-015	AMD	90-03-029	308-39-150	NEW-P	90-06-065	308-124H-033	REP-P	90-02-102
296-99-050	AMD	90-03-029	308-39-160	NEW-P	90-06-065	308-124H-033	REP-C	90-05-072
296-104-015	AMD-P	90-04-065	308-39-170	NEW-P	90-06-065	308-124H-035	AMD-P	90-02-102
296-104-195	NEW	90-04-009	308-39-180	NEW-P	90-06-065	308-124H-035	AMD-C	90-05-072
296-104-200	AMD	90-04-009	308-39-190	NEW-P	90-06-065	308-124H-036	AMD-P	90-02-102
296-116-185	AMD-P	90-03-096	308-39-200	NEW-P	90-06-065	308-124H-036	AMD-C	90-05-072
296-116-300	AMD-P	90-03-097	308-39-210	NEW-P	90-06-065	308-124H-037	AMD-P	90-02-102
296-127-400	NEW-E	90-06-008	308-39-220	NEW-P	90-06-101	308-124H-037	AMD-C	90-05-072
296-127-410	NEW-E	90-06-008	308-40-102	NEW-P	90-04-085	308-124H-038	REP-P	90-02-102
296-127-420	NEW-E	90-06-008	308-40-125	AMD-E	90-04-083	308-124H-038	REP-C	90-05-072
296-127-430	NEW-E	90-06-008	308-40-125	AMD	90-04-094	308-124H-040	REP-P	90-02-102
296-127-440	NEW-E	90-06-008	308-40-130	REP	90-05-039	308-124H-040	REP-C	90-05-072
296-127-450	NEW-E	90-06-008	308-40-135	NEW	90-05-039	308-124H-041	NEW-P	90-02-102
296-127-460	NEW-E	90-06-008	308-42-045	AMD-P	90-04-095	308-124H-041	NEW-C	90-05-072
296-127-470	NEW-E	90-06-008	308-42-060	AMD-P	90-04-095	308-124H-043	REP-P	90-02-102
296-155-225	AMD-P	90-03-093	308-42-145	AMD-P	90-04-095	308-124H-043	REP-C	90-05-072
296-155-227	NEW-P	90-03-093	308-48-800	AMD-P	90-04-110	308-124H-045	REP-P	90-02-102
296-155-480	AMD-P	90-03-093	308-50-295	AMD-W	90-03-069	308-124H-045	REP-C	90-05-072
296-155-485	AMD	90-03-029	308-50-310	AMD-W	90-03-069	308-124H-050	REP-P	90-02-102
296-155-48533	AMD	90-03-029	308-50-440	AMD	90-04-094	308-124H-050	REP-C	90-05-072
296-155-505	AMD	90-03-029	308-52-100	AMD	90-05-001	308-124H-051	NEW-P	90-02-102
296-155-675	AMD	90-03-029	308-52-590	AMD-E	90-04-093	308-124H-051	NEW-C	90-05-072
296-155-680	AMD	90-03-029	308-52-590	AMD-E	90-06-100	308-124H-055	REP-P	90-02-102
296-155-690	AMD	90-03-029	308-54-315	AMD	90-04-094	308-124H-055	AMD	90-05-072
296-155-692	REP	90-03-029	308-56A-420	AMD-P	90-06-022	308-124H-060	REP-P	90-02-102
296-155-694	AMD	90-03-029	308-56A-500	NEW-P	90-06-015	308-124H-060	REP-C	90-05-072
296-155-697	AMD	90-03-029	308-56A-500	NEW-E	90-06-016	308-124H-061	NEW-P	90-02-102
296-155-725	AMD	90-03-029	308-56A-505	NEW-P	90-06-015	308-124H-061	NEW-C	90-05-072
296-155-730	AMD	90-03-029	308-56A-505	NEW-E	90-06-016	308-124H-062	NEW-P	90-02-102
296-306	AMD-C	90-05-002	308-56A-510	NEW-P	90-06-015	308-124H-062	NEW-C	90-05-072
296-350-030	AMD-P	90-03-093	308-56A-510	NEW-E	90-06-016	308-124H-065	REP-P	90-02-102
308-11-030	AMD-P	90-03-107	308-56A-515	NEW-P	90-06-015	308-124H-065	REP-C	90-05-072
308-11-030	AMD	90-06-052	308-56A-515	NEW-E	90-06-016	308-124H-070	REP-P	90-02-102
308-12-031	AMD-P	90-06-066	308-56A-520	NEW-P	90-06-015	308-124H-070	REP-C	90-05-072
308-12-320	PREP	90-05-041	308-56A-520	NEW-E	90-06-016	308-124H-210	NEW-C	90-05-072
308-12-326	AMD	90-03-032	308-66-150	AMD-P	90-04-048	308-124H-220	NEW-C	90-05-072
308-13-150	AMD	90-03-031	308-66-152	NEW-P	90-04-048	308-124H-230	NEW-C	90-05-072
308-14-080	NEW-P	90-05-058	308-66-190	AMD-P	90-06-022	308-124H-240	NEW-C	90-05-072
308-14-090	NEW-P	90-05-058	308-67-010	NEW	90-03-022	308-124H-250	NEW-C	90-05-072
308-14-100	NEW-P	90-05-058	308-115-405	AMD	90-04-094	308-124H-260	NEW-C	90-05-072
308-14-110	NEW-P	90-05-058	308-117-500	AMD	90-04-094	308-124H-270	NEW-C	90-05-072
308-14-200	NEW-P	90-05-058	308-120-165	AMD	90-04-059	308-124H-280	NEW-C	90-05-072
308-20-107	AMD-P	90-03-018	308-120-275	AMD	90-04-094	308-124H-290	NEW-C	90-05-072
308-20-140	AMD-P	90-03-018	308-120-620	NEW	90-04-059	308-124H-300	NEW-C	90-05-072
308-20-155	AMD-P	90-03-018	308-122-275	AMD	90-04-094	308-124H-310	NEW-C	90-05-072
308-20-210	AMD-P	90-03-018	308-122-500	AMD-E	90-05-016	308-124H-320	NEW-C	90-05-072
308-25-065	AMD	90-04-094	308-122-500	AMD-P	90-05-040	308-124H-330	NEW-C	90-05-072
308-29-045	AMD-P	90-03-107	308-122-503	REP	90-05-015	308-124H-340	NEW-C	90-05-072
308-29-045	AMD	90-06-052	308-122-503	REP-E	90-05-017	308-124H-510	NEW-C	90-05-072
308-30-030	AMD-P	90-03-107	308-122-550	REP	90-05-015	308-124H-520	NEW-C	90-05-072
308-30-040	AMD-P	90-03-107	308-122-550	REP-E	90-05-017	308-124H-530	NEW-C	90-05-072
308-30-050	AMD-P	90-03-107	308-122-555	REP	90-05-015	308-124H-540	NEW-C	90-05-072
308-30-060	AMD-P	90-03-107	308-122-555	REP-E	90-05-017	308-124H-550	NEW-C	90-05-072
308-30-070	AMD-P	90-03-107	308-122-560	REP	90-05-015	308-124H-560	NEW-C	90-05-072
308-30-080	AMD-P	90-03-107	308-122-560	REP-E	90-05-017	308-124H-570	NEW-C	90-05-072
308-30-090	AMD-P	90-03-107	308-122-565	REP	90-05-015	308-124H-580	NEW-C	90-05-072
308-30-100	AMD-P	90-03-107	308-122-565	REP-E	90-05-017	308-1241-010	NEW-P	90-02-102
308-30-100	AMD	90-06-052	308-122-570	REP	90-05-015	308-1241-020	NEW-P	90-02-102
308-31-210	NEW-P	90-06-064	308-122-570	REP-E	90-05-017	308-1241-030	NEW-P	90-02-102
308-31-220	NEW-P	90-06-064	308-122-575	REP	90-05-015	308-1241-040	NEW-P	90-02-102
308-31-230	NEW-P	90-06-064	308-122-575	REP-E	90-05-017	308-1241-050	NEW-P	90-02-102
308-31-240	NEW-P	90-06-064	308-122-580	REP	90-05-015	308-1241-060	NEW-P	90-02-102

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308-124I-080	NEW-P	90-02-102	315-11-531	NEW-P	90-03-109	316-85-010	NEW	90-06-046
308-124I-090	NEW-P	90-02-102	315-11-531	NEW	90-06-060	316-85-020	NEW-P	90-03-040
308-124I-100	NEW-P	90-02-102	315-11-532	NEW-P	90-03-109	316-85-020	NEW	90-06-046
308-124I-110	NEW-P	90-02-102	315-11-532	NEW	90-06-060	316-85-030	NEW-P	90-03-040
308-124I-120	NEW-P	90-02-102	315-11-540	NEW-P	90-03-109	316-85-030	NEW	90-06-046
308-124I-130	NEW-P	90-02-102	315-11-540	NEW	90-06-060	316-85-040	NEW-P	90-03-040
308-124I-140	NEW-P	90-02-102	315-11-541	NEW-P	90-03-109	316-85-040	NEW	90-06-046
308-124J-010	NEW-P	90-02-102	315-11-541	NEW	90-06-060	316-85-050	NEW-P	90-03-040
308-124J-020	NEW-P	90-02-102	315-11-542	NEW-P	90-03-109	316-85-050	NEW	90-06-046
308-124J-030	NEW-P	90-02-102	315-11-542	NEW	90-06-060	316-85-060	NEW-P	90-03-040
308-124J-040	NEW-P	90-02-102	315-33-010	NEW-P	90-03-109	316-85-060	NEW	90-06-046
308-124J-050	NEW-P	90-02-102	315-33-010	NEW	90-06-060	316-85-070	NEW-P	90-03-040
308-124J-060	NEW-P	90-02-102	315-33-020	NEW-P	90-03-109	316-85-070	NEW	90-06-046
308-124J-070	NEW-P	90-02-102	315-33-020	NEW	90-06-060	316-85-080	NEW-P	90-03-040
308-124J-080	NEW-P	90-02-102	315-33-030	NEW-P	90-03-109	316-85-080	NEW	90-06-046
308-127-010	REP-P	90-04-088	315-33-030	NEW	90-06-060	316-85-090	NEW-P	90-03-040
308-127-020	REP-P	90-04-088	315-33-040	NEW-P	90-03-109	316-85-090	NEW	90-06-046
308-127-030	REP-P	90-04-088	315-33-040	NEW	90-06-060	316-85-100	NEW-P	90-03-040
308-127-035	NEW-P	90-04-088	315-33-050	NEW-P	90-03-109	316-85-100	NEW	90-06-046
308-127-040	AMD-P	90-04-088	315-33-050	NEW	90-06-060	326-30-030	AMD	90-06-040
308-127-100	REP-P	90-04-088	315-33-060	NEW-P	90-03-109	326-30-03902	NEW	90-06-041
308-127-105	NEW-P	90-04-088	315-33-060	NEW	90-06-060	332-30-166	AMD	90-02-085
308-127-110	AMD-P	90-04-088	315-33-070	NEW-P	90-03-109	332-130-030	AMD-P	90-03-066
308-127-120	AMD-P	90-04-088	315-33-070	NEW	90-06-060	332-130-030	AMD	90-06-028
308-127-130	AMD-P	90-04-088	316-55-001	AMD-P	90-03-039	332-130-070	AMD-P	90-03-066
308-127-140	AMD-P	90-04-088	316-55-001	AMD	90-06-047	332-130-070	AMD	90-06-028
308-127-155	REP-P	90-04-088	316-55-005	NEW-P	90-03-039	332-130-080	AMD-P	90-03-066
308-127-160	NEW-P	90-04-088	316-55-005	NEW	90-06-047	332-130-080	AMD	90-06-028
308-127-200	AMD-P	90-04-088	316-55-010	AMD-P	90-03-039	332-130-090	AMD-P	90-03-066
308-127-210	AMD-P	90-04-088	316-55-010	AMD	90-06-047	332-130-090	AMD	90-06-028
308-127-220	REP-P	90-04-088	316-55-020	AMD-P	90-03-039	352-12-020	AMD-P	90-04-108
308-127-225	NEW-P	90-04-088	316-55-020	AMD	90-06-047	352-12-030	AMD-P	90-04-108
308-127-300	AMD-P	90-04-088	316-55-030	AMD-P	90-03-039	352-20-010	AMD-P	90-04-108
308-128B-060	REP	90-03-098	316-55-030	AMD	90-06-047	352-20-050	AMD-P	90-04-108
308-128B-080	AMD	90-03-099	316-55-050	AMD-P	90-03-039	352-32-010	AMD-P	90-04-108
308-138-080	AMD	90-04-094	316-55-050	AMD	90-06-047	352-32-045	AMD-P	90-04-108
308-152-030	AMD	90-04-094	316-55-070	AMD-P	90-03-039	352-32-050	AMD-P	90-04-108
308-171-001	AMD-P	90-04-096	316-55-070	AMD	90-06-047	352-32-235	AMD	90-04-025
308-171-010	AMD-P	90-04-096	316-55-090	RE-AD-P	90-03-039	352-32-250	AMD-P	90-04-108
308-171-020	AMD-P	90-04-096	316-55-090	RE-AD	90-06-047	352-32-25001	AMD-P	90-04-108
308-171-041	NEW-P	90-04-096	316-55-110	AMD-P	90-03-039	352-32-251	AMD	90-04-024
308-173-130	AMD	90-04-094	316-55-110	AMD	90-06-047	352-32-252	AMD-P	90-04-108
308-175-140	AMD	90-04-094	316-55-120	NEW-P	90-03-039	352-32-270	AMD-P	90-06-108
308-175-200	AMD-E	90-06-004	316-55-120	NEW	90-06-047	352-36-010	REP-P	90-06-109
308-177-110	AMD	90-04-094	316-55-130	RE-AD-P	90-03-039	352-36-020	REP-P	90-06-109
308-180-120	AMD-P	90-05-053	316-55-130	RE-AD	90-06-047	352-36-025	REP-P	90-06-109
308-180-260	AMD	90-04-094	316-55-150	RE-AD-P	90-03-039	352-36-030	REP-P	90-06-109
308-190-010	AMD	90-04-094	316-55-150	RE-AD	90-06-047	352-36-040	REP-P	90-06-109
308-310-010	AMD	90-04-094	316-55-160	AMD-P	90-03-039	352-36-050	REP-P	90-06-109
308-320-010	NEW	90-02-060	316-55-160	AMD	90-06-047	352-36-060	REP-P	90-06-109
308-320-010	NEW-E	90-02-061	316-55-170	RE-AD-P	90-03-039	352-36-070	REP-P	90-06-109
308-320-020	NEW	90-02-060	316-55-170	RE-AD	90-06-047	352-36-080	REP-P	90-06-109
308-320-020	NEW-E	90-02-061	316-55-500	AMD-P	90-03-039	352-36-090	REP-P	90-06-109
308-320-030	NEW	90-02-060	316-55-500	AMD	90-06-047	352-36-100	REP-P	90-06-109
308-320-030	NEW-E	90-02-061	316-55-505	AMD-P	90-03-039	352-36-110	REP-P	90-06-109
308-320-040	NEW	90-02-060	316-55-505	AMD	90-06-047	352-36-115	REP-P	90-06-109
308-320-040	NEW-E	90-02-061	316-55-510	RE-AD-P	90-03-039	352-36-120	REP-P	90-06-109
308-320-050	NEW	90-02-060	316-55-510	RE-AD	90-06-047	352-36-130	REP-P	90-06-109
308-320-050	NEW-E	90-02-061	316-55-515	AMD-P	90-03-039	352-36-140	REP-P	90-06-109
308-320-060	NEW	90-02-060	316-55-515	AMD	90-06-047	352-37-010	NEW-P	90-04-106
308-320-060	NEW-E	90-02-061	316-55-517	NEW-P	90-03-039	352-37-010	NEW-E	90-06-006
308-320-070	NEW	90-02-060	316-55-517	NEW	90-06-047	352-37-020	NEW-P	90-04-106
308-320-070	NEW-E	90-02-061	316-55-520	REP-P	90-03-039	352-37-020	NEW-E	90-06-006
308-320-080	NEW	90-02-060	316-55-520	REP	90-06-047	352-37-030	NEW-P	90-04-106
308-320-080	NEW-E	90-02-061	316-55-525	AMD-P	90-03-039	352-37-030	NEW-E	90-06-006
308-320-090	NEW	90-02-060	316-55-525	AMD	90-06-047	352-37-040	NEW-P	90-04-106
308-320-090	NEW-E	90-02-061	316-55-600	RE-AD-P	90-03-039	352-37-040	NEW-E	90-06-006
308-400-042	AMD	90-04-051	316-55-600	RE-AD	90-06-047	352-37-050	NEW-P	90-04-106
308-400-095	AMD	90-04-051	316-55-700	NEW-P	90-03-039	352-37-050	NEW-E	90-06-006
314-16-170	AMD-P	90-03-088	316-55-700	NEW	90-06-047	352-37-060	NEW-P	90-04-106
314-20-025	NEW-P	90-03-089	316-55-710	NEW-P	90-03-039	352-37-060	NEW-E	90-06-006
314-60-040	AMD	90-02-109	316-55-710	NEW	90-06-047	352-37-070	NEW-P	90-04-106
315-11-480	AMD	90-03-023	316-55-730	NEW-P	90-03-039	352-37-070	NEW-E	90-06-006
315-11-490	AMD	90-03-023	316-55-730	NEW	90-06-047	352-37-080	NEW-P	90-04-106
315-11-491	AMD	90-03-023	316-85-001	NEW-P	90-03-040	352-37-080	NEW-E	90-06-006
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352-37-100	NEW-P	90-04-106	356-34-115	REP-P	90-03-101	388-08-425	NEW-C	90-04-020
352-37-100	NEW-E	90-06-006	356-34-117	REP-P	90-03-101	388-08-425	NEW	90-04-076
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352-37-110	NEW-E	90-06-006	356-34-119	REP-P	90-03-101	388-08-428	NEW	90-04-076
352-37-120	NEW-P	90-04-106	356-34-130	REP-P	90-03-101	388-08-431	NEW-C	90-04-020
352-37-120	NEW-E	90-06-006	356-34-140	REP-P	90-03-101	388-08-431	NEW	90-04-076
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352-37-130	NEW-E	90-06-006	356-34-170	REP-P	90-03-101	388-08-434	NEW	90-04-076
352-37-140	NEW-P	90-04-106	356-34-180	REP-P	90-03-101	388-08-435	REP-C	90-04-020
352-37-140	NEW-E	90-06-006	356-34-190	REP-P	90-03-101	388-08-435	REP	90-04-076
352-37-150	NEW-P	90-04-106	356-34-200	REP-P	90-03-101	388-08-437	NEW-C	90-04-020
352-37-150	NEW-E	90-06-006	356-34-210	REP-P	90-03-101	388-08-437	NEW	90-04-076
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352-37-180	NEW-P	90-04-106	356-37-030	NEW-P	90-03-101	388-08-449	NEW-C	90-04-020
352-37-180	NEW-E	90-06-006	356-37-040	NEW-P	90-03-101	388-08-449	NEW	90-04-076
352-37-190	NEW-P	90-04-106	356-37-050	NEW-P	90-03-101	388-08-452	NEW-C	90-04-020
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352-37-210	NEW-E	90-06-006	356-37-100	NEW-P	90-03-101	388-08-464	NEW	90-04-076
352-64-020	AMD	90-04-064	356-37-110	NEW-P	90-03-101	388-08-470	NEW-C	90-04-020
352-64-030	AMD	90-04-064	356-37-120	NEW-P	90-03-101	388-08-470	NEW	90-04-076
352-64-040	AMD	90-04-064	356-37-130	NEW-P	90-03-101	388-08-470	NEW-C	90-04-020
352-64-050	AMD	90-04-064	356-37-140	NEW-P	90-03-101	388-08-515	NEW	90-04-076
352-64-060	AMD	90-04-064	356-37-150	NEW-P	90-03-101	388-08-515	NEW-C	90-04-020
352-64-070	AMD	90-04-064	356-42-055	AMD-P	90-03-104	388-08-525	NEW	90-04-076
352-64-080	AMD	90-04-064	356-42-056	NEW-P	90-03-103	388-08-525	NEW-C	90-04-020
352-66-010	NEW-P	90-04-107	360-10-050	AMD-P	90-03-053	388-08-535	NEW	90-04-076
352-66-020	NEW-P	90-04-107	360-15-010	NEW	90-03-054	388-08-540	REP-C	90-04-020
352-66-030	NEW-P	90-04-107	360-15-020	NEW	90-03-054	388-08-540	REP	90-04-076
352-66-040	NEW-P	90-04-107	360-15-030	NEW	90-03-054	388-08-545	NEW-C	90-04-020
352-66-050	NEW-P	90-04-107	360-15-040	NEW	90-03-054	388-08-545	NEW	90-04-076
352-66-060	NEW-P	90-04-107	360-15-050	NEW	90-03-054	388-08-550	REP-C	90-04-020
352-66-070	NEW-P	90-04-107	360-15-060	NEW	90-03-054	388-08-550	REP	90-04-076
352-66-080	NEW-P	90-04-107	360-15-070	NEW	90-03-054	388-08-555	NEW-C	90-04-020
352-66-090	NEW-P	90-04-107	360-16A-010	NEW	90-03-055	388-08-555	NEW	90-04-076
352-66-100	NEW-P	90-04-107	360-16A-020	NEW	90-03-055	388-08-560	REP-C	90-04-020
352-66-110	NEW-P	90-04-107	360-16A-030	NEW	90-03-055	388-08-560	REP	90-04-076
352-66-120	NEW-P	90-04-107	360-16A-040	NEW	90-03-055	388-08-565	NEW-C	90-04-020
352-75-010	NEW-P	90-06-110	360-16A-060	NEW	90-03-055	388-08-565	NEW	90-04-076
352-75-020	NEW-P	90-06-110	360-16A-070	NEW	90-03-055	388-08-575	NEW-C	90-04-020
352-75-030	NEW-P	90-06-110	360-16A-080	NEW	90-03-055	388-08-575	NEW	90-04-076
352-75-040	NEW-P	90-06-110	360-16A-090	NEW	90-03-055	388-08-580	REP-C	90-04-020
352-75-050	NEW-P	90-06-110	360-16A-100	NEW	90-03-055	388-08-580	REP	90-04-076
352-75-060	NEW-P	90-06-110	365-110-020	AMD-P	90-03-017	388-08-590	REP-C	90-04-020
352-75-070	NEW-P	90-06-110	365-110-030	REP-P	90-03-017	388-08-590	REP	90-04-076
352-75-080	NEW-P	90-06-110	365-110-035	AMD-P	90-03-017	388-09-010	REP-C	90-04-020
352-75-090	NEW-P	90-06-110	365-110-040	REP-P	90-03-017	388-09-010	REP	90-05-020
356-05-210	AMD	90-03-044	365-110-050	REP-P	90-03-017	388-09-020	REP-C	90-04-020
356-07-030	AMD-C	90-03-048	365-110-060	REP-P	90-03-017	388-09-020	REP	90-05-020
356-14-240	AMD-P	90-03-102	365-110-080	REP-P	90-03-017	388-09-030	REP-C	90-04-020
356-15-060	AMD-P	90-03-102	388-08-00201	REP-C	90-04-020	388-09-030	REP	90-05-020
356-15-125	AMD-P	90-03-102	388-08-00201	REP	90-04-076	388-09-040	REP-C	90-04-020
356-22-010	AMD-C	90-03-047	388-08-00401	REP-C	90-04-020	388-09-040	REP	90-05-020
356-22-010	AMD	90-05-029	388-08-00401	REP	90-04-076	388-11-100	AMD-C	90-04-021
356-22-11001	REP-C	90-03-047	388-08-006	REP-C	90-04-020	388-11-100	AMD	90-04-077
356-22-11001	REP	90-05-029	388-08-006	REP	90-04-076	388-11-105	REP-C	90-04-021
356-22-111	NEW-C	90-03-047	388-08-00601	REP-C	90-04-020	388-11-105	REP	90-04-077
356-22-111	NEW	90-05-029	388-08-00601	REP	90-04-076	388-11-180	AMD-C	90-04-021
356-22-120	AMD-C	90-03-047	388-08-010	REP-C	90-04-020	388-11-180	AMD	90-04-077
356-22-120	AMD	90-05-029	388-08-010	REP	90-04-076	388-11-185	REP-C	90-04-021
356-30-145	AMD-C	90-03-045	388-08-405	REP-C	90-04-020	388-11-185	REP	90-04-077
356-30-145	AMD-C	90-05-027	388-08-405	REP	90-04-076	388-13-050	AMD-C	90-04-021
356-30-180	AMD-C	90-03-045	388-08-406	REP-C	90-04-020	388-13-050	AMD	90-04-077
356-30-180	AMD-C	90-05-027	388-08-406	REP	90-04-076	388-13-060	AMD-C	90-04-021
356-30-190	AMD-C	90-03-045	388-08-409	REP-C	90-04-020	388-13-060	AMD	90-04-077
356-30-190	AMD-C	90-05-027	388-08-409	REP	90-04-076	388-13-070	AMD-C	90-04-021
356-30-280	AMD-C	90-03-045	388-08-410	NEW-C	90-04-020	388-13-070	AMD	90-04-077
356-30-280	AMD-C	90-05-027	388-08-410	NEW	90-04-076	388-13-080	REP-C	90-04-021
356-30-320	AMD-C	90-03-045	388-08-413	AMD-C	90-04-020	388-13-080	REP	90-04-077
356-30-320	AMD	90-05-028	388-08-413	AMD	90-04-076	388-13-110	AMD-C	90-04-021
356-34-110	REP-P	90-03-101	388-08-416	REP-C	90-04-020	388-13-110	AMD	90-04-077

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388-13-120	AMD	90-04-077	388-76-185	NEW	90-03-051
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388-14-260	AMD-C	90-04-021	388-76-200	AMD	90-03-051
388-14-260	AMD	90-04-077	388-76-220	AMD	90-03-051
388-14-270	AMD-P	90-03-041	388-76-240	AMD	90-03-051
388-14-270	AMD-E	90-03-042	388-76-250	AMD	90-03-051
388-14-270	AMD-C	90-04-021	388-76-260	AMD	90-03-051
388-14-270	AMD-W	90-04-069	388-76-280	AMD	90-03-051
388-14-385	AMD-C	90-04-021	388-76-290	AMD	90-03-051
388-14-385	AMD	90-04-077	388-76-300	AMD	90-03-051
388-14-390	AMD-C	90-04-021	388-76-310	AMD	90-03-051
388-14-390	AMD	90-04-077	388-76-340	AMD	90-03-051
388-14-415	AMD-C	90-04-021	388-76-350	AMD	90-03-051
388-14-415	AMD	90-04-077	388-76-360	AMD	90-03-051
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388-15-820	AMD-P	90-02-084	388-76-380	AMD	90-03-051
388-15-820	AMD	90-06-038	388-76-390	AMD	90-03-051
388-15-870	AMD-E	90-02-079	388-76-400	AMD	90-03-051
388-15-870	AMD-P	90-02-084	388-76-410	AMD	90-03-051
388-15-870	AMD	90-06-038	388-76-420	AMD	90-03-051
388-15-880	AMD-E	90-02-079	388-76-430	AMD	90-03-051
388-15-880	AMD-P	90-02-084	388-76-435	NEW	90-03-051
388-15-880	AMD	90-06-038	388-76-440	AMD	90-03-051
388-17-100	AMD-C	90-04-022	388-76-450	AMD	90-03-051
388-17-100	AMD	90-04-070	388-76-460	AMD	90-03-051
388-17-500	AMD-C	90-04-022	388-76-465	AMD	90-03-051
388-17-500	AMD	90-04-070	388-76-475	NEW	90-03-051
388-17-510	AMD-C	90-04-022	388-76-480	AMD	90-03-051
388-17-510	AMD	90-04-070	388-76-490	AMD	90-03-051
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388-29-160	AMD	90-06-035	388-86-00901	AMD	90-04-014
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388-29-230	AMD	90-06-035	388-95-360	AMD-W	90-06-029
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388-33-376	AMD-P	90-06-099	388-96-559	AMD-E	90-05-013
388-33-382	AMD-P	90-06-099	388-96-559	AMD-P	90-05-014
388-42-150	AMD-E	90-05-021	388-96-561	AMD-P	90-05-014
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388-49-560	AMD-C	90-06-030	388-96-745	AMD-P	90-05-014
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388-76-110	NEW	90-03-051	388-320-350	NEW	90-04-076
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391-08-030	RE-AD	90-06-070	391-08-030	RE-AD	90-06-070
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391-25-250	RE-AD	90-06-072	391-25-250	RE-AD	90-06-072
391-25-252	RE-AD	90-06-072	391-25-252	RE-AD	90-06-072
391-25-253	RE-AD	90-06-072	391-25-253	RE-AD	90-06-072
391-25-270	RE-AD	90-06-072	391-25-270	RE-AD	90-06-072
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391-25-310	RE-AD	90-06-072	391-25-310	RE-AD	90-06-072
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391-25-370	RE-AD	90-06-072	391-25-370	RE-AD	90-06-072
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