

**MARCH 6, 1991**

**OLYMPIA, WASHINGTON**

**ISSUE 91-05**



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This issue contains documents officially  
filed not later than February 20, 1991

## 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

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of March 1991 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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 1991 pursuant to RCW 63.14.130(1)(a) is thirteen point seven five percent (13.75%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is twelve point two five percent (12.25%) for the second calendar quarter of 1991.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is twelve point seven five percent (12.75%) for the first calendar quarter of 1991.

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# WASHINGTON STATE REGISTER

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

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

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

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

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

### 3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

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

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

### 5. EFFECTIVE DATE OF RULES

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

### 6. EDITORIAL CORRECTIONS

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

### 7. INDEX AND TABLES

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

1990 – 1991

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

<u>Issue No.</u>	<u>Closing Dates<sup>1</sup></u>			<u>Distribution Date</u>	<u>First Agency Hearing Date<sup>3</sup></u>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing on or after</i>
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90-15	Jun 20	Jul 5	Jul 18	Aug 1	Aug 21
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<sup>1</sup>All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

<sup>2</sup>A 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.

<sup>3</sup>At 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 91-05-001**  
**PERMANENT RULES**  
**WILDLIFE COMMISSION**

[Order 483—Filed February 7, 1991, 1:20 p.m.]

Date of Adoption: January 11, 1991.

Purpose: To implement wild steelhead release regulations and close waters to the taking of steelhead.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 90-24-079 on December 5, 1990.

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

January 31, 1991

John C. McGlenn  
 Chairman

**NEW SECTION**

WAC 232-28-61815 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - CEDAR AND SAMMAMISH RIVERS, LAKE WASHINGTON, LAKE SAMMAMISH, SALMON BAY AND LAKE WASHINGTON SHIP CANAL (ALSO KNOWN AS LAKE UNION SHIP CANAL). Notwithstanding the provisions of WAC 232-28-618 on the Cedar and Sammamish Rivers, and in Lakes Washington and Sammamish, Salmon Bay, and Lake Washington Ship Canal (also known as Lake Union Ship Canal), only steelhead with missing adipose or ventral fins may be possessed (it is unlawful to possess a steelhead with a freshly cut or mutilated dorsal, ventral, or adipose fin) as follows:

Effective 12:01 AM December 8, 1990 to 11:59 PM February 28, 1991:

Cedar and Sammamish Rivers;

Salmon Bay;

Lake Washington;

Lake Sammamish; and

Lake Washington Ship Canal (also known as the Lake Union Ship Canal).

Also notwithstanding the provisions of WAC 232-28-618, the following waters are CLOSED to the taking of steelhead:

Effective 12:01 AM March 1, 1991 to 11:59 PM March 31, 1991:

Cedar and Sammamish Rivers; and Salmon Bay (only that portion as follows: from the east end of the north wing wall of the Chittenden Locks to a line approximately 175' seaward of, and parallel to the railroad bridge, and which runs through the wooden tower structure near the south shore).

Also notwithstanding the provisions of WAC 232-28-618, the following waters are CLOSED to the taking of steelhead:

Effective 12:01 AM March 1, 1991 to 11:59 PM May 31, 1991:

Lake Washington;

Lake Sammamish;

Salmon Bay (only that portion as follows: all waters from the Chittenden Locks (in Ballard) upstream (east) to the Fremont Bridge); and

Lake Washington Ship Canal (also known as the Lake Union Ship Canal).

This amends and supersedes certain provisions of the corresponding information shown in the 1990-91 Washington Game Fish Regulations pamphlet edition for these waters. All other provisions of WAC 232-28-618 relating to the above waters remain in effect.

**WSR 91-05-002**  
**PERMANENT RULES**  
**WILDLIFE COMMISSION**

[Order 484—Filed February 7, 1991, 1:24 p.m.]

Date of Adoption: January 11, 1991.

Purpose: To reduce the harvest of Oregon and Idaho hatchery steelhead that pass through Washington fisheries on the upper Snake River.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 90-24-078 on December 5, 1990.

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

January 31, 1991

John C. McGlenn  
 Chairman

**NEW SECTION**

WAC 232-28-61813 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - SNAKE RIVER. Notwithstanding the provisions of WAC 232-28-618 and WAC 232-12-618, the following regulations apply to the game fish season, catch and possession limits for the Snake River, from Lower Granite Dam upstream to the Oregon state line, effective November 19, 1990 through March 31, 1991, both dates inclusive. This amends the corresponding information on pages nine and eleven of the 1990-91 Washington Game Fish Regulations, pamphlet edition.

SNAKE RIVER, from Lower Granite Dam upstream to the Oregon state line: November 19, 1990-March 31, 1991 season. TROUT - catch limit - 6 over 10", no more than 1 over 20", with no more than 1 over 20" in possession. Each angler may retain 4 steelhead over 20" from this area for the time period of November 19, 1990 through March 31, 1991. Upon retainment of daily catch limit of 1 steelhead over 20" and/or the season limit of 4 steelhead over 20", angling may continue on a catch and release basis only.

The regulations for the area of the Snake River not described above remain in effect and unchanged, as they appear on page eleven of the 1990-91 Washington Game Fish Regulations, pamphlet edition.

**WSR 91-05-003**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1991 No. 4**

[February 5, 1991]

DEPARTMENT OF ECOLOGY—ECOLOGICAL COMMISSION—ADMINISTRATIVE LAW—RULES AND REGULATIONS—SHORELINE MANAGEMENT ACT

1. RCW 43.21A.190 provides that the Ecological Commission shall provide advice and guidance to the Director of the Department of Ecology with regard to the adoption of rules and regulations. The Commission's role is limited to providing advice and guidance. The Commission does not have the authority to prevent the Director from adopting regulations, that members of the Commission disapprove. This applies to regulations that the Director adopts in connection with the Shoreline Management Act.
2. RCW 43.21A.190, by its terms, does not apply to the Department of Ecology's responsibilities in the area of water resources. Thus, the Director need not seek the advice and guidance of the Ecological Commission on water resource regulations. The Commission does not have the authority to prevent the Director from adopting regulations relating to water resources.

Requested by:

Christine Gregoire  
 Director  
 Department of Ecology  
 Mail Stop: PV-11  
 Olympia, Washington 98504-8711

Fred Shiosaki  
 Chairman  
 Ecological Commission  
 c/o Washington Water Power  
 East 1411 Mission  
 Spokane, Washington

**WSR 91-05-004**  
 PERMANENT RULES  
 DEPARTMENT OF HEALTH  
 [Order 128—Filed February 7, 1991, 2:48 p.m.]

Date of Adoption: February 4, 1991.  
 Purpose: To amend fee schedule for physical therapists.  
 Citation of Existing Rules Affected by this Order: Amending WAC 308-42-075 [recodified as WAC 246-915-990].  
 Statutory Authority for Adoption: RCW 43.70.250.  
 Pursuant to notice filed as WSR 90-21-141 on October 24, 1990.  
 Effective Date of Rule: Thirty-one days after filing.  
 February 4, 1991  
 Pam Campbell Mead  
 for Kristine M. Gebbie  
 Secretary

**AMENDATORY SECTION** (Amending Order PM 650, filed 5/1/87)

WAC 308-42-075 PHYSICAL THERAPY FEES. The following fees shall be charged by the professional licensing services division of the department of ((licensing)) health:

Title of Fee	Fee
Application—((Examination (two or more parts—initial/retake))) <u>Fee</u>	\$100.00
((Application—Examination (one part—initial/retake) <del>_____</del>	<del>60.00</del>
Reciprocity application <del>_____</del>	<del>100.00</del>
License renewal	35.00
Late renewal penalty	35.00
Duplicate license	15.00
Certification	25.00

**WSR 91-05-005**  
 EMERGENCY RULES  
 DEPARTMENT OF FISHERIES  
 [Order 91-06—Filed February 7, 1991, 3:29 p.m., effective 12 noon, February 10, 1991]

Date of Adoption: February 6, 1991.  
 Purpose: Commercial fishing regulations.  
 Citation of Existing Rules Affected by this Order: Amending WAC 220-33-010.  
 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: Preseason run size estimates for lower river spring chinook indicate harvestable numbers are available. This regulation is adopted at the recommendation of the January 29, 1991, Columbia River Compact meeting.  
 Effective Date of Rule: 12 noon, February 10, 1991.  
 February 6, 1991  
 Judith Merchant  
 Deputy  
 for Joseph R. Blum  
 Director

**NEW SECTION**

WAC 220-33-01000V COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE. Notwithstanding the provisions of WAC 220-33-010, 220-33-020 and 220-33-030:  
 (1) It is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes from Columbia River SMCRA 1A, 1B, 1C, and that portion of Area 1D downstream from Kelly Point at the mouth of the Willamette River, except:  
 Noon February 10 until 6:00 p.m. February 12, 1991.  
 Noon February 17 until 6:00 p.m. February 22, 1991.  
 Noon February 24 until 6:00 p.m. March 1, 1991.  
 (2) It is unlawful to fish for salmon, shad and sturgeon with gill net gear with a mesh size less than 8 inches.

(3) During the season provided for in subsection 1 of this section, the following sanctuaries, as defined in WAC 220-33-005, are closed waters:

Grays Bay, Elokomina-A, Kalama-A, Lewis-A, Washougal, Cowlitz, Gnat Creek.

**WSR 91-05-006**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed February 7, 1991, 4:48 p.m.]

**Original Notice.**

Title of Rule: Chapter 16-154 WAC, Organic crop production standards; chapter 16-156 WAC, Organic and transition to organic producer certification; and chapter 16-158 WAC, Organic food processing certification and labeling.

Purpose: To amend rules to provide standards for organic crop production, and set record-keeping requirements for organic food producers.

Statutory Authority for Adoption: RCW 15.86.060.

Statute Being Implemented: Chapter 15.86 RCW.

Summary: The proposed amended rules outline the principles of organic food production, provide guidelines and standards for organic crop production, set record-keeping requirements, and list materials that are approved and prohibited for use in organic crop production.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Miles McEvoy, 406 General Administration Building, Olympia, 753-5043.

Name of Proponent: Washington Department of Agriculture, Organic Advisory Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amended rules will update the state's organic crop production standards. These standards include principles of organic food production; guidelines for organic crop production; standards for buffer zones, soil building, seeds and transplants; record-keeping requirements; and lists of materials approved and prohibited from use in organic crop production. The proposed rules cover all aspects of organic crop production from planting to post-harvest care.

Proposal Changes the Following Existing Rules: Chapter 16-154 WAC, proposed rule updates materials list and adds sections on definitions, principles of organic food production, organic crop production guidelines, and organic crop production standards; and chapters 16-156 and 16-158 WAC, the proposed amendments to chapter 16-154 WAC require technical changes to be made so that appropriate references are made between these rules and chapter 15.86 RCW.

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

Hearing Location: General Administration Building, 11th and Columbia, Large Auditorium, Olympia,

Washington 98504, on March 27, 1991, at 1:00 p.m.; and at the Law and Justice Center, 35 C. Street Northwest, Ephrata, WA 98823, on March 28, 1991, at 1:00 p.m.

Submit Written Comments to: Miles McEvoy, by March 27, 1991.

Date of Intended Adoption: April 11, 1991.

February 7, 1991

John Daly

Assistant Director

Chapter 16-154 WAC

**((RULES PERTAINING TO SALE OF ORGANIC FOODS))  
ORGANIC CROP PRODUCTION STANDARDS**

**AMENDATORY SECTION (Amending Order 1901, filed 8/29/86)**

WAC 16-154-010 ~~((FERTILIZATION, SOIL AMENDMENT, WEED AND PEST CONTROL.))~~ **PURPOSE.** ~~((Producers of food marketed as "organic," may use the following substances in the production of that food:~~

~~(1) Fertilization and soil amendment:~~

~~(a) Micro-organisms;~~

~~(b) Micro-biological products;~~

~~(c) Materials consisting of or derived or extracted solely from plants, animals, or mineral bearing rocks and not otherwise adulterated;~~

~~(d) Gypsum;~~

~~(e) Natural or amino acid chelated trace elements for known deficiencies as determined by soil and/or tissue testing;~~

~~(f) Soluble aquatic plant products;~~

~~(g) Unadulterated fish fertilizers;~~

~~(h) Treated sludge (provided that it falls within EPA guidelines);~~

~~(2) Weed, pest, and disease control, in addition to the above:~~

~~(a) Botanicals;~~

~~(b) Predatory and parasitic insects;~~

~~(c) Host specific bacterial and viral pesticides;~~

~~(d) Bordeaux mixture;~~

~~(e) Lime sulphur;~~

~~(f) Dormant oils;~~

~~(g) Summer oils;~~

~~(h) Soap and detergents;~~

~~(i) Lures and traps;~~

~~(3) Veterinary medicines for the treatment of specific livestock or poultry diseases or maladies in no event administered within ninety days of slaughter;~~

~~(4) The application of aromatic petroleum solvents, nicotine sprays, diesel, and other petroleum fractions used as weed or carrot oil is prohibited.)) This chapter is promulgated pursuant to RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act. This chapter provides standards for organic crop production, and sets recordkeeping requirements for organic crop producers.~~

**AMENDATORY SECTION (Amending Order 1901, filed 8/29/86)**

WAC 16-154-020 ~~((RECORDS.))~~ **PRINCIPLES OF ORGANIC FOOD PRODUCTION.** ~~((All producers who sell farm products identified as organic shall keep accurate records of the location of the acreage used for growing such products and the additions, excluding water, made to the soil or applied to the plants or added to irrigation water. Such records shall be retained for two years after date of such sale.)) The department recognizes that organic food production involves a holistic approach to farming in which farmers attempt to work in harmony with nature. It also recognizes that the foundation of organic farming lies in the soil, and that by providing a healthy soil ecosystem through encouraging soil tilth and microbiological activity, organic farmers produce healthy plants which are resistant to disease and other pests. Organic farms are those farms which strive to limit inputs, stress preventative pest control, and maintain healthy, vibrant soils. Organic farmers are working to develop a sustainable agricultural system of regional food production which is economically, environmentally, and socially viable.~~

**NEW SECTION**

WAC 16-154-030 DEFINITIONS. As used in this chapter:

- (1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.
- (2) "Approved material" means any material which is approved for use in organic food production.
- (3) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.
- (4) "Department" means the department of agriculture of the state of Washington.
- (5) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.
- (6) "Director" means the director of the department of agriculture or his or her duly authorized representative.
- (7) "Inert ingredient" means an ingredient which is not an active ingredient.
- (8) "Material" means any pesticide, plant regulator, defoliant, desiccant, spray adjuvant, fertilizer, soil amendment, growth regulator, or other substance or mixture of substances which is intended to be used in agricultural production or post-harvest use.
- (9) "Pesticide" means, but is not limited to:
  - (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest;
  - (b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;
  - (c) Any substance or mixture of substances intended to be used as a spray adjuvant; and
  - (d) Any other substances intended for such use as may be named by the director by regulation.
- (10) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculant, or soil amendments.
- (11) "Prohibited material" means any material which is prohibited for use in organic food production, handling, or processing.
- (12) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used.

**NEW SECTION**

WAC 16-154-040 ORGANIC FOOD PRODUCTION GUIDELINES. The following are guidelines for organic food production. Major soil nutrients are listed with suggestions on how these nutrients can be supplied in an organic agroecosystem. Suggestions concerning the management of weeds, insects, disease, and vertebrates are also provided. This list is offered as a reference for growers who are unfamiliar with organic farming or its underlying principles. This list is not meant to be comprehensive. The department strongly suggests that organic food producers use a variety of resources for information concerning organic food production.

- (1) Nitrogen: Green manures and leguminous cover crops; composted animal manures; bacterial inoculant for soil, legumes and compost; soy, cottonseed, and vegetable meal; blood, fish, or feather meal; and foliar sprays in conjunction with a soil building program.
- (2) Phosphorus: Composted manures high in phosphorus (poultry, guano); colloidal, soft, and hard rock phosphate; mycorrhizae to activate rock phosphate.
- (3) Potassium: Cover crops that activate potassium; mined granite, greensand, basalt, feldspar, langbenite, and potassium sulfate.
- (4) Secondary minerals: Kelp and seaweed extracts and powders; dolomite, gypsum, keiserite, langbenite, limestone, potassium sulfate, and rock phosphate from mined sources; oyster, clam, and crab shells; composts made from a variety of materials.
- (5) Micronutrients: Liquid or powdered seaweed extract, kelp meal, rock powders, chelates made with natural chelating agents.

(6) Growth promoter, activators and inoculants: Herbal preparations, seaweed extract, rhizobial inoculants, bio-dynamic preparations, cyanobacteria, humates, naturally occurring microbes.

(7) Weed management: Rotations with competitive cover crops, timely mowing or cultivation, mulching with organic materials, living mulches, weeder geese, grazing, careful sanitation to prevent introduction of weed seeds.

(8) Disease management: Removal of diseased tissue from growing areas, control of moisture levels, herbal or plant-derived sprays, mineral sprays, fungicidal soaps, vinegar and other natural substances, lime sulfur, bordeaux and elemental sulfur.

(9) Insect management: Preventive management such as the use of resistant varieties, timing to avoid cycles of pest emergence, intercropping, rotations, and balanced plant nutrition. Use of herbal sprays, rock powders, diatomaceous earth, dormant oils, parasitic nematodes, introduction of predators, habitat enhancement to encourage beneficial predators, sticky traps, microbial and viral diseases, pheromone trapping and monitoring, and mating disruption.

(10) Vertebrate management: Traps, repellent crops, noise, sanitation, habitat enhancement for bird and mammal predators.

(11) Post-harvest handling: Good sanitation, refrigeration, pheromone trapping.

**NEW SECTION**

WAC 16-154-050 ORGANIC CROP PRODUCTION STANDARDS. (1) Buffer zones. Crops harvested and marketed as "organic," "organically grown," or "transition to organic" shall be grown, raised, or produced within the meaning of RCW 15.86.030 at least twenty-five feet from the nearest application of prohibited materials.

(2) Soil building.

(a) In order for a crop to be considered "organically grown" a soil building program must be in place for at least three years, except for those crops grown hydroponically. In order for a crop to be considered "transition to organic" a soil building program must be in place for at least one year, except for those crops grown hydroponically.

(b) Upon request by the department producers of organic crops shall demonstrate their soil building programs and the department shall restrict producers from using the terms "organic," "organically grown," or "transition to organic" on crops grown without adequate soil building programs. An adequate soil building program includes using humic building materials such as manure, compost, cover crops, and rock minerals which build or maintain soil organic matter. Demonstration of soil building programs shall entail documentation of soil inputs and soil testing.

(3) Transplants.

(a) Annuals must be grown in an organic environment from seed through harvest. Annual transplants must be organically grown in order to meet the organic crop production standards.

(b) Nonorganically grown perennial transplants will be considered "organic" after they have been grown in organic soil for one year.

(4) Seeds. Untreated seeds and/or seeds treated with materials approved for organic food production are permitted for organic food production. The use of synthetic insecticides on or in seeds is prohibited. Seeds treated with fungicides may be used if the grower can demonstrate through written documentation that untreated seeds are unavailable. Strawberry crowns and potatoes are considered seeds for the purpose of this section.

**NEW SECTION**

WAC 16-154-060 RECORDS. All producers who sell farm products identified as organic shall keep accurate records of the location of the acreage used for growing such products and the additions, excluding water, made to the soil or applied to the plant or added to irrigation water. Such records shall be retained for two years after date of such sale.

**NEW SECTION**

WAC 16-154-070 MATERIALS LIST FOR ORGANIC FOOD PRODUCTION—FERTILIZERS, GROWTH PROMOTERS, AND SOIL AMENDMENTS. (1) Approved materials. The following list of fertilizers, growth promoters, and soil amendments are approved for use in organic crop production. Some approved materials have certain restrictions regarding their use. These restrictions are noted in the list. ALWAYS CAREFULLY READ THE LABEL AND ANY OTHER DOCUMENTATION. All materials must be applied with

awareness and care for the environment and in compliance with all state and federal laws.

- (a) Algae.
- (b) Animal manure: Excessive use of animal manure can lead to nitrate contamination of ground water. Heavy nitrogen use can also lead to high nitrate levels in leafy greens. Raw manure may be applied to:
  - (i) Any green manure crop;
  - (ii) Any perennial crop;
  - (iii) Any crop not for human consumption; and
  - (iv) Any crop for human consumption, if such crop is harvested after a reasonable period of time after the most recent application of raw manure, but in no event shall such period be less than sixty days.
- (c) Blood meal.
- (d) Blue-green algae or cyanobacteria.
- (e) Bone meal.
- (f) Boron products.
- (g) Biodynamic preparations.
- (h) Chelates: Chelated micronutrient sprays may be used in conjunction with soil and/or plant tissue tests. Amino acid, ligno-sulphate, citric acid, malic acid, tartaric acid, and other di- and tri- acid chelates are acceptable.
  - (i) Chilean nitrate (see sodium nitrate).
  - (j) Cocoa bean hulls: Needs to be tested for pesticide residues.
  - (k) Compost.
  - (l) Cottonseed meal: Needs to be tested for pesticide residues.
  - (m) Cyanobacteria or blue-green algae.
  - (n) Diatomaceous earth: Use a dust mask when applying to prevent lung irritation.
  - (o) Dolomite: May cause buildup of magnesium.
  - (p) Enzymes: Acceptable if derived microbiologically from natural materials and not fortified with synthetic plant nutrients.
  - (q) Epsom salts or magnesium sulphate.
  - (r) Fish emulsions: Forms which are "fortified" with urea or other synthetic plant nutrients are prohibited. Phosphoric acid used as a stabilizer in fish emulsion cannot exceed one percent by weight of P<sub>2</sub>O<sub>5</sub>.
  - (s) Fish meal.
  - (t) Gibberellic acid: Acceptable if made without synthetic substances.
  - (u) Grape, apple, and other pomaces.
  - (v) Greensand.
  - (w) Guano, bat, or bird.
  - (x) Gypsum.
  - (y) Hoof and horn meal.
  - (z) Humates: Humates are usually natural deposits which are mined and may contain high trace mineral contents. Acceptable if derived from leonardite, lignite, or coal.
    - (aa) Humic acid derivatives: These are extracts of humates which may be made with either natural or unnatural processes. These are only acceptable if derived from natural sources and not fortified.
    - (bb) Iron sulfate.
    - (cc) Kelp extracts.
    - (dd) Kelp meal.
    - (ee) Kieserite.
    - (ff) K-mag or sul-po-mag.
    - (gg) Leather meal or tankage: Needs to be tested for heavy metals.
    - (hh) Limestone.
    - (ii) Manure: See (b) animal manure.
    - (jj) Microbial soil inoculants.
    - (kk) Mined materials.
    - (ll) Mulches: Plastic mulches must not be incorporated into soil.
    - (mm) Mushroom compost: Needs to be tested for pesticide residues.
    - (nn) Peat moss: Unfortified forms only.
    - (oo) Perlite.
    - (pp) Phosphate rock.
    - (qq) Potassium sulfate.
    - (rr) Rock phosphate.
    - (ss) Shells, ground: Oyster, clam, lobster, and crab.
    - (tt) Sodium nitrate: Discouraged because of high sodium content. Cannot be used as the primary source of nitrogen. Sodium nitrate can be used for up to twenty percent of total nitrogen inputs. Total nitrogen is defined as pounds of nitrogen from all sources including, in part, manure, blood meal, compost, green manures, cover crops, and fish meal.
      - (uu) Spent controlled atmosphere lime.
      - (vv) Sugar beet lime: Needs to be tested for pesticide residues.
      - (ww) Sulfur, elemental: Direct application to soil discouraged.
      - (xx) Sulfates of zinc or iron.
      - (yy) Sul-po-mag or K-Mag.
      - (zz) Vermiculite.
      - (aaa) Wood ashes.
      - (bbb) Worm castings.
      - (ccc) Zinc sulfate.

(2) Prohibited materials. The fertilizers, growth promoters, and soil amendments that are prohibited for use in organic crop production includes but is not limited to the following:

- (a) Ammonia products.
- (b) Calcium nitrate.
- (c) Fortified humic acid derivatives.
- (d) Growth regulators, synthetic.
- (e) Hydrated lime.
- (f) Magnesium nitrate.
- (g) Mono-ammonium phosphate.
- (h) Muriate of potash.
- (i) Phosphoric acid.
- (j) Potassium nitrate.
- (k) Super phosphate.
- (l) Triple phosphate.
- (m) Urea.
- (n) Vitamin B-1.

#### NEW SECTION

WAC 16-154-080 MATERIALS LIST FOR ORGANIC FOOD PRODUCTION—INSECT PEST CONTROL MATERIALS AND PRACTICES. (1) Approved materials. The following list of pest control materials and practices for insects, mites, and other invertebrates are approved for use in organic crop production. Some approved materials have certain restrictions regarding their use. These restrictions are noted in the list. ALWAYS CAREFULLY READ THE LABEL AND ANY OTHER DOCUMENTATION. All materials must be applied with awareness and care for the environment and in compliance with all state and federal laws.

- (a) *Bacillus thuringiensis*: Liquid forms containing xylene are prohibited.
- (b) Beneficial insects.
- (c) Boric acid: Cannot be used on edible plant parts.
- (d) Codling moth granulosus virus.
- (e) Cryolite or sodium fluoaluminate: The mined material from Greenland is permitted.
- (f) Diatomaceous earth: Use a dust mask when applying to prevent lung irritation.
- (g) Dormant oils: Use only on woody plants as a dormant spray.
- (h) Garlic.
- (i) Herbal preparations: May not be extracted with synthetic solvents.
- (j) Insect extracts.
- (k) Nematodes.
- (l) Pheromones.
- (m) Piperonyl butoxide (PBO): California and Oregon no longer allow the use of PBO in the production of organic food.
- (n) Pyrethrums: Naturally occurring forms are allowed. The pyrethrums are highly unstable in the presence of air, light, and moisture. They have low mammalian toxicity and can cause dermatitis in humans. Use with caution.
- (o) Rotenone: Use with caution. Rotenone is highly toxic to fish. Its persistence in the soil is unknown, though it loses its effectiveness within one week. Should not be used on crops nearing harvest time. Commercial rotenone comes from tropical leguminous shrubs in the genera *Lonchocarpus* and *Derris*. The active compounds, rotenoids, are present in a variety of legumes including soybeans.
- (p) Ryania: Use with caution. The toxicological properties of ryania are largely unknown.
- (q) Sabadilla: Use with caution.
- (r) Soaps.
- (s) Sulfur, elemental.
- (t) Summer oils: May be used on woody plants only, carrot and/or weed oils are prohibited.
- (u) Trapping substances.
- (v) Tree seals: May be petroleum based but may not contain synthetic chemicals or fungicides.
- (w) Virus sprays.
- (2) Prohibited materials and practices. The insect pest control materials and practices that are prohibited for use in organic crop production includes but is not limited to the following:
  - (a) Abamectin or avermectin.

- (b) Carbamates.
- (c) Chlorinated hydrocarbons.
- (d) Dimethyl sulfoxide.
- (e) Methyl bromide.
- (f) Methyl sulfoxide.
- (g) Moth balls/crystals.
- (h) Nicotine: Nicotine is prohibited because of extreme toxicity.
- (i) Organophosphates.
- (j) Plant protectants, synthetic.
- (k) Pyrethroids, synthetic.

**NEW SECTION**

WAC 16-154-090 MATERIALS LIST FOR ORGANIC FOOD PRODUCTION—WEED CONTROL MATERIALS AND PRACTICES. (1) Approved materials. The following list of weed control materials and practices are approved for use in organic crop production. Some approved materials have certain restrictions regarding their use. These restrictions are noted in the list. ALWAYS CAREFULLY READ THE LABEL AND ANY OTHER DOCUMENTATION. All materials must be applied with awareness and care for the environment and in compliance with all state and federal laws.

- (a) Flaming: Broadcast and/or field burning is prohibited.
- (b) Grazing.
- (c) Herbicidal soaps.
- (d) Mechanical and cultural controls.
- (e) Mulches of organic materials.
- (f) Plastics for mulch, row covers, and solarization.
- (g) Weeder geese.

(2) Prohibited materials and practices. The weed control materials and practices that are prohibited for use in organic crop production includes but is not limited to the following:

- (a) Broadcast and/or field burning.
- (b) Carrot oil.
- (c) Field burning.
- (d) Herbicides.
- (e) Synthetic growth regulators.
- (f) Weed oils.

**NEW SECTION**

WAC 16-154-100 MATERIALS LIST FOR ORGANIC FOOD PRODUCTION—DISEASE CONTROL MATERIALS AND PRACTICES. (1) Approved materials. The following list of disease control materials and practices are approved for use in organic crop production. Some approved materials have certain restrictions regarding their use. These restrictions are noted in the list. ALWAYS CAREFULLY READ THE LABEL AND ANY OTHER DOCUMENTATION. All materials must be applied with awareness and care for the environment and in compliance with all state and federal laws.

- (a) Antibiotics: Naturally derived antibiotics are permitted for disease control.
  - (b) Bordeaux mixes: Use with caution. Excessive use of bordeaux may cause buildup of copper in the soil and limit its continued use.
  - (c) Copper hydroxide.
  - (d) Copper sulfate: Use with caution. Excessive use of copper sulfate may cause buildup of copper in the soil and limit its continued use.
  - (e) Dormant oils: Use only on woody plants as a dormant spray.
  - (f) Hydrated lime: Foliar application as a fungicide only. Shall not be used as a liming material.
  - (g) Hydrogen peroxide.
  - (h) Lime sulfur: Foliar application as a fungicide only.
  - (i) Soil pasteurization.
  - (j) Sulfur, elemental.
  - (k) Tree seals: May be petroleum based but may not contain synthetic chemicals or fungicides.
- (2) Prohibited materials and practices. The disease control materials and practices that are prohibited for use in organic crop production includes but is not limited to the following:
- (a) Broadcast and/or field burning.
  - (b) Soil fumigants.
  - (c) Synthetic fungicides, fumigants, sterilizants, and bactericides.

**NEW SECTION**

WAC 16-154-110 MATERIALS LIST FOR ORGANIC FOOD PRODUCTION—VERTEBRATE CONTROL MATERIALS AND PRACTICES. (1) Approved materials. The following list of vertebrate

pest control materials and practices are approved for use in organic crop production. Some approved materials have certain restrictions regarding their use. These restrictions are noted in the list. ALWAYS CAREFULLY READ THE LABEL AND ANY OTHER DOCUMENTATION. All materials must be applied with awareness and care for the environment and in compliance with all state and federal laws.

- (a) Deer and rabbit repellents: Acceptable if derived from a natural source.
  - (b) Predators: Cats, hawks, coyotes, airborne projectiles.
  - (c) Rodent traps.
  - (d) Strychnine: Underground use only.
  - (e) Synthetic vitamin baits.
- (2) Prohibited materials and practices. The vertebrate pest control materials and practices that are prohibited for use in organic crop production includes but is not limited to the following:
- (a) Anticoagulant rodent baits
  - (b) Aluminum phosphide
  - (c) Alpha-Naphthylthiourea
  - (d) coumarins
  - (e) calcium cyanide
  - (f) indandiones
  - (g) organochlorines
  - (h) organo phosphates
  - (i) pyriminilureas
  - (j) phosphorus
  - (k) sodium fluoroacetate
  - (l) thallium sulfate
  - (m) zinc phosphide.

**NEW SECTION**

WAC 16-154-120 MATERIALS LIST FOR ORGANIC FOOD PRODUCTION—POST-HARVEST MATERIALS AND PRACTICES. (1) Approved materials. The following list of materials and practices are approved for post-harvest use for organic food. Some materials have certain restrictions regarding their use. These restrictions are noted in the list. All materials must be used with awareness and care for the environment and in compliance with state and federal laws.

- (a) Beneficial insects.
  - (b) Carbon dioxide gas.
  - (c) Chlorine dioxide.
  - (d) Citric acid, naturally derived.
  - (e) Controlled atmosphere.
  - (f) Ethylene gas: Ethylene gas may be used on bananas only.
  - (g) Fruit waxes: Natural waxes are permitted as long as they do not contain synthetic additives.
  - (h) Hydrogen peroxide.
  - (i) Lignosulfonates for floating tree fruits.
  - (j) Soap, biodegradable.
  - (k) Soda ash for floating tree fruits.
  - (l) Sodium silicate for floating tree fruits.
- (2) Prohibited materials. The post-harvest materials and practices that are prohibited for use in organic crop production includes but is not limited to the following:
- (a) Antibiotics.
  - (b) Artificial preservatives.
  - (c) Fumigants.
  - (d) Fungicides.
  - (e) Irradiation.

**AMENDATORY SECTION** (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-005 STANDARDS FOR CERTIFICATION. Standards for organic producer and transition to organic producer certification shall be as set forth in RCW 15.86.030 and (~~WAC 16-154-010 and 16-154-020~~) chapter 16-154 WAC.

**AMENDATORY SECTION** (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-020 INSPECTION. The department of agriculture shall make at least one announced visit and any unannounced visit deemed necessary to each organic producer and transition to organic producer under the organic food certification program each year for the purpose of inspection for compliance with the standards for certification which are chapter 15.86 RCW (Organic food products) and

chapter 16-154 WAC (~~Rules pertaining to sale of organic foods~~)  
(Organic crop production standards).

This inspection may entail survey of required records, examination of crops and fields, and any other information deemed necessary to the requirements of this chapter.

It shall be the producer's responsibility to arrange for and bear the costs for any additional inspections which are deemed necessary by the director for certification.

**AMENDATORY SECTION** (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-035 **DECERTIFICATION.** Whenever the director finds that a producer who has been certified under this program has:

- (1) Violated the standards for certification which are set forth in RCW 15.86.030 (~~and WAC 16-154-010 and 16-154-020~~) or any rules adopted under chapter 15.86 RCW;
- (2) Has filed an application for certification which is false or misleading in any particular;
- (3) Has violated any of the provisions of this chapter; or
- (4) Has failed to provide records as required by WAC (~~16-154-020~~) 16-154-060;

The director may issue an order revoking that producer's certification under this program or he may issue an order directing the producer to take other appropriate action to correct the violation. If appropriate action is taken, the producer will be returned to its previous status under the program.

Any producer who has received notice that its certification may be revoked under this section may apply for a hearing under the Washington Administrative Procedure Act, chapter 34.05 RCW. Such application must be in writing, addressed to the director of the Washington department of agriculture and be received in the Olympia administrative offices not later than twenty days from the date of the notice of the opportunity to apply for a hearing.

**AMENDATORY SECTION** (Amending WSR 90-02-001, filed 12/21/89, effective 1/21/90)

WAC 16-156-060 **FEE SCHEDULE.** (1) The cost per application shall be based on a sliding scale of gross dollar volume. The fee shall accompany the application.

(~~Information on gross dollar volume shall not be disclosed to unauthorized persons.~~)

Gross Income	Annual Fee
\$ 0 - \$ 12,000	\$ 150
\$ 12,000 - \$ 15,000	\$ 185
\$ 15,000 - \$ 20,000	\$ 200
\$ 20,000 - \$ 25,000	\$ 275
\$ 25,000 - \$ 35,000	\$ 350
\$ 35,000 - \$ 50,000	\$ 500
\$ 50,000 - \$ 65,000	\$ 600
\$ 65,000 - \$ 80,000	\$ 750
\$ 80,000 - \$100,000	\$ 900
\$100,000 - \$150,000	\$ 1,000
\$150,000 - \$200,000	\$ 1,200
\$200,000 - \$280,000	\$ 1,400
\$280,000 - \$375,000	\$ 1,500
\$375,000 - \$500,000	\$ 2,000
\$500,000 and up	\$ 2,500

(2) Additional inspections (in addition to two inspections provided for), if required for certification by the director, shall be at \$20/hr. (~~+ 2¢/mile from the inspector's assigned duty station~~) plus mileage set at the rate established by the state office of financial management.

(3) Additional samples (in addition to one sample provided for), if required for certification by the director, shall cost an additional lab fee of one hundred ten dollars. If an additional visit must be arranged, it shall be at \$20/hr. (~~+ 2¢/mile from the inspector's assigned station~~) plus mileage set at the rate established by the state office of financial management.



**AMENDATORY SECTION** (Amending Order 2042, filed 6/5/90, effective 7/6/90)

WAC 16-158-120 **DECERTIFICATION.** Whenever the director finds that an organic food processor who has been certified under this program has:

- (1) Violated the standards for certification which are set forth in RCW 15.86.030 (~~and WAC 16-154-010 and 16-154-020~~) or any rules adopted under chapter 15.86 RCW;
- (2) Has filed an application for certification which is false or misleading in any particular;
- (3) Has violated any of the provisions of this chapter;
- (4) Has failed to provide records as required by WAC (~~16-154-020~~) 16-158-050; or
- (5) Has violated any provisions of chapter 69.04 or 69.07 RCW;

The director may issue an order suspending or revoking that processor's certification under this program or he may issue an order directing the organic food processor to take other appropriate action to correct the violation. If the appropriate action is taken, the processor will be returned to its previous status under the program.

Any organic food processor who has received notice that its certification may be revoked under this section may apply for a hearing under the Washington Administrative Procedure Act, chapter 34.05 RCW. Such application must be in writing, addressed to the director of the Washington department of agriculture and be received in the Olympia administrative offices not later than twenty days from the date of the notice of the opportunity to apply for a hearing.

This shall not preclude the department of agriculture from taking whatever action they deem appropriate under chapter 69.04 or 69.07 RCW for violations of those statutes.

### WSR 91-05-007

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed February 7, 1991, 4:50 p.m.]

Date of Adoption: January 23, 1991.

Purpose: To allow materials which comply with RCW 15.86.030 to be registered under the Department of Agriculture's organic food program.

Statutory Authority for Adoption: Chapter 15.86 RCW.

Pursuant to notice filed as WSR 91-01-116 on December 19, 1990.

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

February 7, 1991

C. Alan Pettibone  
Director

#### Chapter 16-160 WAC REGISTRATION OF MATERIALS FOR ORGANIC FOOD PRODUCTION

#### NEW SECTION

WAC 16-160-010 PURPOSE. This chapter is promulgated pursuant to RCW 15.86.060(1) wherein the director is authorized to adopt rules and regulations for the proper administration of chapter 15.86 RCW and RCW 15.86.070 wherein the director is authorized to adopt rules governing the certification of producers of organic food.

#### NEW SECTION

WAC 16-160-020 DEFINITIONS. As used in this chapter:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

(2) "Applicant" means the person who submits an application to register a material pursuant to the provisions of this chapter.

(3) "Approved material" means any material which is approved for use in organic food production under chapter 15.86 RCW, chapter 16-154 WAC, and WAC 16-160-060.

(4) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(5) "Department" means the department of agriculture of the state of Washington.

(6) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(7) "Director" means the director of the department of agriculture or his or her duly authorized representative.

(8) "Distribute" means to offer for sale, hold for sale, sell, barter, deliver, or supply materials in this state.

(9) "Inert ingredient" means an ingredient which is not an active ingredient.

(10) "Label" means the written, printed, or graphic matter on, or attached to, the material or the immediate container thereof, and the outside container or wrapper of the retail package.

(11) "Material" means any pesticide, plant regulator, defoliant, desiccant, spray adjuvant, fertilizer, soil amendment, growth regulator, or other substance or mixture of substances which is intended to be used in agricultural production or post-harvest use.

(12) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(13) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus (except virus or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(d) Any other substances intended for such use as may be named by the director by regulation.

(14) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculant, or soil amendments.

(15) "Prohibited material" means any material which is prohibited for use in organic food production, handling, or processing under chapter 15.86 RCW, chapter 16-154 WAC, and WAC 16-160-060.

(16) "Registrant" means the person registering any material pursuant to the provisions of this chapter.

(17) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used.

#### NEW SECTION

WAC 16-160-030 REGISTRATION OF MATERIALS. Every material which is manufactured within



this state and/or distributed within this state may be registered for use in organic food production if it meets the terms and conditions as set forth in this chapter. Such application shall be made prior to January 1 of each year.

#### NEW SECTION

**WAC 16-160-040 APPLICATION FOR MATERIAL REGISTRATION.** Applications for material registration shall be made on a form designated by the department. The form shall include:

- (1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;
- (2) The name of the material;
- (3) A complete copy of the labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use;
- (4) The complete formula of the materials including the active and inert ingredients;
- (5) A description of the manufacturing process including all materials used for the extraction and synthesis of the material, if appropriate;
- (6) The intended uses of the product;
- (7) For pesticides, a full description of the tests made and the results of acute toxicity, chronic toxicity, reproductive effects, teratogenicity tests, mutagenicity tests, carcinogenicity tests, ecological effects, environmental fate and persistence. Similar information on nonpesticide materials must be provided when the data are available; and
- (8) Any additional information deemed necessary.

#### NEW SECTION

**WAC 16-160-050 ANNUAL APPLICATION AND INITIAL INSPECTION FEE—EXPIRATION—CONTINUATION IF RENEWAL APPLICATION MADE.** (1) Any person desiring to register a material for organic food production shall file with the director an application and a yearly inspection fee as set forth in WAC 16-160-070 for each material. All registrations expire on December 31st of each year.

(2) If a renewal application has been filed and the yearly inspection fee paid, then the registration of any material which has been approved by the director and is in effect on the 31st day of December continues in full force and effect until the director notifies the applicant that the registration has been renewed, or until it is otherwise denied in accordance with WAC 16-160-090.

#### NEW SECTION

**WAC 16-160-060 CRITERION FOR REGISTRATION.** (1) The director shall review the information provided under WAC 16-160-040 and shall register the material as an "approved material" if he or she determines that:

- (a) Its composition is such as to warrant the proposed claims for it;
- (b) Its labeling and other material required to be submitted comply with state and federal laws;

(c) It is composed entirely of "approved" materials as stated in chapter 16-154 WAC or meets the provisions of subsection (2) of this section.

(2) Synthetic materials may be considered for registration by the director if he or she determines that:

- (a) The material is judged to be essential to the production of the crop;
- (b) The material is less toxic or environmentally hazardous than a naturally derived alternative; and
- (c) The use of the material is consistent with the principles of organic farming as set forth in WAC 16-154-020.

#### NEW SECTION

**WAC 16-160-070 INSPECTION.** Whenever the department receives an application for registration of materials under this chapter, the department shall conduct an inspection. This inspection may entail a survey of required records, examination of facilities, testing representative samples for prohibited materials, and any other information deemed necessary to the requirements of this chapter.

The applicant or registrant shall pay a yearly inspection fee of three hundred dollars at the time the application for material registration is filed with the director.

Additional inspections, if required, will be billed at twenty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

Additional samples (in addition to one sample provided for), if required shall cost an additional lab fee of one hundred ten dollars. If an additional visit must be arranged, it shall be at twenty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

#### NEW SECTION

**WAC 16-160-090 REFUSING OR CANCELING REGISTRATION—PROCEDURE.** (1) With regard to the initial registration of a material, if it does not appear to the director that the material is such as to warrant the proposed claims for it or if the material and its labeling and other material required to be submitted do not comply with the provisions of this chapter, he or she shall notify the registrant of the manner in which the material, labeling, or other material required to be submitted fails to comply with the provisions of this chapter or state or federal law so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such notice, the applicant does not make corrections, the director shall refuse to register the material.

(2) When evaluating a materials registration renewal application, the director may, when he or she determines that a material or its labeling does not comply with the provisions of this chapter or state or federal law, or if he or she determines that false or inaccurate information was provided by the registrant concerning the material, cancel the registration of a material after a hearing in accordance with the provisions of chapter 34.05 RCW provided that the applicant has otherwise made timely and sufficient application for registration renewal.

(3) During the current registration period of a material, the director may, when he or she determines that a material or its labeling does not comply with the provisions of this chapter or state or federal law, or if false or inaccurate information was provided by the registrant concerning the registered material, cancel the registration of such material after a hearing in accordance with the provisions of chapter 34.05 RCW.

### NEW SECTION

WAC 16-160-100 LABELING OF REGISTERED MATERIALS. Persons who apply under this program and whose material is registered as an "approved material" will be allowed to use the words, "approved material under Washington state department of agriculture organic food program" in their labeling. Registration as an "approved material" by no means implies the Washington department of agriculture endorses the use of such product.

**WSR 91-05-008**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 7, 1991, 4:55 p.m.]

Original Notice.

Title of Rule: WAC 388-83-041, 388-92-045, 388-95-380, and 388-99-040.

Purpose: To incorporate into WAC a new state plan provision that payments and interest from a sales contract are considered unearned income. The sales contract is an exempt resource unless the sales contract is transferred. To incorporate an OBRA 90 change affecting earned income tax credit refunds and payments.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Payments and income from sales contracts are considered unearned income. The sales contract is considered an exempt resource unless transferred. Earned income tax credit refunds or payments are exempt in the month received and the following month.

Reasons Supporting Proposal: Establish rules on income eligibility for medical assistance. The WAC incorporates a new provision that states payments and interest from sales contracts are considered unearned income unless the sales contract is transferred. Add to exempted and excluded income rules, earned income tax credit refunds and payments are exempt for the month received and the following month.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance, 753-0529.

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

Rule is necessary because of federal law, OBRA-90 State Plan Amendment.

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 March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 7, 1991

Rosemary Carr

Acting Director

Administrative Services

### NEW SECTION

WAC 388-83-041 INCOME-ELIGIBILITY. (1) For cash assistance recipients of AFDC, FIP, or SSI, the department shall find a person eligible for medical programs without a separate determination of eligibility.

(2) For non-cash medical assistance recipients or applicants, the department shall determine countable income according to AFDC, FIP, or SSI methodology, except the department shall:

(a) Budget income prospectively as defined under WAC 388-28-483;

(b) Not use mandatory monthly income reporting;

(c) Consider financial relative responsibility as described under WAC 388-83-130 and WAC 388-92-025;

(d) Exclude lump sum payments as described under WAC 388-92-045;

(e) Consider the AFDC earned income exemption as described under WAC 388-83-130; and

(f) Count the payment and interest from sales contracts as unearned income.

(g) Exclude earned income tax credit refunds and payments, the person receives on or after January 1, 1991, during the month of receipt and the following month.

AMENDATORY SECTION (Amending Order 2907, filed 12/1/89, effective 1/1/90)

WAC 388-92-045 EXCLUDED RESOURCES. (1) The department shall exclude the following resources in determining eligibility for medical programs:

~~((+))~~ (A) Home.

~~((+))~~ (i) A home means any shelter:

~~((+))~~ (A) In which the client ~~((or clients))~~ has ownership interest; and

~~((+))~~ (B) The client ~~((or clients))~~ uses as the principal place of residence. The department shall consider only one home as the client's principal place of residence.

~~((+))~~ (ii) Client's absence from the home shall not affect the home exclusion. The client's home shall remain the principal place of residence as long as:

~~((+))~~ (A) The client ~~((or clients))~~ intends to return home. The department shall accept the client's statement of intent without challenge; or

~~((+))~~ (B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:

(I) Consider ~~((an individual))~~ a person a dependent relative when such ~~((individual))~~ person is either financially or medically dependent on the client ~~((The department shall))~~; and

(II) Accept the client's or dependent relative's written ~~((allegation))~~ statement of dependency or relationship unless the department has reason to question it.

~~((+))~~ (iii) The department shall exclude the client's proceeds from the sale of the excluded home providing the client uses the proceeds ~~((are used))~~ to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income produced.

~~((4)) (iv)~~ The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-95-395.

~~((2)) (b)~~ Household goods and personal effects.

~~((3)) (c)~~ Automobile or automobiles.

~~((a)) (i)~~ The department shall exclude one automobile regardless of its value if ~~((t))~~ the automobile is:

~~((ii)) (A)~~ Necessary for employment; or

~~((ii)) (B)~~ Necessary for the ~~((individual's))~~ person's medical treatment; or

~~((iii)) (C)~~ Modified for operation by, or transportation of, a handicapped client; or

~~((iv)) (D)~~ Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.

~~((b)) (ii)~~ The department shall:

~~((ii)) (A)~~ Exclude one of the client's automobiles to the extent its current market value does not exceed four thousand five hundred dollars;

~~((iii)) (B)~~ Count any excess against the resource limit; and

~~((iii)) (C)~~ Exclude an automobile under this subdivision only if ~~((no))~~ an automobile is not excluded under subsection ~~((3)) (a))~~ (1)(c)(i) of this section.

~~((3)) (iii)~~ The department shall treat the client's ownership of other automobiles as nonexempt resources and count the client's automobile equity value toward the resource limit.

~~((4) Trade or business) (d)~~ Property essential to self-support.

~~((a))~~ The department shall exclude:

(i) Property regardless of value, when the client uses the property:

~~((A)~~ In a trade or business ~~((which is essential to self-support));~~ ~~(and~~

~~((ii)~~ Liquid resources as defined under WAC 388-92-005 even though such liquid resource may produce income.

~~((b)~~ This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc.; and

~~((c)~~ The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

~~(5) Nonbusiness property.~~ The department shall exclude nonbusiness property essential to the client's self-support. This exclusion shall include:

~~((a)~~ Nonliquid (see WAC 388-92-005), nonbusiness property if the individual:

~~((i)~~ Relies on the nonbusiness property as a significant factor in producing income on which the client can live; or

~~((ii)~~ Uses the nonbusiness property to produce goods, or provide services essential to the individual's support. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

~~((b)~~ Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual;

~~((c)~~ Tools, equipment, uniforms and similar items required by the individual's employer; and

~~((d)~~ The exclusion may include an additional automobile or other motor vehicle (truck, tractor, trailer, etc.) if the vehicle excluded under subsection (3) of this section is not used for self-support functions.

~~((6)) (B)~~ As an employee for work; or

~~((C)~~ As authorized by the government for income producing activity.

~~((ii)~~ Nonbusiness property up to six thousand dollars equity, when the client uses the property for producing goods or services essential to daily activities, solely for the client's household.

~~((iii)~~ Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce an annual income return of at least six percent of the excluded equity or is expected to produce at least a six percent return within a twenty-month period as long as the client:

~~((A)~~ Currently uses the property in items (1)(d)(i), (ii), and (iii) of this section in the described activity; or

~~((B)~~ Is expected to resume the use of the property in items (1)(d)(i), (ii), and (iii) of this section in the described activity within twelve months.

~~((e)~~ Resources of a blind or disabled ~~((individual))~~ person. The department shall exclude resources necessary to fulfill an approved plan for a client to achieve self-support as long as such plan remains in effect.

~~((7)) (f)~~ Alaska Native Claims Settlement Act stock. The department shall exclude shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable under the Alaska Native Claims Settlement Act.

~~((8)) (g)~~ Life insurance.

~~((a)) (i)~~ The department shall exclude the total cash surrender value if the total face value of all the ~~((policy or))~~ policies held by each ~~((individual))~~ person is over one thousand five hundred dollars or less.

~~((b)) (ii)~~ The cash surrender value applies to the resource limit if the face value of ~~((policy or))~~ all the policies held by each ~~((individual))~~ person is over one thousand five hundred dollars.

~~((3)) (iii)~~ When determining total face value in ~~((subdivision (a))~~ item (1)(h)(i) of this ~~((subsection))~~ subdivision, the department shall exclude term or burial insurance with no cash surrender value.

~~((9)) (h)~~ Restricted allotted land. The department shall exclude restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without permission of other ~~((individuals))~~ persons, the tribe, or an agency of the federal government.

~~((10)) (i)~~ Insurance settlements. The department shall exclude cash the client receives from an insurance company for purposes of repairing or replacing an excluded resource ~~((that is lost, damaged, or stolen, etc.))~~ providing the client uses the total amount of the cash to repair or replace such excluded resource within nine months. The department may extend the nine-month period based on circumstances beyond the control of the ~~((applicant))~~ client to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource.

~~((11)) (j)~~ Burial spaces. The department shall exclude the value of burial spaces for the client, the client's spouse, or any member of the client's immediate family.

~~((a)) (i)~~ Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of deceased persons.

~~((b)) (ii)~~ For purposes of ~~((this subsection))~~ subdivision (1)(k) of this section, immediate family means a client's minor and adult children, including adopted children and step-children; a client's brothers, sisters, parents, adoptive parents, and the spouses of those ~~((individuals))~~ persons. The department shall consider neither dependency nor living-in-the-same-household as factors in determining whether a person is an immediate family member.

~~((12)) (k)~~ Burial funds.

~~((a)) (i)~~ Funds specifically set aside for the burial arrangements of a client or the client's spouse not to exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-92-050.

~~((b)) (ii)~~ The department shall require funds set aside for burial expenses be separately identified and designated as set aside for burial. The department may exclude designated burial funds retroactively back to the first day of the month in which the ~~((individual))~~ person intended the funds to be set aside for burial or to November 1, 1982, whichever is later.

~~((c)) (iii)~~ Funds set aside for burial include revocable burial contracts, revocable burial trusts, other burial arrangements, or any other separately identifiable resources the ~~((individual))~~ person clearly designates as set aside for the ~~((individual's))~~ person's (or spouse's, if any) burial expenses.

~~((4)) (iv)~~ The department shall reduce the one-thousand-five-hundred-dollars-exclusion by:

~~((i)) (A)~~ The face value of the client's insurance policies owned by the person or spouse on the life of ~~((an individual owned by the individual or spouse))~~ the person if the policies have been excluded as provided in subsection ~~((3)) (1)(g)~~ of this section; and

~~((ii)) (B)~~ Amounts in an irrevocable trust.

~~((3)) (v)~~ The department shall exclude interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements if the excluded interest and appreciation are left to accumulate and become part of the separately identified burial fund.

~~((f)) (vi)~~ When used for other purposes, the department shall consider any excluded burial funds, interest, or appreciated values set aside for burial expenses as an available resource if, when added to other nonexempt resources, the total exceeds the resource limit.

~~((13)) (l)~~ Other resources excluded by federal statute.

~~((14)) (m)~~ Retroactive payments. The department shall exclude retroactive SSI including benefits a client receives under the interim

assistance reimbursement agreement with the social security administration, or OASDI payments (~~(from resources)~~):

~~((+))~~ (i) For six months following the month of receipt this exclusion applies to:

~~((+))~~ (A) Payments the client received from October 1, 1984 through September 30, 1987 and after September 30, 1989;

~~((+))~~ (B) Payments received by the client, spouse, and/or any other person whose income the department considers available to meet the applicant's or recipient's needs;

~~((+))~~ (C) SSI payments made to the client for benefits due for a month prior to the month of payment;

~~((+))~~ (D) OASDI payments made to the client for benefits due for a month that is two or more months prior to the month of payment; and

~~((+))~~ (E) Payments that remain in the form of cash, checking or saving accounts; this exclusion shall not apply once the retroactive payment has been converted to any other form.

~~((+))~~ (ii) For nine months following the month of receipt if:

~~((+))~~ (A) Subsection ~~((+)(a)(+))~~ (1)(m)(i)(B), ~~((+))~~ (C), ~~((+))~~ (D), and ~~((+))~~ (E) of this section is met; and

~~((+))~~ (B) The payment is received during the period beginning October 1, 1987, and ending September 30, 1989.

~~((+))~~ (n) Payments for medical or social services. The department shall exclude, from resources for the one-calendar month following the month of receipt, certain cash payments an SSI (~~(individual)~~) person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services.

~~((+))~~ (o) Restitution to civilians relocated and interned during war time. The department shall exclude payments to persons of Japanese or Aleut ancestry under P.L. 100-383.

~~(p)~~ The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41.

~~(q)~~ Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201.

~~(r)~~ Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not excluded.

~~(s)~~ Unspent assistance payments the client receives because of a presidentially declared major disaster, under P.L. 93-288, is excluded for nine months from date of receipt.

~~(i)~~ The exclusion may extend an additional nine months, if circumstances beyond the client's control:

~~(A)~~ Prevents the client from repairing or replacing the damaged or destroyed property; or

~~(B)~~ Keeps the client from contracting for such repair or replacement.

~~(ii)~~ Interest earned on the excluded resource is excluded for the period the exclusion applies.

~~(t)~~ Earned income tax credit refunds and payments, received on or after January 1, 1991, during the month of receipt and the following month.

~~(2)~~ The department shall not consider sales contracts as countable resources to the extent that the sales contracts are not transferred. WAC 388-83-027 shall apply to sales contract income and interest payments.

~~(3)~~ Applicants or recipients may transfer or exchange exempt resources. The department shall consider cash received from the sale of an exempt resource as a nonexempt resource to the extent that the cash is not used to:

~~(a)~~ Replace; or

~~(b)~~ Be reinvested in another exempt resource within the same month, except as specified under this section.

**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 2604, filed 3/2/88)

WAC 388-95-380 EXCLUDED RESOURCES. (~~(Applicants or recipients may transfer or exchange exempt resources. Exclude cash received from the sale of an exempt resource to the extent that it is used to replace or reinvest in another exempt resource within three~~

months. Consider any remaining portion a nonexempt resource. In determining the value of resources the department shall exclude the following:

~~(1)~~ A home:

~~(a)~~ A home is any shelter:

~~(i)~~ In which the client(s) has ownership interest; and

~~(ii)~~ Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.

~~(b)~~ Absences from the home shall not affect the home exclusion. It continues to be the principal place of residence as long as:

~~(i)~~ The individual intends to return home;

Accept the client's statement of intent without challenge; or

~~(ii)~~ The home is used by a spouse or dependent relative during the individual's absence. Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.

~~(c)~~ The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them:

~~(2)~~ Household goods and personal effects:

~~(3)~~ Automobile(s):

~~(a)~~ Totally exclude one automobile regardless of its value if it is:

~~(i)~~ Necessary for employment; or

~~(ii)~~ Necessary for the individual's medical treatment; or

~~(iii)~~ Modified for operation by, or transportation of, a handicapped person; or

~~(iv)~~ Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities:

~~(b)~~ Exclude one automobile to the extent its current market value does not exceed four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this subdivision only if no automobile is excluded under (a) of this subsection;

~~(c)~~ Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.

~~(4)~~ Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent:

~~(5)~~ Nonbusiness property which is essential to the means of self-support. See WAC 388-92-045(5):

~~(6)~~ Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect:

~~(7)~~ Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

~~(8)~~ Life insurance:

~~(a)~~ If the total face value of policies held by each individual is one thousand five hundred dollars or less the total cash surrender value shall be excluded:

~~(b)~~ If the face value of policy(ies) held by each individual is over one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations:

~~(c)~~ Term or burial insurance with no cash surrender value shall not be considered in determining total face value in (a) of this subsection:

~~(9)~~ Restricted ownership: Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government:

~~(10)~~ Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., shall be excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods shall be considered as an available resource:

~~(11)~~ Burial spaces:

(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.

(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customary and traditionally used for the remains of deceased persons.

(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and stepchildren, an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.

(12) Funds set aside for burial expenses:

(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not exceed one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.

(b) This exclusion shall apply if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-95-390.

(c) Funds set aside for burial expenses must be separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.

(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.

(e) The one thousand five hundred dollar exclusion shall be reduced by the face value of insurance policies on the life of an individual owned by the individual or spouse if the policies have been excluded as provided in subsection (8) of this section and amounts in an irrevocable trust.

(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.

(g) If any excluded burial funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purposes.

(13) Other resources excluded by federal statute:

(14) Retroactive payments: Exclude retroactive SSI or OASDI payments from resources for six months following the month of receipt. This exclusion applies to:

(a) Payments received on or after October 1, 1984.

(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.

(c) SSI payments made for benefits due for a month prior to the month of payment.

(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.

(e) Payments that remain in the form of cash, checking or saving accounts; this exclusion shall not apply once the retroactive payment has been converted to any other form)) (1) In determining eligibility, the department shall exclude resources specified under WAC 388-92-045.

(2) The department shall apply WAC 388-95-395 for transfers of resources.

#### AMENDATORY SECTION (Amending Order 2727, filed 11/18/88)

WAC 388-99-040 AVAILABILITY OF RESOURCES. (1) The department shall consider the resource standard for ((#H)) the medically needy ((to be)) program as listed under WAC 388-99-035.

(2) The department shall consider resources for:

(a) ((For)) SSI-related medically needy, according to chapter 388-92 WAC;

(b) ((For)) AFDC-related medically needy as in determining AFDC financial eligibility under WAC 388-28-415 through WAC 388-28-450, except for:

(i) Sales contracts, which are considered exempt resources unless transferred; and

(ii) Resources as determined under WAC 388-28-425.

(c) ((For)) FIP-related medically needy, as in determining FIP financial eligibility, except for sales contracts, which are considered exempt resources unless transferred.

(3) The department shall consider transferred sales contracts under WAC 388-83-130 (6)(c) and WAC 388-95-395.

(4) For households with more than one assistance unit, the department shall consider resources for each assistance unit according to the related program.

((#4)) (5) The department shall consider only resources available during the period for which income is computed.

### WSR 91-05-009 EMERGENCY RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)

[Order 3137—Filed February 7, 1991, 4:56 p.m., effective February 8, 1991, 12:01 a.m.]

Date of Adoption: February 7, 1991.

Purpose: To incorporate into WAC a new state plan provision that payments and interest from a sales contract are considered unearned income. The sales contract is an exempt resource unless the sales contract is transferred. To incorporate an OBRA 90 change affecting earned tax credit refunds and payments.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-041, 388-92-045, 388-95-380, and 388-99-040.

Statutory Authority for Adoption: RCW 74.08.090.

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

Reasons for this Finding: Establish rules on income eligibility for medical assistance. The WAC incorporates a new provision that states payments and interest from sales contracts are considered unearned income unless the sales contract is transferred. Add to exempted and excluded income rules, earned income tax credit refunds and payments are exempt for the month received and the following month.

Effective Date of Rule: February 8, 1991, 12:01 a.m.

February 7, 1991

Rosemary Carr

Acting Director

Administrative Services

#### NEW SECTION

WAC 388-83-041 INCOME-ELIGIBILITY. (1) For cash assistance recipients of AFDC, FIP, or SSI, the department shall find a person eligible for medical programs without a separate determination of eligibility.

(2) For non-cash medical assistance recipients or applicants, the department shall determine countable income according to AFDC, FIP, or SSI methodology, except the department shall:

(a) Budget income prospectively as defined under WAC 388-28-483;

(b) Not use mandatory monthly income reporting;

(c) Consider financial relative responsibility as described under WAC 388-83-130 and WAC 388-92-025;

(d) Exclude lump sum payments as described under WAC 388-92-045;

(e) Consider the AFDC earned income exemption as described under WAC 388-83-130; and

(f) Count the payment and interest from sales contracts as unearned income.

(g) Exclude earned income tax credit refunds and payments, the person receives on or after January 1, 1991, during the month of receipt and the following month.

**AMENDATORY SECTION** (Amending Order 2907, filed 12/1/89, effective 1/1/90)

WAC 388-92-045 EXCLUDED RESOURCES.

(1) The department shall exclude the following resources in determining eligibility for medical programs:

~~((+A)) (a) Home.~~

~~((+)) (i) A home means any shelter:~~

~~((+)) (A) In which the client ((or clients)) has ownership interest; and~~

~~((+Used by)) (B) The client ((or clients)) uses as the principal place of residence. The department shall consider only one home as the client's principal place of residence.~~

~~((+Client or clients)) (ii) Client's absence from the home shall not affect the home exclusion. The client's home shall remain((s)) the principal place of residence as long as:~~

~~((+)) (A) The client ((or clients)) intends to return home. The department shall accept the client's statement of intent without challenge; or~~

~~((+)) (B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:~~

~~(I) Consider ((an individual)) a person a dependent relative when such ((individual)) person is either financially or medically dependent on the client((- The department shall)); and~~

~~(II) Accept the client's or dependent relative's written ((allegation)) statement of dependency or relationship unless the department has reason to question it.~~

~~((+)) (iii) The department shall exclude the client's proceeds from the sale of the excluded home providing the client uses the proceeds ((are used)) to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income produced.~~

~~((+)) (iv) The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-95-395.~~

~~((+)) (b) Household goods and personal effects.~~

~~((+)) (c) Automobile or automobiles.~~

~~((+)) (i) The department shall exclude one automobile regardless of its value if ((+)) the automobile is:~~

~~((+)) (A) Necessary for employment; or~~  
~~((+)) (B) Necessary for the ((individual's)) person's medical treatment; or~~

~~((+)) (C) Modified for operation by, or transportation of, a handicapped client; or~~

~~((+)) (D) Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.~~

~~((+)) (ii) The department shall:~~

~~((+)) (A) Exclude one of the client's automobiles to the extent its current market value does not exceed four thousand five hundred dollars;~~

~~((+)) (B) Count any excess against the resource limit; and~~

~~((+)) (C) Exclude an automobile under this subdivision only if ((no)) an automobile is not excluded under subsection ((+)) (1)(c)(i) of this section.~~

~~((+)) (iii) The department shall treat the client's ownership of other automobiles as nonexempt resources and count the client's automobile equity value toward the resource limit.~~

~~((+Trade or business)) (d) Property essential to self-support. ((+)) The department shall exclude:~~

~~(i) Property regardless of value, when the client uses the property:~~

~~(A) In a trade or business ((which is essential to self support)); (and~~

~~(ii) Liquid resources as defined under WAC 388-92-005 even though such liquid resource may produce income.~~

~~(b) This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc.; and~~

~~(c) The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.~~

~~(5) Nonbusiness property. The department shall exclude nonbusiness property essential to the client's self-support. This exclusion shall include:~~

~~(a) Nonliquid (see WAC 388-92-005), nonbusiness property if the individual:~~

~~(i) Relies on the nonbusiness property as a significant factor in producing income on which the client can live; or~~

~~(ii) Uses the nonbusiness property to produce goods, or provide services essential to the individual's support. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.~~

~~(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual;~~

~~(c) Tools, equipment, uniforms and similar items required by the individual's employer; and~~

~~(d) The exclusion may include an additional automobile or other motor vehicle (truck, tractor, trailer, etc.) if the vehicle excluded under subsection (3) of this section is not used for self support functions.~~

~~(6)) (B) As an employee for work; or~~

~~(C) As authorized by the government for income producing activity.~~

(ii) Nonbusiness property up to six thousand dollars equity, when the client uses the property for producing goods or services essential to daily activities, solely for the client's household.

(iii) Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce an annual income return of at least six percent of the excluded equity or is expected to produce at least a six percent return within a twenty-month period as long as the client:

(A) Currently uses the property in items (1)(d)(i), (ii), and (iii) of this section in the described activity; or

(B) Is expected to resume the use of the property in items (1)(d)(i), (ii), and (iii) of this section in the described activity within twelve months.

(e) Resources of a blind or disabled ((individual)) person. The department shall exclude resources necessary to fulfill an approved plan for a client to achieve self-support as long as such plan remains in effect.

((f7)) (f) Alaska Native Claims Settlement Act stock. The department shall exclude shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable under the Alaska Native Claims Settlement Act.

((f8)) (g) Life insurance.

((f9)) (i) The department shall exclude the total cash surrender value if the total face value of all the ((policy or)) policies held by each ((individual)) person is over one thousand five hundred dollars or less.

((fb)) (ii) The cash surrender value applies to the resource limit if the face value of ((policy or)) all the policies held by each ((individual)) person is over one thousand five hundred dollars.

((fc)) (iii) When determining total face value in ((subdivision fa)) item (1)(h)(i) of this ((subsection)) subdivision, the department shall exclude term or burial insurance with no cash surrender value.

((fd)) (h) Restricted allotted land. The department shall exclude restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without permission of other ((individuals)) persons, the tribe, or an agency of the federal government.

((fe)) (i) Insurance settlements. The department shall exclude cash the client receives from an insurance company for purposes of repairing or replacing an excluded resource ((that is lost, damaged, or stolen, etc.)) providing the client uses the total amount of the cash to repair or replace such excluded resource within nine months. The department may extend the nine-month period based on circumstances beyond the control of the ((applicant)) client to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource.

((ff)) (j) Burial spaces. The department shall exclude the value of burial spaces for the client, the client's spouse, or any member of the client's immediate family.

((fa)) (i) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of deceased persons.

((fb)) (ii) For purposes of ((this subsection)) subdivision (1)(k) of this section, immediate family means a client's minor and adult children, including adopted children and step-children; a client's brothers, sisters, parents, adoptive parents, and the spouses of those ((individuals)) persons. The department shall consider neither dependency nor living-in-the-same-household as factors in determining whether a person is an immediate family member.

((fz)) (k) Burial funds.

((fa)) (i) Funds specifically set aside for the burial arrangements of a client or the client's spouse not to exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-92-050.

((fb)) (ii) The department shall require funds set aside for burial expenses be separately identified and designated as set aside for burial. The department may exclude designated burial funds retroactively back to the first day of the month in which the ((individual)) person intended the funds to be set aside for burial or to November 1, 1982, whichever is later.

((fc)) (iii) Funds set aside for burial include revocable burial contracts, revocable burial trusts, other burial arrangements, or any other separately identifiable resources the ((individual)) person clearly designates as set aside for the ((individual's)) person's (or spouse's, if any) burial expenses.

((fd)) (iv) The department shall reduce the one-thousand-five-hundred-dollars-exclusion by:

((fe)) (A) The face value of the client's insurance policies owned by the person or spouse on the life of ((an individual owned by the individual or spouse)) the person if the policies have been excluded as provided in subsection ((f8)) (1)(g) of this section; and

((fi)) (B) Amounts in an irrevocable trust.

((fv)) (v) The department shall exclude interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements if the excluded interest and appreciation are left to accumulate and become part of the separately identified burial fund.

((fw)) (vi) When used for other purposes, the department shall consider any excluded burial funds, interest, or appreciated values set aside for burial expenses as an available resource if, when added to other nonexempt resources, the total exceeds the resource limit.

((fz)) (l) Other resources excluded by federal statute.

((f7)) (m) Retroactive payments. The department shall exclude retroactive SSI including benefits a client receives under the interim assistance reimbursement agreement with the social security administration, or OASDI payments ((from resources)):

((fa)) (i) For six months following the month of receipt this exclusion applies to:

((fi)) (A) Payments the client received from October 1, 1984 through September 30, 1987 and after September 30, 1989;

((fi)) (B) Payments received by the client, spouse, and/or any other person whose income the department considers available to meet the applicant's or recipient's needs;



~~((iii))~~ (C) SSI payments made to the client for benefits due for a month prior to the month of payment;

~~((iv))~~ (D) OASDI payments made to the client for benefits due for a month that is two or more months prior to the month of payment; and

~~((v))~~ (E) Payments that remain in the form of cash, checking or saving accounts; this exclusion shall not apply once the retroactive payment has been converted to any other form.

~~((b))~~ (ii) For nine months following the month of receipt if:

~~((i))~~ (A) Subsection ~~((i)(a)(ii))~~ (1)(m)(i)(B), ~~((iii))~~ (C), ~~((iv))~~ (D), and ~~((v))~~ (E) of this section is met; and

~~((ii))~~ (B) The payment is received during the period beginning October 1, 1987, and ending September 30, 1989.

~~((15))~~ (n) Payments for medical or social services. The department shall exclude, from resources for the one-calendar month following the month of receipt, certain cash payments an SSI ~~(individual)~~ person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services.

~~((16))~~ (o) Restitution to civilians relocated and interned during war time. The department shall exclude payments to persons of Japanese or Aleut ancestry under P.L. 100-383.

(p) The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41.

(q) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201.

(r) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not excluded.

(s) Unspent assistance payments the client receives because of a presidentially declared major disaster, under P.L. 93-288, is excluded for nine months from date of receipt.

(i) The exclusion may extend an additional nine months, if circumstances beyond the client's control:

(A) Prevents the client from repairing or replacing the damaged or destroyed property; or

(B) Keeps the client from contracting for such repair or replacement.

(ii) Interest earned on the excluded resource is excluded for the period the exclusion applies.

(t) Earned income tax credit refunds and payments, received on or after January 1, 1991, during the month of receipt and the following month.

(2) The department shall not consider sales contracts as countable resources to the extent that the sales contracts are not transferred. WAC 388-83-027 shall apply to sales contract income and interest payments.

(3) Applicants or recipients may transfer or exchange exempt resources. The department shall consider cash received from the sale of an exempt resource as a non-exempt resource to the extent that the cash is not used to:

(a) Replace, or

(b) Be reinvested in another exempt resource within the same month, except as specified under this section.

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 2604, filed 3/2/88)

WAC 388-95-380 EXCLUDED RESOURCES. ~~((Applicants or recipients may transfer or exchange exempt resources. Exclude cash received from the sale of an exempt resource to the extent that it is used to replace or reinvest in another exempt resource within three months. Consider any remaining portion a nonexempt resource. In determining the value of resources the department shall exclude the following:~~

~~(1) A home:~~

~~(a) A home is any shelter:~~

~~(i) In which the client(s) has ownership interest; and~~

~~(ii) Which is used by the client(s) as the principal place of residence. Only one home may be the principal place of residence.~~

~~(b) Absences from the home shall not affect the home exclusion. It continues to be the principal place of residence as long as:~~

~~(i) The individual intends to return home;~~

~~Accept the client's statement of intent without challenge; or~~

~~(ii) The home is used by a spouse or dependent relative during the individual's absence. Dependency may be either financial or medical. The client's or dependent relative's written allegation of dependency or relationship shall be accepted unless there is reason to question it.~~

~~(c) The proceeds from the sale of the excluded home shall be excluded to the extent they are used to purchase another home within three months of the receipt of the proceeds. Proceeds shall include real estate contracts, or any similar home financing arrangements, and the income stream produced by them.~~

~~(2) Household goods and personal effects.~~

~~(3) Automobile(s):~~

~~(a) Totally exclude one automobile regardless of its value if it is:~~

~~(i) Necessary for employment; or~~

~~(ii) Necessary for the individual's medical treatment; or~~

~~(iii) Modified for operation by, or transportation of, a handicapped person; or~~

~~(iv) Necessary because of climate, terrain, distance, or similar factors to provide necessary transportation to perform essential daily activities.~~

~~(b) Exclude one automobile to the extent its current market value does not exceed four thousand five hundred dollars, any excess to be counted against the resource limit. An automobile may be excluded under this subdivision only if no automobile is excluded under (a) of this subsection;~~

~~(c) Other automobiles shall be treated as nonexempt resources and counted towards the resource limit to the extent of their equity value.~~



~~(4) Property of a trade or business which is essential to the means of self-support, however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.~~

~~(5) Nonbusiness property which is essential to the means of self-support. See WAC 388-92-045(5).~~

~~(6) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support for so long as such plan remains in effect.~~

~~(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.~~

~~(8) Life insurance:~~

~~(a) If the total face value of policies held by each individual is one thousand five hundred dollars or less the total cash surrender value shall be excluded.~~

~~(b) If the face value of policy(ies) held by each individual is over one thousand five hundred dollars there shall be no exclusion, cash surrender value must be applied to resource limitations.~~

~~(c) Term or burial insurance with no cash surrender value shall not be considered in determining total face value in (a) of this subsection.~~

~~(9) Restricted ownership: Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.~~

~~(10) Insurance settlements: Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., shall be excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within nine months that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods shall be considered as an available resource.~~

~~(11) Burial spaces:~~

~~(a) The value of burial spaces for the individual, the individual's spouse or any member of the individual's immediate family.~~

~~(b) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons.~~

~~(c) For purposes of this subsection immediate family means an individual's minor and adult children, including adopted children and step-children, an individual's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. Neither dependency nor living-in-the-same-household will be a factor in determining whether a person is an immediate family member.~~

~~(12) Funds set aside for burial expenses:~~

~~(a) Of the funds specifically set aside for the burial arrangements of an individual or the individual's spouse exclude only an amount which may not exceed one thousand five hundred dollars for each spouse. Burial funds in excess of this limit shall be counted towards the resource limit in WAC 388-92-050.~~

~~(b) This exclusion shall apply if the inclusion of any portion of such amount would cause the resources of the individual (or spouse, if any) to exceed the limits specified in WAC 388-95-390.~~

~~(c) Funds set aside for burial expenses must be separately identifiable and designated as set aside for burial. Designation may be used to exclude burial funds retroactively back to the first day of the month in which the individual intended funds set aside for burial or to November 1, 1982, whichever is later.~~

~~(d) Funds set aside for burial includes revocable burial contract, burial trust, or other burial arrangement or any other separately identifiable fund which is clearly designated as set aside for the individual's (or spouse's, if any) burial expenses.~~

~~(e) The one thousand five hundred dollar exclusion shall be reduced by the face value of insurance policies on the life of an individual owned by the individual or spouse if the policies have been excluded as provided in subsection (8) of this section and amounts in an irrevocable trust.~~

~~(f) Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are excluded from resources if left to accumulate and become a part of the separately identifiable burial fund.~~

~~(g) If any excluded burial funds, interest or appreciated values set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or the individual's spouse for whom the funds were set aside, future medical assistance benefits of the individual (or the individual and individual's spouse) shall be reduced by an amount equal to the amount of burial funds, interest or appreciated value used for other purposes.~~

~~(13) Other resources excluded by federal statute.~~

~~(14) Retroactive payments: Exclude retroactive SSI or OASDI payments from resources for six months following the month of receipt. This exclusion applies to:~~

~~(a) Payments received on or after October 1, 1984.~~

~~(b) Payments received by the individual, spouse, and/or any other person whose income is considered available to meet the applicant's or recipient's needs.~~

~~(c) SSI payments made for benefits due for a month prior to the month of payment.~~

~~(d) OASDI payments made for benefits due for a month that is two or more months prior to the month of payment.~~

~~(e) Payments that remain in the form of cash, checking or saving accounts, this exclusion shall not apply once the retroactive payment has been converted to any other form)) (1) In determining eligibility, the department shall exclude resources specified under WAC 388-92-045.~~

~~(2) The department shall apply WAC 388-95-395 for transfers of resources.~~

AMENDATORY SECTION (Amending Order 2727, filed 11/18/88)

WAC 388-99-040 AVAILABILITY OF RESOURCES. (1) The department shall consider the resource standard for ~~((aH))~~ the medically needy ((to-be)) program as listed under WAC 388-99-035.

(2) The department shall consider resources for:

(a) ~~((For))~~ SSI-related medically needy, according to chapter 388-92 WAC;

(b) ~~((For))~~ AFDC-related medically needy as in determining AFDC financial eligibility under WAC 388-28-415 through WAC 388-28-450, except for:

(i) Sales contracts, which are considered exempt resources unless transferred; and

(ii) Resources as determined under WAC 388-28-425.

(c) ~~((For))~~ FIP-related medically needy, as in determining FIP financial eligibility, except for sales contracts, which are considered exempt resources unless transferred.

(3) The department shall consider transferred sales contracts under WAC 388-83-130 (6)(c) and WAC 388-95-395.

(4) For households with more than one assistance unit, the department shall consider resources for each assistance unit according to the related program.

~~((+))~~ (5) The department shall consider only resources available during the period for which income is computed.

**WSR 91-05-010**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 3113AA—Filed February 7, 1991, 4:57 p.m., effective February 15, 1991]

Date of Adoption: February 7, 1991.

Purpose: To extend the effective date of this permanent rule from February 7, 1991, to February 15, 1991.

Citation of Existing Rules Affected by this Order: Amending chapter 388-77 WAC, Family independence program.

Statutory Authority for Adoption: RCW 74.21.070.

Pursuant to notice filed as WSR 90-21-149 on October 24, 1990; WSR 90-24-026 on November 30, 1990; and WSR 91-01-062 on December 14, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-77-010 is modified to include and clarify the definition of "good cause for late reporting." Although included by reference to the Washington Administrative Code (WAC) for the aid to families with dependent children program, some commenters felt that the definition should be set out specifically in FIP WAC; and WAC 388-77-500(2) is modified to limit the 185% gross income test to applications only. As proposed, the test would have applied to applications and to ongoing eligibility. The change is in response to and reflects the concerns raised by the legal services community.

Effective Date of Rule: February 15, 1991.

February 7, 1991  
 Rosemary Carr  
 Acting Director  
 Administrative Services

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-010 DEFINITION. Unless the context clearly requires otherwise, the definitions in WAC 388-77-010 apply throughout chapter 388-77 WAC. When using the definition for child, parent, stepparent, etc., this can stand for either singular or plural. Other definitions applicable to FIP are contained in chapters 388-22 and 388-49 WAC.

(1) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(2) "Benchmark standard" means the basic monthly level of cash benefits, established according to family size, which equals the state's payment standard under the aid to families with dependent children program, plus food cash assistance as determined in WAC 388-77-820.

(3) "Dependent" means spouse, minor children or stepchildren, full-time students eighteen years of age and under nineteen years of age who are reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which nineteen years of age is reached.

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive FIP cash assistance or other services under the family independence program.

(5) "Transitional benefits" means noncash benefits the enrollee is eligible to receive after eligibility for cash assistance no longer exists because of increased earnings.

(6) "Family independence program" means a demonstration project which remains within the AFDC system under Title IV of the federal Social Security Act and the Food Stamp Act.

(7) "Family independence program services" includes job readiness programs, job development, employment, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training on management of finances and use of credit.

(8) "FIP cash assistance" means the IV-A payment for the grant, additional requirements, and incentive and/or the cash equivalent for food stamps.

(9) "FIP noncash benefits" means benefits, such as medical or child care.

(10) "Full-time employment" means working one hundred fifty or more hours per month.

(11) "Good cause for late reporting" means any circumstance beyond the control of the enrollee. Good cause shall be determined by the department.

(12) "Half-time employment" means working seventy-five or more hours, but less than one hundred fifty hours, per month.

~~((12) "Incapacity" for FIP means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss which is supported by competent medical testimony and is of such a debilitating nature as to reduce substantially or eliminate the person's ability to support or care for his or her child or children.))~~

(13) "Incentive benefit payments" means those additional benefits payable to enrollees due to their participation in education, training, work programs, or employment.

(14) "Job" means a regularly performed lawful activity which generates a cash benefit for the enrollee.

(15) "Overpayment" means FIP cash assistance including food assistance, and/or medical benefits, received by the FIP assistance unit in excess of the amount for which the unit was eligible. An overpayment includes:

(a) "Intentional overpayment" means an overpayment resulting from a willful or knowing intent of the enrollee to receive or retain benefits to which the enrollee is not entitled;

(b) "Unintentional overpayment" means an overpayment that is not attributed to the applicant's/enrollee's willful intent to defraud the department.

(16) "Qualifying parent" means the parent in a two-parent household who earned the greater amount of income in the twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed.

(17) "Self-sufficiency plan" means a written agreement between the employment security department or the department and the enrollee that may include activities specifically undertaken for self-support, and other items outlined in the employability plan or social services plan.

(18) "Subsidized employment" means employment for which FIP has provided the employer the financial resources, in whole or in part, to compensate an enrollee for the performance of work.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-320 RESOURCES—EXEMPT. In addition to those exempted under aid to families with dependent children in WAC 388-28-005 through 388-28-474 and 388-28-575, the department shall exempt ~~((the following resources for FIP Title IV-A assistance:~~

~~(1) The cash surrender value of life insurance;~~  
~~(2) The cash surrender value of burial plots and pre-paid funeral agreements;~~

~~(3))~~ nonexempt real property as long as the enrollee is making a good faith effort to sell the property.

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-500 INCOME—DETERMINATION OF NEED. (1) An applicant is not eligible for FIP cash assistance if nonexempt gross monthly income less disregards, as specified in AFDC, exceeds the payment standard and authorized additional requirements for AFDC in effect at the time of application:

(a) The department shall ~~((not))~~ apply the one hundred eighty-five percent gross income test in WAC 388-28-484(7) to the income of FIP applicants; and

(b) For the purpose of subsection (1) of this section, an applicant shall not have been a recipient of AFDC or an enrollee of FIP for ninety days prior to application.

(2) For FIP enrollees, the AFDC one hundred eighty-five percent gross income test and the AFDC payment standard test shall not apply.

(3) Unless the household qualifies for a hold-harmless payment, an enrollee shall not be eligible for IV-A FIP cash assistance if nonexempt monthly income less disregards exceeds the totals of:

(a) The payment standard for AFDC for the appropriate household size;

(b) Applicable incentives; and

(c) Authorized additional requirements.

(4) An enrollee shall not be eligible for FIP cash assistance when nonexempt income less deductions exceeds the benchmark plus applicable incentives and authorized additional requirements unless the household qualifies for a hold-harmless payment. For the purpose of subsection (4) of this section, the food assistance amount used in the benchmark shall be calculated at eighty percent of the thrifty food plan.

(5) The department shall determine the exempt or nonexempt status of all income.

AMENDATORY SECTION (Amending Order 2984, filed 5/31/90, effective 7/1/90)

WAC 388-77-515 INCOME—EXEMPT. In addition to income exempted under the AFDC program in chapter 388-28 WAC, the department shall exempt the following income from FIP:

(1) Higher education benefits;

~~((2) Earned income tax credit (EIC);~~

~~(3))~~ The earnings of a child under eighteen years of age;

~~((4))~~ (3) Retroactive FIP benefits;

~~((5))~~ (4) Income tax refunds; and

~~((6) Loans, if there is a written agreement to repay;~~

~~(7) Income in-kind; and~~

~~(8))~~ (5) Gifts as follows:

(a) Small nonrecurring gifts, not to exceed thirty dollars per recipient in any quarter;

(b) Gifts to cover the costs of tuition, books, or fees; or

(c) Gifts to cover medical expenses for procedures used to eliminate barriers to employment.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

## WAC 388-77-520 INCOME—DEDUCTIONS.

(1) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income.

(2) The department shall not allow the ten percent earned income deduction if earnings are reported after the eighteenth of the process month without good cause.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-555 EARNED INCOME REPORTING. (1) The department shall send employed enrollees a form to report their gross earnings and hours worked. This section shall not apply to an employed child.

(2) Approved applicants who are employed shall begin to report their earnings and hours worked the month following the month of opening.

(3) Newly employed enrollees shall report earnings and hours worked in writing beginning the month following the month the department becomes aware of the earnings.

(4) The department shall:

(a) Issue advance and adequate notice of (~~suspension and~~) termination to an enrollee who fails to submit a written report and verify earned income and hours worked by the tenth of the process month;

(b) (~~Suspend~~) Terminate FIP cash assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the process month;

(c) (~~Terminate FIP assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the payment month. Assistance shall be terminated effective the end of the payment month; however, cash assistance shall not be provided for the payment month; and~~

(d) ~~Reinstate assistance to the start of the payment month, suspend or terminate FIP assistance as appropriate when earned income and hours worked are reported and necessary verification is provided by the end of the payment month, and give advance and adequate notice of the action taken~~) Disallow AFDC income disregards in the hold-harmless calculation if income is reported after the eighteenth of the process month without good cause.

(5) Earned income reporting shall apply to both the Title IV-A and food assistance portions of FIP in place of mandatory monthly reporting.

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-600 STANDARDS OF ASSISTANCE—HOLD HARMLESS. (1) The department shall ensure no applicant or enrollee of FIP receives less financial assistance than he or she would otherwise have been entitled to receive as a sum of the AFDC and food stamp programs under the rules in effect January 1, 1988, and as adjusted to reflect all increases in:

(a) The federal food stamp allotment and deductions; and

(b) The Washington state payment standard for AFDC.

(2) The department shall compare the amount the household would have received under the AFDC program (excluding the allowance for the child care) with the FIP IV-A payment. If the AFDC payment amount is greater, the department shall issue a supplement to bring the FIP IV-A payment up to the amount the household would have received on AFDC.

(3) Notwithstanding subsection (2) of this section, the department shall allow the AFDC child care deduction in the hold-harmless computation for the month of conversion to FIP and the month following if such deduction may be allowed for AFDC.

AMENDATORY SECTION (Amending Order 2757, filed 1/13/89)

WAC 388-77-610 STANDARDS OF ASSISTANCE—INCENTIVE STANDARDS. (1) The department shall provide enrollees who are teen parents in high school or enrollees who are employed with incentive benefits as follows:

(a) Five percent of the benchmark standard for pregnant or parenting teenage parents under twenty-two years of age who stay in:

(i) High school and progress toward graduation; and

(ii) Participate, when available, in parenting education approved by the office of the superintendent of public instruction or the department.

(b) Fifteen percent of the benchmark standard for enrollees working half time;

(c) Thirty-five percent of the benchmark standard for enrollees working full-time.

(2) As described under subsection (1) of this section, the department shall not provide employment incentives for:

(a) Earnings reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(b) Income that is exempt or disregarded.

(3) The department shall provide other FIP enrollees participating in education or training programs approved by ESD or the department with incentive benefits equaling five percent of the benchmark standard.

~~((3))~~ (4) The department shall allow self-employed enrollees with an approved self-employment plan fifteen percent or thirty-five percent of the benchmark standard based on:

(a) The enrollee's declaration of hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(b) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

~~((4))~~ (5) An enrollee's participation in job search skills development or job search activities shall not qualify the enrollee for an incentive under WAC 388-77-610.

~~((5))~~ (6) The department shall not allow more than one incentive per assistance unit. The department shall allow the incentive at the highest level for which the assistance unit qualifies.

~~((6))~~ (7) The department shall round incentive payments down to the nearest dollar.

~~((7))~~ (8) The department shall provide incentives for employment to correspond with the budgeting of income. Incentives for training shall be provided using prospective budgeting.

~~((8))~~ (9) For the purposes of the incentive computation, the department shall calculate the food assistance amount used in the benchmark at eighty percent of the thrifty food plan. The department shall round the product of the calculation of the eighty percent of the thrifty food plan down to the nearest dollar.

**AMENDATORY SECTION** (Amending Order 2630, filed 6/1/88)

WAC 388-77-615 STANDARDS OF ASSISTANCE—PAYMENT AMOUNTS. (1) To determine FIP Title IV-A cash assistance, the department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements(:

~~(a) The department shall not pay grants less than one dollar; and~~

~~(b))~~. The department shall round the amount to be issued down to the nearest dollar.

(2) Payment amounts for enrollees, not in their own home, shall be as in WAC 388-29-125 through 388-29-280.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

388-77-230 FAMILY INDEPENDENCE PROGRAM—INCAPACITY CRITERIA.

388-77-530 INCOME—NONRECURRING LUMP SUM PAYMENTS.

**WSR 91-05-011**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 3138—Filed February 7, 1991, 4:59 p.m.]

Date of Adoption: February 7, 1991.

Purpose: To allow the community services office to waive the medical application face-to-face office eligibility interview.

Citation of Existing Rules Affected by this Order: Amending WAC 388-84-105 Medical assistance.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-01-022 on December 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: Subsection (1) assistance or the limited casualty is deleted and changed to read medical programs; subsection (2) is changed to read medical programs rather than medical assistance and limited casualty programs; in subsections (2)(a)(ii) and (iii) the "on" is changed to read "about"; a new subsection (2)(a)(v) is added to say, "Information about the special supplemental food program for women, infants and children's (WIC), when appropriate."; in subsections (3) and (3)(b)(i), an "s" is added to community service office; in subsection (3) the work "office" is inserted before interview; in subsection (3)(c), the "for only medical assistance" is changed to read "only for a medical program"; in subsection (6), medical assistance programs is changed to a medical program.

The principal reasons for adopting the changes are as follows: To assure applications for medical programs are covered under the medical application rules. These changes take into consideration applications for the new children's health program, which by definition is not called "medical assistance." OBRA 1989, directed the states to inform certain clients of the special supplemental food program for women, infants and children's (WIC). This WAC was changed to reflect this addition. The other changes are technical error corrections.

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

February 7, 1991

Rosemary Carr

Acting Director

Administrative Services

**AMENDATORY SECTION** (Amending Order 2672, filed 8/17/88)

WAC 388-84-105 MEDICAL ~~((ASSISTANCE))~~ APPLICATION. (1) The department shall accept and process applications for medical ~~((assistance or the limited casualty))~~ programs as described under subsections of WAC 388-38-010, 388-38-030, 388-38-040, 388-38-045, and 388-38-050 except as specified under this section.

(2) The department shall accept applications for medical programs without delay.

(a) The department shall provide clients with:

(i) An explanation of the Civil Rights Act;

(ii) Fair hearing information;

(iii) Information ~~((on))~~ about early and periodic screening, diagnosis, and treatment (EPSDT), when appropriate; and

(iv) Information ~~((on))~~ about family planning, when appropriate.

(v) Information about the special supplemental food program for Women, Infants and Children's (WIC), when appropriate.

(b) The ((application)) request for medical programs shall be in writing((; a verbal request is not an application)) on a form designated by the department.

(c) A relative or ((interested person)) representative may complete the application ((if)) on behalf of a client, when the client is unable to complete the application or if the client dies.

(3) The department shall complete the application process by conducting a face-to-face interview in the local community services office, unless the:

(a) Department has adequate information to determine eligibility for medical programs without an office interview;

(b) Client requests the office interview be waived and the client:

(i) Is unable to come to the community services office; and

(ii) Has no representative to complete the interview; or

(iii) Is unable to name a representative to complete the interview;

(c) Client is a pregnant woman applying only for a medical program; or

(d) Medical application is for an infant up to one year of age.

(4) If the client meets the requirements of subsections (3)(b), (c), or (d) then the department shall complete the application process through:

(a) A face-to-face home visit;

(b) A telephone interview; or

(c) The mail.

((2)) (5) The department shall find clients who receive cash assistance under AFDC, FIP, SSI, or state supplement eligible for medical assistance without a separate application.

((3)) (6) A spouse ineligible for SSI benefits solely because of the level of the spouse's income shall apply individually for a medical ((assistance)) program.

((4)) (7) A resident of the state of Washington temporarily out of the state may make application directly to the community services office (CSO) in the resident's area of the state through either an individual or agency acting in the resident's behalf.

#### WSR 91-05-012

##### PERMANENT RULES

#### EDMONDS COMMUNITY COLLEGE

[Filed February 8, 1991, 3:00 p.m.]

Date of Adoption: January 23, 1991.

Purpose: To put in place a process whereby students found by the college to have violated chapter 69.41 RCW may request hearing and review before the college implements suspension from athletic participation.

Statutory Authority for Adoption: RCW 28B.50.140.

Other Authority: Chapter 69.41 RCW.

Pursuant to notice filed as WSR 90-24-025 on November 30, 1990.

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

February 5, 1991

Barbara Patterson

Director of Human Resources  
and Assistant to the President

#### Chapter 132Y-400 WAC LOSS OF ELIGIBILITY—STUDENT ATHLETIC PARTICIPATION

#### NEW SECTION

WAC 132Y-400-010 GROUND FOR INELIGIBILITY. Any student found by the college to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise insofar as it prohibits the possession, use, or sale of legend drugs, including anabolic steroids, will be disqualified from participation for one year in any school-sponsored athletic event or activity.

#### NEW SECTION

WAC 132Y-400-020 SUSPENSION PROCEDURE—RIGHT TO INFORMAL HEARING. Any student notified of a claimed violation of WAC 132Y-400-010 shall have the right to a brief adjudicative hearing if a written request for such a hearing is received by the president within three days after receipt of the declaration of further athletic ineligibility. If no written request is received within three days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudicative hearing and will be declared ineligible from further participation in school-sponsored athletic events for the remainder of the school year.

#### NEW SECTION

WAC 132Y-400-030 HEARING. If a timely written request for a hearing is made, the president shall designate a hearing officer who shall be a college officer who is not involved with the athletic program to conduct the brief adjudicative hearing. The hearing officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482 through 34.05.494.

#### NEW SECTION

WAC 132Y-400-040 DECISION. The college official who acts as hearing officer shall issue a written decision which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered, or prepared by the hearing officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the brief adjudicative hearing and in no event later than twenty days after the request for hearing is received by the president.

#### WSR 91-05-013

##### NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—February 6, 1991]

The board of directors of the Washington State Convention and Trade Center will meet on Wednesday, February 13, 1991, at 2:00 p.m. in the 5th Floor Board Room

of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call 447-5000.

**WSR 91-05-014**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—February 6, 1991]

Following are the meeting schedules for regular meetings to be held by the University of Washington's Departments of American Ethnic Studies and Astronomy.

**ASTRONOMY FACULTY**

Meeting Dates	Location	Time
Every Tuesday	Astronomy Conference Room	4 p.m.

**AMERICAN ETHNIC STUDIES**

**Departmental**

Meeting Dates	Location	Time
January 22	A516 Padelford	3:30
February 4	A516 Padelford	3:30
February 20	A516 Padelford	3:30
March 4	A516 Padelford	3:30
March 18	A516 Padelford	3:30
April 22	A516 Padelford	3:30
May 20	A516 Padelford	3:30
June 3	A516 Padelford	3:30

**Executive**

Meeting Dates	Location	Time
January 24	A516 Padelford	3:30

**WSR 91-05-015**  
**PERMANENT RULES**  
**DEPARTMENT OF FISHERIES**

[Order 91-07—Filed February 8, 1991, 4:44 p.m.]

Date of Adoption: January 29, 1991.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-69-260, 220-69-262, 220-69-264, and 220-69-26401.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 91-01-005 on December 6, 1990.

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

January 29, 1991

Judith Merchant

Deputy

for Joseph R. Blum

Director

**AMENDATORY SECTION** (Amending Order 90-05, filed 1/19/90, effective 2/19/90)

**WAC 220-69-260 DISTRIBUTION OF COPIES OF CANNERY AND TROLL FISH RECEIVING TICKET.** State of Washington cannery and troll fish

receiving tickets shall be made out in quintuplicate (five copies) at the time of landing. Upon completion of the fish receiving ticket the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver for their use.

(2) The state copies #1 and #2 (green and pink) shall be mailed to the department of fisheries. It is required that the state copies be received by the department no later than the ((fourth)) sixth working day after the day the ticket was completed by the original receiver.

(3) Dealer copy #2 (yellow) shall be retained by receiver for their use.

(4) Fisherman copy (gold) shall be retained by the deliverer for their use.

**AMENDATORY SECTION** (Amending Order 86-102, filed 9/12/86)

**WAC 220-69-262 DISTRIBUTION OF COPIES OF MARINE AND UTILITY FISH RECEIVING TICKET.** State of Washington marine and utility fish receiving tickets shall be made out in quadruplicate (four copies) at the time of landing. Upon completion of the fish receiving ticket, the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver for their use.

(2) The state copy (green) shall be mailed to the department of fisheries. It is required that the state copy be received by the department no later than the ((fourth)) sixth working day after the day the ticket was completed by the original receiver.

(3) The dealer copy #2 (yellow) shall be retained by receiver for their use.

(4) The fisherman copy (gold) shall be retained by the deliverer for their use.

**AMENDATORY SECTION** (Amending Order 90-05, filed 1/19/90, effective 2/19/90)

**WAC 220-69-264 DISTRIBUTION OF COPIES OF TREATY INDIAN FISH RECEIVING TICKETS.** State of Washington treaty Indian fish receiving tickets shall be made out in quintuplicate (five copies) at the time of landing. Upon completion of the treaty Indian fish receiving ticket, the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver for their use.

(2) The state copy (green) and the game copy (pink) shall be mailed to the Northwest Indian Fisheries Commission, P.O. Box 5247, Lacey, Washington 98503. It is required that the state copy and game copy be received by the Northwest Indian Fisheries Commission no later than the ((fourth)) sixth working day after the day the ticket was completed by the original receiver.

(3) The tribal copy (yellow) shall be mailed with the state and game copies to the Northwest Indian Fisheries Commission, P.O. Box 5247, Lacey, Washington 98503: PROVIDED, That upon written agreement received by the department of fisheries from a specific tribe and buyer indicating the desire to transmit the tribe's copy

directly to the fisherman's tribe, then that one copy may be so disposed.

(4) The fisherman copy (gold) shall be retained by the deliverer for their use.

**AMENDATORY SECTION** (Amending Order 86-102, filed 9/12/86)

WAC 220-69-26401 DISTRIBUTION OF COPIES OF SHELLFISH RECEIVING TICKET. State of Washington shellfish receiving tickets shall be made out in quintuplicate (five copies) at the time of landing. Upon completion of the shellfish receiving ticket, the copies shall be distributed as follows:

(1) The dealer copy #1 (white) shall be retained by receiver of their use.

(2) The state copy #1 (green) shall be mailed to the department of fisheries. It is required that the state copy be received by the department no later than the ~~((fourth))~~ sixth working day after the day the ticket was completed by the original receiver.

(3) The state copy #2 (pink) shall be mailed with state copy #1 (green) to the department of fisheries.

(4) The dealer copy #2 shall be retained by the receiver for their use.

(5) The fisherman copy (gold) shall be retained by the deliverer for their use.

**WSR 91-05-016  
PERMANENT RULES  
DEPARTMENT OF FISHERIES**

[Order 91-08—Filed February 8, 1991, 4:48 p.m.]

Date of Adoption: February 8, 1991.

Purpose: Amend auction rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-49-063.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 91-02-108 on January 2, 1991.

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

February 8, 1991  
Judith Merchant  
Deputy  
for Joseph R. Blum  
Director

**AMENDATORY SECTION** (Amending Order 90-17, filed 3/8/90, effective 4/8/90)

WAC 220-49-063 SPAWN ON KELP PERMITS—APPLICATIONS. (1) Any herring fisher holding a herring validation under RCW 75.30.140 may participate in an auction for spawn on kelp permits. Proof of current validation must be presented before entering the auction. No more than one permit will be awarded to each validation holder.

(2) The department shall offer spawn on kelp permits under the following conditions:

(a) The department shall establish a minimum acceptable bid for ~~((a))~~ each permit.

(b) Permits shall be offered by open and sealed bidding at auction. The permit will be awarded to the bidder with the highest bid.

(c) Each permit shall be auctioned separately. Sealed bids will be opened immediately after the open bidding and the permit will be awarded to the bidder with the highest bid. The successful bidder for a permit must submit a certified check equal to the minimum acceptable bid prior to or at the conclusion of the ~~((auction))~~ bidding as a down payment on the winning bid price. If the winning bidder fails to submit a check the permit will be awarded to the next highest bidder submitting such check.

(d) Bidding by proxy is allowed, provided the proxy holder has a power of attorney for the herring validation holder represented.

(e) The successful bidder for a permit is required to sign and return to the department a copy of the spawn on kelp permit within 10 days after the award of a permit together with the balance of the bid amount. Failure to return the permit and bid balance will invalidate the award of the permit and result in forfeiture of the deposit. In such case the permit shall be offered to the other bidders in descending order of their bid amount.

(f) If the permit ~~((is not))~~ fails to be sold ~~((in this manner))~~ as described in (c) or (e) of this subsection, the permit may be offered to any person possessing a herring validation who offers the largest amount within a specified time period.

~~((t))~~ (g) The department may revoke the permit for noncompliance with the terms of the permit. In ~~((such))~~ case of permit revocation, the bid amount shall be retained by the department.

**WSR 91-05-017  
NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT  
(Fire Protection Policy Board)  
[Memorandum—February 11, 1991]**

The next meeting of the Fireworks Work Group is scheduled for Thursday, February 21, 1990 [1991], from 9:00 a.m. to 4:00 p.m. The meeting will be held at the Angle Lake Fire Station, 2929 200th Street, Seattle, WA.

Questions regarding the meeting should be directed to Richard Small, Director, Fire Protection Services Division at (206) 586-3442.



**WSR 91-05-018**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**  
**(Fire Protection Policy Board)**  
 [Memorandum—February 11, 1991]

**REVISED Fire Protection Policy Board Meetings and  
 Work Sessions for 1991**

January 16	Work Session	1 p.m. to 4 p.m.	Olympia
January 17	Full Board Meeting	9 a.m. to 3 p.m.	Olympia
March 21	Full Board Meeting	9 a.m. to 3 p.m.	Sea-Tac Area
May 22	Work Session	1 p.m. to 4 p.m.	Island County
May 23	Full Board Meeting	9 a.m. to 3 p.m.	Island County
July 18	Full Board Meeting	9 a.m. to 3 p.m.	Wenatchee
September 25	Work Session	1 p.m. to 4 p.m.	Port Angeles
September 26	Full Board Meeting	9 a.m. to 3 p.m.	Port Angeles
November 21	Full Board Meeting	9 a.m. to 3 p.m.	Spokane

The meetings on January 16th and 17th will be held at the Aladdin Motor Inn, Olympia.

The meeting on March 21 will be held at the West Coast Hotel, Sea-Tac, Cascade Room.

The meetings on May 22nd and 23rd will be held at the Best Western Harbor Plaza, Oak Harbor, Whidbey Room.

The meeting on July 18 will be held at the Four Seasons Hotel, Wenatchee, Sunset North Room.

The meetings on September 25th and 26th will be held at Haguewood's Red Lion Hotel, Port Angeles, Ponderosa Room.

The meeting on November 21 will be held at the Red Lion Inn, Spokane, Ponderosa Room.

**WSR 91-05-019**  
**PERMANENT RULES**  
**WASHINGTON STATE PATROL**

[Order 90-004—Filed February 11, 1991, 10:08 a.m.]

Date of Adoption: January 23, 1991.

Purpose: To clarify when helmet use, as specified in RCW 46.37.530, is required.

Statutory Authority for Adoption: RCW 46.37.530(2).

Pursuant to notice filed as WSR 90-23-058 on November 19, 1990.

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

January 23, 1991  
 George B. Tellevik  
 Chief

Chapter 204-53 WAC  
**HELMET EXEMPTION—ANTIQUÉ MOTOR-  
 DRIVEN CYCLE**

**NEW SECTION**

WAC 204-53-010 HELMET EXEMPTION—ANTIQUÉ MOTOR-DRIVEN CYCLE. As provided by RCW 46.37.530 (1)(c), a person operating or riding upon an antique motor-driven cycle is not required to use a protective helmet. As the term is used in RCW 46.37.530 (1)(c) and this section, an antique motor-

driven cycle is a motor-driven cycle not less than forty years old which has been restored to its original condition and which is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show, or other such assemblage. Further, an antique motor-driven cycle shall not be powered by a motor which produces more than five brake horsepower as defined in RCW 46.04.332.

**WSR 91-05-020**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 90-36—Filed February 11, 1991, 3:02 p.m.]

Date of Adoption: February 11, 1991.

Purpose: To adopt new chapter 173-331 WAC, Vehicle battery recycling.

Citation of Existing Rules Affected by this Order: Amending [new] chapter 173-331 WAC.

Statutory Authority for Adoption: RCW 70.95.670.

Pursuant to notice filed as WSR 90-16-095 on August 1, 1990.

Changes Other than Editing from Proposed to Adopted Version: Several definitions in the rule have been changed to be more consistent with definitions used by the Department of Revenue. The changes do not substantially alter the effect of the rule. WAC 173-331-100 Definitions, subsection (1) the definitions of "wholesale," "retail," and "vehicle battery" have been changed. "Wholesale" and "retail" is no longer restricted to sale of replacement vehicle batteries. On the other hand, "vehicle battery," for the purposes of the application of the core charge, is restricted to a replacement battery. The intent of this change is to make the definitions of wholesale and retail consistent with Title 82 RCW, while maintaining consistency between WAC 173-331-100 and 173-331-210. (WAC 173-331-210 allows a retailer to waive the core charge during the sale of an original battery, a battery that is not a replacement battery, even when a used battery exchange is not provided by the purchaser.), subsection (2) the definition of "equivalent size" has been amended to include batteries weighing fifty to one hundred fifty percent of the battery being purchased. This range will better encompass the range of replacement batteries possible for any installation compared with the previous seventy-five to one hundred twenty-five percent weight range, and subsection (2) definitions for "authorization," "business location," and "unified business identifier service location" have been added to WAC 173-331-100. These additions are needed for completeness; WAC 173-331-210 Optional exemption to the core charge, the wording "may not" has been changed to "is not required to" to improve clarity. The intent was never to forbid a retailer from levying a core charge; WAC 173-331-400 Authorization of used battery collectors, subsection (2) has been changed to indicate the involvement of the Department of Licensing in the authorization process and subsection (3) has been changed to set the annual fee for applying for applying for authorization to \$15, without a higher

\$27 initial application fee. The wording has been changed to make it clear that each business location that collects used batteries (excepting locations that only accept used battery exchanges) must apply for authorization; and WAC 173-331-410 Reporting requirements, subsection (1) has been changed to better clarify who is subject to the reporting the requirements. As before, persons who collect used batteries in the state and recondition or reclaim them must report. The wording "persons who . . . transport used batteries to secondary smelters shall report . . .," however, has been changed. Now the rule requires persons who "arrange transport of the used batteries to out-of-state locations" to report.

Effective Date of Rule: Thirty-one days after filing.  
February 11, 1991  
Fred Olson  
Deputy Director

Chapter 173-331 WAC  
VEHICLE BATTERY RECYCLING

NEW SECTION

WAC 173-331-010 AUTHORITY AND PURPOSE. The department of ecology has been authorized under RCW 70.95.670 to implement and enforce a vehicle battery recycling program. The purpose of this chapter is to establish procedures for implementation and enforcement of RCW 70.95.610 through 70.95.660, which is designed to accomplish the recycling of used vehicle batteries through a system of exchanging batteries at the point of sale.

NEW SECTION

WAC 173-331-100 DEFINITIONS. The following words, terms, and phrases shall, for the purposes of this chapter, have the meanings given below:

- (1) The terms wholesale and retail shall have the same meanings provided in Title 82 RCW, Excise taxes. For example, wholesale refers to the sale of vehicle batteries to retail establishments, and retail refers to sale of vehicle batteries that require payment of the retail sales tax.
- (2) Authorization means the license issued by the department of licensing and approved by the department of ecology as authorized by RCW 70.95.610.
- (3) Business location means the premises where business is conducted.
- (4) Core charge means an added charge applied during a retail sale to be refunded to the purchaser when a used battery of equivalent size is offered in exchange.
- (5) Department means the department of ecology.
- (6) Disposal means to deposit, dump, abandon, or spill any vehicle battery into or on any land, water, solid waste landfill, or solid waste incinerator.
- (7) Equivalent size means weighing fifty to one hundred fifty percent of the vehicle battery purchased.
- (8) New vehicle battery means any vehicle battery intended for use as an electrical energy storage device.
- (9) Original battery installation means any new vehicle or device that requires a vehicle battery to be connected or installed before use is possible.

(10) Replacement vehicle battery means any vehicle battery sold at retail (a) that is not sale of an original battery installation, or (b) without verifiable proof that the buyer needs the battery for an original battery installation.

(11) Secondary lead smelter means any facility licensed by a state or federal government to reclaim lead from vehicle batteries.

(12) Unified business identifier service location means:  
(a) The field offices of the departments of revenue and labor and industries.

(b) The tax offices of employment security.

(c) The Olympia office of the secretary of state.

(d) The business license service office of the department of licensing.

(13) Used vehicle battery means any vehicle battery intended for reclamation, separate from a vehicle or other installation.

(14) Vehicle battery means any battery used or capable of use, without modification, in any vehicle, truck, mobile home, recreational vehicle, boat, airplane, or utility vehicle, having a core of elemental lead, with the capability to produce six or more volts. For purposes of application of the core charge only, a vehicle battery shall be a replacement battery and the core charge shall not apply to original battery installations.

NEW SECTION

WAC 173-331-200 POSTING OF RETAIL NOTICES. (1) This section refers to the notices required by RCW 70.95.630(2).

(2) All required notices must be posted in the main vehicle battery display area or other area clearly visible to battery purchasers. Notices must be posted no lower than four feet and no higher than seven feet, level to the floor. Notices must be maintained free of any viewing obstructions.

Note: Notices are available by calling 1-800-RECYCLE.

NEW SECTION

WAC 173-331-210 OPTIONAL EXEMPTION TO THE CORE CHARGE. A retailer is not required to apply a core charge to a battery sale when the buyer submits verifiable proof that the battery is needed for an original battery installation. Verifiable proof shall consist of a voucher issued by the seller of the vehicle or device containing the following:

- (1) Title, address, and phone of the retail establishment;
- (2) Brief description of the vehicle or device sold with indication that a battery(s) was not included;
- (3) Date of issuance;
- (4) Name of the purchaser; and
- (5) Signature of the sales agent.

Vouchers shall be valid for ninety days following the date of issuance and must be surrendered to the retailer during the battery sale.

**NEW SECTION**

**WAC 173-331-220 CONDITION OF USED BATTERIES.** (1) A purchaser must provide a used battery in a fully-capped, unbroken condition to qualify for waiver of the core charge. A retailer may refuse to accept a broken or uncapped battery, or may condition acceptance upon provision of a leak proof, acid resistant container, such as a plastic pail, holding the broken or uncapped battery.

(2) The department shall provide on its 1-800-RECYCLE Hotline a list of recycling outlets available for broken and uncapped batteries.

**NEW SECTION**

**WAC 173-331-300 CONDITIONS FOR SUSPENDING THE ACCEPTANCE REQUIREMENTS.**

(1) This section refers to the suspension order required by RCW 70.95.650(3).

(2) When the department deems it necessary, the department shall determine the market price paid for used lead batteries by contacting agents of the secondary smelters historically used to process used vehicle batteries originating in Washington. The department shall determine transportation costs by contacting at least three trucking firms and at least three shipping firms for estimated unit costs to transport batteries to each secondary smelter. If the lowest estimated transportation costs are higher than market price paid for all of the secondary smelters, the department will order a suspension.

(3) The department will notify retailers of any suspension by sending notice to trade organization representatives and other businesses on our vehicle battery program mailing list. (To get on the vehicle battery mailing list call (206) 438-7541.)

**NEW SECTION**

**WAC 173-331-400 AUTHORIZATION OF USED BATTERY COLLECTORS.** (1) This section refers to RCW 70.95.610(1).

(2) Beginning May 1, 1991, any person who collects used vehicle batteries nonincidental to accepting exchanges during sale of new batteries, excluding local governments with approved local hazardous waste plans pursuant to RCW 70.105.220, must have a department approved authorization issued by the department of licensing.

(3) License fees for each business location shall be fifteen dollars annually.

(4) Application forms for a used vehicle battery collector authorization will be available at unified business identifier service locations located throughout the state.

Note: Assistance finding the nearest unified business identifier service is available by calling 1-800-562-8203.

(5) Ecology review of application for authorization as a used vehicle battery collector:

(a) Any application for authorization or reauthorization as a used vehicle battery collector is subject to review and final approval or disapproval by the department of ecology.

(b) The applicant will be notified if the department has evidence that the applicant has failed to comply with environmental regulations affecting the handling, storage, transport, reclamation, or disposal of vehicle batteries. Such failure is sufficient reason for the department to disapprove or rescind authorization as a vehicle battery collector.

(c) Notification shall be in writing and shall include a statement of the basis for the department's belief that failure to comply has occurred and an indication of the department's intentions regarding authorization.

(d) The applicant may submit to the department comments on the department's intended action and basis for that action. Any comments shall be submitted in writing to the department within fifteen days from date of receipt of the department's notice letter unless the department provides an extension.

(e) After reviewing any comments, the department shall issue a letter notifying the applicant of its decision whether to authorize the applicant as a vehicle battery collector. Such decision may be appealed to the department by written application for review within fifteen days of receipt by the applicant of the department's decision. The department shall issue a notice of its decision on the application for review within fifteen days of the receipt of such application. This notice shall be the department's final decision.

(f) Pursuant to RCW 43.21B.110 (1)(c), the department's final decision is appealable to the pollution control hearings board.

**NEW SECTION**

**WAC 173-331-410 REPORTING REQUIREMENTS.** (1) Consistent with RCW 70.95.280, persons who collect used vehicle batteries in Washington state and recondition them, reclaim them, or arrange transport of the used batteries to out-of-state locations shall report annually to the department quantities of batteries collected and their destination(s).

Note: Reporting instructions and forms are available by calling 1-800-RECYCLE.

(2) Requests for confidentiality will be honored if the reporting business shows that publication of the information may affect adversely its competitive position and if the department determines that confidentiality is not detrimental to public interest.

**NEW SECTION**

**WAC 173-331-500 HANDLING OF USED VEHICLE BATTERIES.** Nothing in this chapter shall exempt wholesalers, retailers, or used battery collectors from the sections pertaining to lead-acid battery handling in the state's dangerous waste regulations, chapter 173-303 WAC, including WAC 173-303-050 (Department of ecology cleanup authority), WAC 173-303-145 (Spills and discharges into the environment), and WAC 173-303-960 (Special powers and authorities of the department). All shall use prudent procedures of handling and storing used vehicle batteries.

**NEW SECTION**

WAC 173-331-600 SEVERABILITY. If any provision of this chapter or its application to any person is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

Note: Copies of RCW 70.95.280 and 70.95.610 through 70.95.670, WAC 173-303-050, 173-303-145 and 173-303-960, and additional copies of this chapter, chapter 173-331 WAC, are available from the Department of Ecology, Office of Waste Reduction, Recycling, and Litter Control, Mailstop PV-11, Olympia, WA 98504-8711, (206) 438-7541, 1-800-RECYCLE, 1-800-732-9253.

**WSR 91-05-021****PREPROPOSAL COMMENTS  
BUILDING CODE COUNCIL**

[Filed February 12, 1991, 9:54 a.m.]

Subject of Possible Rule Making: State Building Code, adoption and amendment of the 1991 editions of the Uniform Building Code and Standards, Uniform Fire Code and Standards, Uniform Plumbing Code and Standards, and Uniform Mechanical Code.

Persons may comment on this subject by providing comments in writing, State Building Code Council, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, on February 25, 1991, through April 30, 1991.

Other Information or Comments by Agency at this Time, if any: Provide comments concerning potential statewide amendments to the Uniform Codes and any other matter relevant to the adoption of the Uniform Codes.

Formal rulemaking will commence in June 1991 with public hearings in August and September 1991. Adoption will occur by November 30, 1991.

Contact: Donna Voss, State Building Code Council, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, (206) 586-8999.

February 8, 1991  
Gene J. Colin  
Chair

**WSR 91-05-022****RULES COORDINATOR  
WASHINGTON STATE UNIVERSITY**

[Filed February 12, 1991, 9:56 a.m.]

Please be advised that Lou Ann Pasquan, Director, Procedures and Forms, has been designated by President Samuel H. Smith as rules coordinator for Washington State University.

Martha Copp

**WSR 91-05-023****NOTICE OF PUBLIC MEETINGS  
WASHINGTON INSTITUTE  
OF APPLIED TECHNOLOGY**

[Memorandum—February 12, 1991]

BOARD OF DIRECTORS MEETING  
Thursday, February 14, 1991  
7:30 a.m.

WIAT Sixth Floor Boardroom  
Special Board Meeting

The next regularly scheduled meeting of the board of directors is Wednesday, March 27, 1991, at 7:30 a.m. in the WIAT Boardroom.

**WSR 91-05-024****PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed February 12, 1991, 10:54 a.m.]

Original Notice.

Title of Rule: WAC 180-86-100 Reprimand or certificate suspension or revocation—Initiation of proceedings.

Purpose: To add suspension and voluntary surrender to this rule.

Statutory Authority for Adoption: RCW 28A.410.010.

Statute Being Implemented: RCW 28A.410.010.

Summary: Adds "suspension" and "voluntary surrender" to existing rules.

Reasons Supporting Proposal: Recent legislation authorized suspension; editorial changes were needed.

Name of Agency Personnel Responsible for Drafting: Richard Wilson, Superintendent of Public Instruction, Old Capitol Building, 753-2298; Implementation: Doyle Winter, Superintendent of Public Instruction, Old Capitol Building, 753-1880; and Enforcement: Theodore Andrews, Superintendent of Public Instruction, Old Capitol Building, 753-3222.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Defines more exactly existing practice.

Proposal Changes the Following Existing Rules: Adds the categories of reasons for the opening of investigations.

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

Hearing Location: Thomas Jefferson High School Little Theater, 4248 South 288th Street, Federal Way, WA, on March 28, 1991, at 9:00 a.m.

Submit Written Comments to: Dr. Monica Schmidt, Executive Director, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by March 26, 1991.

Date of Intended Adoption: March 29, 1991.  
 February 12, 1991  
 Dr. Monica Schmidt  
 Executive Director

**AMENDATORY SECTION** (Amending WSR 90-02-076, filed 1/2/90, effective 2/2/90)

WAC 180-86-100 REPRIMAND OR CERTIFICATE SUSPENSION OR REVOCATION—INITIATION OF PROCEEDINGS. The initiation of reprimand, suspension, or revocation proceedings by the superintendent of public instruction shall commence as a result of the following:

(1) Whenever the superintendent of public instruction or the designated administrative officer of the superintendent of public instruction having responsibility for certification becomes aware from whatever source that a certificate holder has had a professional license revoked or suspended by a licensing agency, has voluntarily surrendered a license or has been arrested, charged, or convicted for any felony offense included within WAC 180-75-081(1), the superintendent of public instruction or the designated administrative officer shall cause an investigation.

(2) In all other cases, the initiation of investigative proceedings shall commence only upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school. Such written complaint shall state the grounds and summarize the factual basis upon which a determination has been made that an investigation by the superintendent of public instruction is warranted. The superintendent of public instruction shall provide the affected certificate holder with a copy of such written complaint and a copy of WAC 180-86-180.

**WSR 91-05-025**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed February 12, 1991, 2:19 p.m.]

Original Notice.

Title of Rule: WAC 308-54-315 Nursing home administrator fees.

Purpose: To prescribe a new category of fee titled inactive status for nursing home administrators.

Statutory Authority for Adoption: RCW 43.70.250.

Summary: This rule complements WAC 246-843-330 which authorizes an inactive fee category for certain nursing home administrators.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jackson D. Melton, 1300 S.E. Quince Street, Olympia, WA, 586-6350.

Name of Proponent: Board of Examiners for Nursing Home Administrators, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will establish an inactive license fee category for nursing home administrators. It is anticipated that the lower fee structure will result in more nursing home administrators maintaining licensure even though they leave active practice and thus support professionalism in the industry.

Proposal Changes the Following Existing Rules: The proposed change adds the fee category of inactive status.

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

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington, on March 26, 1991, at 1:00 p.m.

Submit Written Comments to: Leslie Baldwin, 1300 S.E. Quince Street, Mailstop EY-16, Olympia, WA 98504, by March 25, 1991.

Date of Intended Adoption: April 2, 1991.

February 11, 1991  
 Pam Campbell Mead  
 for Kristine M. Gebbie  
 Secretary

**AMENDATORY SECTION** (Amending Order 029, filed 2/7/90, effective 3/10/90)

WAC 308-54-315 NURSING HOME ADMINISTRATOR FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application (examination and original license)	\$500.00
Reexamination (partial)	300.00
Application—Reciprocity	400.00
Temporary permit	400.00
Renewal	380.00
Late renewal penalty	160.00
Inactive license renewal	200.00
Duplicate license	25.00
Certification	50.00
Administrator-in-training	275.00

**WSR 91-05-026**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
**(Chiropractic Examining Board)**  
 [Order 111B—Filed February 12, 1991, 2:24 p.m.]

Date of Adoption: January 31, 1991.

Purpose: To transfer rules from chapter 114-12 WAC to chapter 246-806 WAC.

Citation of Existing Rules Affected by this Order: See Recodification Section below.

Statutory Authority for Adoption: RCW 18.25.017.

Pursuant to notice filed as WSR 90-21-117 on October 22, 1990.

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

January 31, 1991  
 Rodney Hamdly, Jr.  
 for Stephen Renner D.C.  
 Chairman

**RECODIFICATION SECTION**

The following sections are being recodified as chapter 246-806 WAC:

Chapter 246-806 WAC		
Chiropractic, Doctors of – Board of Chiropractic Examiners		
114-12-011	as	246-806-020
114-12-021	as	246-806-010
114-12-031	as	246-806-030
114-12-041	as	246-806-040
114-12-115	as	246-806-050

114-12-126	as	246-806-060
114-12-132	as	246-806-070
114-12-150	as	246-806-080
114-12-155	as	246-806-090
114-12-164	as	246-806-100
114-12-170	as	246-806-110
114-12-180	as	246-806-120
114-12-190	as	246-806-130
114-12-200	as	246-806-140

**WSR 91-05-027**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
**(Occupational Therapy Practice Board)**  
 [Order 112B—Filed February 12, 1991, 2:26 p.m.]

Date of Adoption: January 4, 1991.  
 Purpose: A housekeeping action to transfer rules to Title 246 WAC.  
 Citation of Existing Rules Affected by this Order: See Recodification Section below.  
 Statutory Authority for Adoption: RCW 18.59.130.  
 Pursuant to notice filed as WSR 90-23-008 on November 9, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-171-041 is added because it was recently adopted and inadvertently omitted when this consolidation was proposed.

Effective Date of Rule: Thirty-one days after filing.  
 February 11, 1991  
 Carol Neva  
 Program Manager

**RECODIFICATION SECTION**

The following sections are being recodified as chapter 246-847 WAC:

Chapter 246-847 WAC		
Occupational therapists		
308-171-001	as	246-847-010
308-171-002	as	246-847-020
308-171-003	as	246-847-030
308-171-010	as	246-847-040
308-171-020	as	246-847-050
308-171-040	as	246-847-060
308-171-041	as	246-847-065
308-171-045	as	246-847-070
308-171-100	as	246-847-080
308-171-101	as	246-847-090
308-171-102	as	246-847-100
308-171-103	as	246-847-110
308-171-104	as	246-847-120
308-171-200	as	246-847-130
308-171-201	as	246-847-140
308-171-202	as	246-847-150
308-171-300	as	246-847-160
308-171-301	as	246-847-170
308-171-302	as	246-847-180
308-171-320	as	246-847-190
308-171-330	as	246-847-200

**WSR 91-05-028**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Order 133—Filed February 12, 1991, 2:32 p.m.]

Date of Adoption: February 11, 1991.  
 Purpose: A housekeeping action to transfer rules to Title 246 WAC.  
 Citation of Existing Rules Affected by this Order: See Recodification Section below.  
 Statutory Authority for Adoption: RCW 43.70.040.  
 Pursuant to notice filed as WSR 90-22-094 on November 7, 1990.

Effective Date of Rule: Thirty-one days after filing.  
 February 11, 1991  
 Pam Campbell Mead  
 for Kristine M. Gebbie  
 Secretary

**RECODIFICATION SECTION**

The following section is being recodified:  
 308-122-275as      246-924-990

**WSR 91-05-029**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Order 134—Filed February 12, 1991, 2:35 p.m.]

Date of Adoption: February 11, 1991.  
 Purpose: A housekeeping action to transfer rules to Title 246 WAC.  
 Citation of Existing Rules Affected by this Order: See Recodification Section below.  
 Statutory Authority for Adoption: RCW 43.70.040.  
 Pursuant to notice filed as WSR 90-22-094 on November 7, 1990.

Effective Date of Rule: Thirty-one days after filing.  
 February 11, 1991  
 Pam Campbell Mead  
 for Kristine M. Gebbie  
 Secretary

**RECODIFICATION SECTION**

The following section is being recodified:  
 308-122-275 as      246-924-990

**WSR 91-05-030**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Order 135—Filed February 12, 1991, 2:38 p.m.]

Date of Adoption: February 11, 1991.  
 Purpose: A housekeeping action to transfer rules to Title 246 WAC.  
 Citation of Existing Rules Affected by this Order: See Recodification Section below.  
 Statutory Authority for Adoption: RCW 43.70.040.

Pursuant to notice filed as WSR 90-22-094 on November 7, 1990.

Effective Date of Rule: Thirty-one days after filing.  
February 11, 1991  
Pam Campbell Mead  
for Kristine M. Gebbie  
Secretary

### RECODIFICATION SECTION

The following section is being recodified:  
308-171-310 as 246-847-990

**WSR 91-05-031**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Order 136—Filed February 12, 1991, 2:40 p.m.]

Date of Adoption: February 11, 1991.

Purpose: A housekeeping action to transfer rules to Title 246 WAC.

Citation of Existing Rules Affected by this Order: See Recodification Section below.

Statutory Authority for Adoption: RCW 43.70.040.

Pursuant to notice filed as WSR 90-22-094 on November 7, 1990.

Effective Date of Rule: Thirty-one days after filing.  
February 11, 1991  
Pam Campbell Mead  
for Kristine M. Gebbie  
Secretary

### RECODIFICATION SECTION

The following section is being recodified:  
114-12-136 as 246-806-990

**WSR 91-05-032**  
**PROPOSED RULES**  
**PROFESSIONAL ATHLETIC COMMISSION**

[Filed February 12, 1991, 2:46 p.m.]

Original Notice.

Title of Rule: Professional boxing rules and professional wrestling rules.

Purpose: Implement the provisions of chapter 67.08 RCW.

Statutory Authority for Adoption: Chapter 67.08 RCW.

Statute Being Implemented: Chapter 67.08 RCW.

Summary: Pursuant to amendments to chapter 67.08 RCW by the legislature in 1989 professional wrestling was largely deregulated. The legislature also amended the statute as it relates to professional boxing. These rules implement the legislative amendments.

Reasons Supporting Proposal: Legislative mandate and modernization/updating.

Name of Agency Personnel Responsible for Drafting: Patti Hurn, 2626 12th Court S.W. #2, Olympia, 753-

3713; Implementation and Enforcement: Professional Athletic Commission.

Name of Proponent: Professional Athletic Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules reorganize the professional boxing rules in a more efficient manner. Additional measures include modified safety procedures, medical testing, equipment and security. The boxing rules implement changes to chapter 67.08 RCW promulgated by the 1989 legislature. In the area of professional boxing many of the rules have not been updated since 1960. The new rules reflect the modernization of professional boxing.

Proposal Changes the Following Existing Rules: Changes include primarily safety and security issues. Some changes reflect reorganizing the chapter to reflect a more efficient organizational scheme. Antiquated sections or language have been eliminated.

Professional Boxing Rules Economic Impact Statement under chapter 19.85 RCW

The following analysis represents current cost estimates for new equipment or procedures necessitated by these rules. Nearly all promoters are of the same size. Consequently the cost comparisons under RCW 19.85-.040 are not possible, or meaningful.

WAC 36-12-040 Ring and equipment, subsection (1), you cannot enlarge an existing ring so the cost of a new ring would be approximately \$5,500.

WAC 36-12-050 Gloves, subsection (4), the estimated cost of an extra set of 8 oz. or 10 oz. gloves is \$65.00.

WAC 36-12-190 Duties of commission inspector, subsection (9), the increase in the inspectors maximum fee from \$300.00 to \$500.00 would affect only very large boxing shows which requires extensive time and responsibilities for the inspector.

WAC 36-12-200 Boxers, subsection (3), the approximate cost of a breast protector is \$21.00 and the cost for a body shirt would be \$20.00.

WAC 36-12-320 Regarding suspensions, subsection (9), the estimated cost of a neurological examination is \$132.00 and the estimated test costs are as follows: EEG - \$146.00; MRI - head \$700.00 /with contrast \$1,200.00; and CAT SCAN - head \$419.00.

WAC 36-12-360 Promoters, subsection (10), the approximate cost to purchase a stretcher is \$180.00. Past practice for promoters has been to borrow a stretcher from a local fire department. Consequently there may be no cost associated with this regulation.

Professional Wrestling Rules Economic Impact Statement under chapter 19.85 RCW

The commission has considered whether these rules are subject to the Regulatory Fairness Act and has determined that it is not for the following reasons: The 1989 legislature ordered the commission to reduce the regulatory impact on the professional wrestling industry. These rules are designed to accomplish this legislative mandate, and as a result largely deregulate the industry. The resulting rules reduce costs for the entire industry

and any remaining regulatory impact is minor or negligible.

Hearing Location: Days Inn, 6802 Tacoma Mall Boulevard, Tacoma, WA, on April 23, 1991, at 10:00 a.m.

Submit Written Comments to: Professional Athletic Commission, 2626 12th Court S.W. #2, GT-17, Olympia, WA 98504-8321, by April 19, 1991.

Date of Intended Adoption: April 23, 1991.

February 12, 1991

Stan Naccarato  
Chairman

Chapter 36-12 WAC  
PROFESSIONAL BOXING AND WRESTLING

PROFESSIONAL BOXING RULES

AMENDATORY SECTION (Amending Order 84-1, filed 7/26/84)

WAC 36-12-010 PENALTIES. In cases of infraction of the law, the rules and regulations, orders of the ((state boxing)) professional athletic commission, or the failure to fulfill any contracts or agreements, it shall rest with the commission to impose such penalties as may be deemed expedient.

AMENDATORY SECTION (Amending Note: Filed 9/22/60)

WAC 36-12-011 ((~~CLUB~~)) "PROMOTER," "PURSE" DEFINED. For purposes of brevity, in the following rules the word ((~~club~~)) "promoter" will be used to designate a club, corporation, organization, association or person holding license under this commission. "Purse" will designate the sum of money or other compensation by way of guarantee, percentage or otherwise, paid to boxer.

AMENDATORY SECTION (Amending Order 80-1, filed 7/16/80)

WAC 36-12-020 BOXING WEIGHTS AND CLASSES.

Flyweight.....	112 pounds or under
Bantamweight.....	over 112 to 118 pounds
Featherweight.....	over 118 to 126 pounds
Junior lightweight.....	over 126 to 130 pounds
Lightweight.....	over 130 to 135 pounds
Junior welterweight.....	over 135 to 140 pounds
Welterweight.....	over 140 to 147 pounds
Middleweight.....	over 147 to 160 pounds
Light heavyweight.....	over 160 to 175 pounds
Cruiserweight.....	over 175 to ((+90)) 195 pounds
Heavyweight.....	all over ((+90)) 195 pounds

No contests shall be scheduled, and no contestants shall engage in a boxing contest where the weight difference exceeds the allowance as shown in the following schedule, without the written approval of the commission.

- 112 lbs.-118 lbs. not more than 3 lbs.
- 118 lbs.-126 lbs. not more than 5 lbs.
- 126 lbs.-130 lbs. not more than 7 lbs.
- 130 lbs.-135 lbs. not more than 7 lbs.
- 135 lbs.-140 lbs. not more than 9 lbs.
- 140 lbs.-147 lbs. not more than 9 lbs.
- 147 lbs.-160 lbs. not more than 11 lbs.
- 160 lbs.-175 lbs. not more than 12 lbs.
- 175 lbs.-((+90)) 195 lbs. not more than 15 lbs.
- ((+90)) 195 lbs. and over, no limit.

AMENDATORY SECTION (Amending Rule .04.030, filed 12/6/67)

WAC 36-12-030 WEIGHING TIME. (1) Contestants shall be weighed on the date of the scheduled match, at the time designated by the commission, in the presence of each other, a commission inspector and an official of the club promoting the match, on club scales or other scales approved by the commission or at such place or places as may be designated by consent of commission inspector. By special permission of the commission, preliminary boxers may be allowed to weigh in

and be examined not later than one hour before the scheduled time of the first match on the card. The weight of each contestant shall be recorded on a report sheet provided by the commission. ((Should an afternoon show be scheduled, the weighing-in time shall be advanced to 10 a.m.))

(2) At the official weighing-in of all contestants duly accredited newspaper, radio and television representatives ((must)) may, upon request, be admitted.

AMENDATORY SECTION (Amending Rule .04.040, filed 12/6/67)

WAC 36-12-040 RING AND EQUIPMENT. (1) Ring. ((Fo)) The ring shall be not less than ((+6)) seventeen feet square or more than ((24)) twenty-four feet within the ropes. The ring floor ((to)) shall extend beyond the ropes not less than ((+8)) eighteen inches. The ring ((posts shall not be nearer to the ring ropes than eighteen inches)) floor shall be padded in a manner as approved by the commission. Padding must extend beyond the ring ropes and over the edge of the platform ((with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform applied over a one inch base of celotex building board or similar material. Material that tends to gather in lumps or ridges must not be used)). Ring canvas must be in a clean and sanitary condition.

(2) Height of ring. The ring platform shall not be more than four feet above the floor of the building, and shall be provided with suitable steps for use of contestants. Ring posts shall be of metal, not more than ((three)) four inches in diameter, extending from the floor of the building to a height of fifty-eight inches above the ring floor, and shall be properly padded.

(3) Ring ropes. Ring ropes shall be at least three in number, not less than one inch in diameter; the lower rope eighteen inches above the ring floor, the second rope thirty-five inches above the floor, the third rope fifty-two inches above the floor. ((Ropes shall be wrapped in soft material and be of proper tension. All boxing ring ropes shall be manila rope, synthetic rope or plastic rope or other similar material and shall not be made of metal of any type. All ropes and turnbuckles shall be wrapped in soft material.)) The lower rope shall have applied around it a padding of a thickness of not less than one-half inch and of a type and construction to be approved by the commission.

(4) Gong or bell. ((Gong or bell must not be less than ten inches in diameter, adjusted securely on a level with the ring platform. The timekeeper shall use a metal hammer to indicate the beginning and the ending of rounds, so that the contestants can hear the sound of the bell or gong.)) There shall be a bell or gong at the ring no higher than the level of the ring. The bell or gong shall be of a clear tone so that the contestants may easily hear it.

(5) Obstructions. The entire ring platform shall be cleared of all obstructions including buckets, stools, etc., the instant the ten second signal is given by the timekeeper, and none of these articles shall be placed on the ring floor until the gong has ended the round.

AMENDATORY SECTION (Amending Rule .04.050, filed 9/22/60)

WAC 36-12-050 GLOVES. (1) Gloves shall be examined by the ((inspector)) commission representative and the referee. If padding is found to be misplaced or lumpy, or if gloves are found to be imperfect, or ill-fitting, they shall be changed before the contest starts.

(2) ((No breaking, roughing or twisting of gloves shall be permitted. (3)) Gloves for all main events shall be new, and furnished by club management(:

(4) If gloves used in other bouts have been used before they must be whole, clean and in sanitary condition.

(5) Gloves for the main event must be put on in the ring after the referee has first inspected the bandaged hands of both contestants), and so made as to fit the hands of any contestant whose hands may be unusual in size.

(3) New gloves or gloves which have been used before, shall be whole, clean, in sanitary condition, and subject to inspection by the referee or commission representative as to condition. Any such gloves found to be unfit or ill-fitting, shall be immediately discarded and replaced with gloves meeting the above requirements.

(4) All clubs shall have on hand an extra set of eight-ounce and an extra set of ten-ounce gloves to be used in case gloves are broken or in any way damaged during the course of a bout.

(5) Contestants in all weight classes up to and including the welter-weight class, shall wear eight-ounce gloves. In the heavier classes, ten-ounce gloves shall be worn. All gloves must be approved by the commission.



AMENDATORY SECTION (Amending Order 74-1, filed 11/19/74)

WAC 36-12-060 NUMBER OF ROUNDS. (See RCW 67.08-.080.) No boxing contest or sparring exhibition held in this state whether under the provisions of statute or otherwise shall be for more than ten rounds and no one round of any such contest or exhibition shall be for a longer period than three minutes and there shall be not less than one minute intermission between each round. In the event of bouts involving state, national, or regional championships the commission may grant an extension of no more than two additional rounds to allow total bouts of twelve rounds (~~and in bouts involving national championships the commission may grant an extension of no more than five additional rounds to allow total bouts of fifteen rounds. No contestant in any boxing contest or sparring match or exhibition whether under this chapter or otherwise shall be permitted to wear gloves weighing less than six ounces. The length and duration for wrestling matches whether held under provisions of statute or otherwise shall be regulated by order of the commission).~~ Clubs shall not schedule less than twenty-six rounds of boxing, nor more than forty rounds, except with the written approval of the commission for any one program. An emergency bout shall be provided in the event an arranged card breaks down, and if it is necessary to put on another bout.

AMENDATORY SECTION (Amending Rule .04.070, filed 9/22/60)

WAC 36-12-070 BANDAGES. (1) Bandages shall not exceed the following restrictions: One winding of surgeon's adhesive tape not over one and one-half inches wide, placed directly on the hand to protect that part of the hand near the wrist. ~~((This))~~ Said tape may cross the back of the hand twice, but shall not extend within one inch of the knuckles when hand is clenched to make a fist.

(2) Contestants shall use soft surgical bandages not over two inches wide, held in place by not more than two ~~((feet))~~ yards of surgeon's adhesive tape for each hand. One ten yard roll of bandage ~~((is to make))~~ shall complete the wrappings for each hand. Bandages shall be adjusted in the dressing room in the presence of a commission representative and both contestants ~~((unless otherwise directed by the inspector)).~~ Either contestant may waive his privilege of witnessing the bandaging of his opponent's hands.

AMENDATORY SECTION (Amending Rule .04.080, filed 9/22/60)

WAC 36-12-080 ~~((WATER BUCKETS, ETC))~~ RING EQUIPMENT. ~~((There shall be provided by the club a sufficient number of water buckets for the use of all contestants. Clubs shall also provide fans, powdered resin for canvas, stools for seconds, and such other articles as are required in the conducting of contests. A bucket used by a contestant cannot be used again until it has been washed and sterilized.))~~ Promoters shall provide all necessary equipment, subject to approval by the commission, for use by the seconds and contestants at all events.

AMENDATORY SECTION (Amending Rule .04.100, filed 9/22/60)

WAC 36-12-100 OFFICIALS. (1) The officials of boxing contests shall consist of a referee, a timekeeper, ~~((an announcer.))~~ a physician, ~~((and))~~ two or three judges, and a commission inspector. At the discretion of the commission the three judge system may be used in lieu of the two judge and referee system. The referee, commission inspector, judges, physician, and timekeeper shall be assigned by the commission.

(2) No licensee shall verbally or physically abuse a referee or any other commission official.

AMENDATORY SECTION (Amending Order 80-2, filed 2/6/81)

WAC 36-12-110 REFEREE. (1) ~~((Effective July 1, 1981 the fee for referee's license will be \$15.00.))~~ The chief official of boxing contests shall be the referee, who shall have general supervision over bouts and take his place in the ring prior to each contest.

(2) The referee shall, before starting a contest, ascertain from each contestant the name of his chief second, and shall hold said chief second responsible for the conduct of his assistant seconds during the progress of the contest.

(3) The referee shall call contestants together before each bout for final instructions, at which time each contestant shall be accompanied by his chief second only. The principals after receiving instructions shall shake hands and retire to their corners. They shall not ~~((again))~~ shake hands again until the beginning of the last round.

(4) No persons other than the contestants and the referee may enter the ring during the progress of a round.

(5) The referee shall inspect the bandages and the gloves and make sure that no foreign substances have been applied to either the gloves or any part of a boxer's head or body to the detriment of an opponent.

(6) Referees must wear dark trousers and shirt or uniforms subject to approval of the commission.

(7) All referees must take an annual physical and eye examination similar to that given to all applicants for a boxers' ~~((and wrestlers'))~~ license~~((s))~~ and they shall be examined before officiating in any contest by the ~~((club))~~ commission physician before entering the ring the same as boxers ~~((and wrestlers))~~; if such examinations indicate the referee is physically or otherwise disabled or incapacitated, such fact should be immediately reported, in writing, by the examining physician to the inspector in charge, who shall take appropriate action to replace such referee.

AMENDATORY SECTION (Amending Rule .04.120, filed 9/22/60)

WAC 36-12-120 POWERS OF REFEREE—PENALTIES FOR FOULS, BUTTS. (1) The referee shall have power to stop a contest at any time if he considers it too one-sided, or if either contestant is in such condition that to continue might subject him to serious injury, and in either case to render a decision.

(2) In cases where a boxer ~~((or wrestler shall))~~ receives a cut eye or any other injury which the referee may believe shall incapacitate the boxer ~~((or wrestler))~~, the referee shall call into the ring the ~~((club))~~ commission physician for examination of the boxer ~~((or wrestler))~~ before the referee shall render his decision in the matter.

(3) The referee shall stop a contest if in his judgment there is stalling or faking by either or both contestants or if there is collusion affecting the result, in which case he shall recommend to the commission that the purse or purses of the offending boxer or boxers be forfeited and paid to the commission.

(4) The referee shall penalize any contestant who fouls his opponent during a contest, by charging such contestant with the loss of points, whether such foul or fouls be intentional or unintentional. However, the referee shall use his own discretion in determining the number of points, if any, chargeable against the contestant in each instance, depending upon the severity or harmlessness of the foul and its effect upon the opponent. The referee shall indicate on the official score card the number of points taken away from a contestant in any and all rounds in which he may find it necessary to charge the contestant with such loss. The referee shall, at the conclusion of each round notify the judges of the number of points to be deducted in accordance with his determination. Judges shall not deduct points without first receiving instruction from the referee.

(5) Persistent fouling by a contestant requiring cautioning by the referee shall be noted on the referee's score card and called to the attention of the commission for appropriate punishment.

(6) No contestant may be awarded a contest on a claim of a low-blow foul, nor may a contestant lose a decision by reason of a low-blow foul. Except where a contestant commits two fouls and after being warned each time by the referee, he commits a third foul, the referee may then within his discretion award the decision to the contestant who has been fouled.

(7) If, by reason of any other foul committed intentionally during a contest, an opponent shall be rendered incapacitated or unfit to continue, the contest shall be terminated by the referee and such incapacitated contestant shall be declared the winner if, at the termination thereof, he shall actually be ahead on points. The referee shall in such event recommend to the commission that they order the purse of the offending contestant withheld from payment, for disposition by the commission and such offender shall be subject to fine, suspension or other punishment, as may be determined by the commission upon full hearing thereof.

(8) If the incapacitated opponent referred to in the preceding paragraph shall not be ahead on points, the contest shall, nevertheless, be terminated, no decision shall be rendered by the referee and he shall order the purses of both contestants withheld from payment; a full report shall be made by the referee to the commission. A hearing shall be held by the commission and such disposition of the proceeds of the purses and such fines and penalties and other punishment may be assessed as the commission in its judgment may deem expedient. No purse ordered held for investigation can be released except by order of the commission.

(9) In the event of an unintentional foul (except as provided in subsection (10) (~~below~~) of this section) other than low-blow fouls, rendering an opponent incapacitated or unfit to continue (in the opinion of the referee), the contest shall be terminated, no decision shall be rendered but the referee shall order withheld from payment the purses of both contestants; the referee shall make a full report thereof, as is otherwise indicated herein, and the matter shall be heard by the commission and be disposed of as the commission may in its judgment deem expedient. Referees are hereby required to report to the commission repeated or persistent intentional or unintentional fouling by any contestant, in which connection the commission may order a hearing and subject the offending contestant to such punishment, which may include a fine or suspension, or both.

(10) If an accidental butt occurs during any bout, the referee shall immediately warn the guilty boxer and he may penalize him by a deduction in points for the round, at the same time he shall so notify the other contestant. Should any such penalty be charged against the boxer guilty of butting it shall be charged at the end of the round in which the butting occurred and the referee's score card shall be so marked at the conclusion of the round, at which time he shall also notify the judges; the referee shall explain in writing on the back of his card the nature and circumstances surrounding the penalty.

(11) If a boxer is accidentally butted in a bout so that he cannot continue, the referee shall:

(a) Call the bout a draw if the injured boxer is behind in points, or

(b) Declare the injured boxer the winner on a technical decision if he has a lead in points. When judges are used the majority vote as disclosed by the score cards shall prevail in determining the decision as specified in this section and the previous section hereof. If all three score cards differ the contest shall be declared a technical draw.

(c) If any accidental butt occurs during the first round of any contest the referee shall call the bout a draw.

The provisions of (~~subsection (11)~~) (a) and (b) of this (~~rule~~) subsection do not apply in world championship matches.

This rule applies only to accidental butting. Intentional butting is a foul and shall be penalized as such.

(12) The referee shall use his discretion in deciding any matters that may come up during a contest and are not covered by these rules.

#### AMENDATORY SECTION (Amending Rule .04.130, filed 9/22/60)

WAC 36-12-130 DUTIES OF REFEREE—INJURIES, KNOCKDOWNS, FALLS. (1) In case of a knockdown the referee shall require the fallen contestant to take a count of eight. The referee may compel a hurt contestant to take an eight count whether or not he is down. In the case of a cut eye or similar laceration the referee shall consult with the ringside physician. Such consultation shall take place upon the conclusion of a round or with "time out" or in an emergency during the progress of any round. The termination of the bout shall be governed by the examining physician's decision.

(2) A contestant who goes down without being struck, and stays down, shall be disqualified and the referee may render the decision to his opponent, and the referee shall recommend to the commission that the purse of the offending boxer be forfeited and paid to the commission.

(3) Should a contestant leave the ring during the one minute period between rounds and fail to be in the ring when the gong rings the signal to resume boxing, or should a contestant fail to rise from his chair at the beginning of a round, the referee shall start counting immediately, and unless the contestant is on his feet in the ring at the end of ten seconds the referee shall declare him as counted out.

(4) Should a contestant who is "down" arise before the count of "ten" is reached, and go down again immediately without being struck, the referee shall resume the count where he left off. If in any boxing contest during the rest period between rounds the referee shall decide that either of the contestants is not able to continue, or if the chief second of either of the contestants shall inform the referee that his boxer is unable to continue, and the referee concurs therein, he shall render his decision before the gong or bell rings and then indicate on his score card that the opponent of the incapacitated boxer is the winner of the contest on a technical knockout as of the round which has last been finished.

(5) When a boxer resumes boxing after having been knocked or fallen or slipped to the floor, the referee shall wipe any accumulated resin or other foreign material from the boxer's gloves with a damp towel or on his shirt.

#### AMENDATORY SECTION (Amending Rule .04.150, filed 9/22/60)

WAC 36-12-150 WHEN BOXER FALLS FROM RING DURING ROUND. (1) A contestant who has been knocked or has fallen through the ropes and over the edge of the ring platform during a contest may be helped back by anyone except his seconds or manager and the referee will allow a reasonable time for this return. When on the ring platform outside the ropes the contestant must reenter the ring immediately, (~~when~~) then he may either resume the contest or stay down for a count, which in the latter case shall be started by the referee as soon as the fallen contestant is back in the ring.

(2) Should the contestant stall for time outside the ropes the referee shall start the count without waiting for him to reenter the ring, and if he is not on his feet in the ring within ten seconds, the referee shall declare him "knocked out."

(3) When one boxer has fallen through the ropes the other shall retire to the farthest corner and stay there until the count is completed or his opponent is on his feet in the ring. The referee must signal for the resumption of fighting when the fighter has returned to the ring.

(4) A contestant who deliberately wrestles or throws an opponent from the ring, or who hits him when he is partly out of the ring, and prevented by the ropes from assuming a position of defense may be disqualified, and the referee shall recommend to the commission that the purse of the offending boxer or boxers be forfeited and paid to the commission.

~~((5) In case of serious injury to a contestant the referee shall be automatically under suspension until investigation by the commission establishes whether the injury was the result of negligence or incompetence on the part of the referee, or of circumstances not reasonably within his control.~~

~~(6) Any referee failing to familiarize himself with the rules and to properly enforce them is liable to permanent suspension.))~~

#### AMENDATORY SECTION (Amending Rule .04.160, filed 9/22/60)

WAC 36-12-160 REPORT OF REFEREE—WITHHOLDING OR FORFEITURE OF PURSE. (1) A referee of any contest shall submit a report of any and all contests which he referees. Any matter involving disregard of the rules or law must be included in the report and any recommendations relative to fines or suspensions of violators of the rules or law. Mail the report to the commission office. All referees must fully and explicitly describe the circumstances in which any bout is stopped on account of a technical knockout. When requested by the commission the referee's report must contain the exact reason for his actions in awarding the decision to the winner as a result of a technical knock-out.

(2) The referee shall recommend to the commission that they declare forfeited any remuneration or purse, or any part thereof, belonging to the contestants or one of them, or any part of the gate receipts for which contestants are competing, if in his judgment such contestant or contestants are not honestly competing. It is the desire of the commission to strictly enforce the above, and every referee is ordered to warn competing boxers of the power of the commission to hold up the purse or purses, should there be any apparent cause for such warning.

(3) In any case where the referee decides that both contestants are not honestly competing, the BOUT MUST BE STOPPED BEFORE THE END OF THE LAST ROUND, AND NO DECISION BE GIVEN. The announcer shall inform the audience, that no decision has been rendered. In such cases the purses shall be forfeited. A contestant earns nothing and shall not be paid for a contest in which there is stalling, faking, dishonesty or collusion. The commission shall have the power, independent of the referee or his decision, to determine the merits of any contest, and take whatever action it considers proper. ~~((As) Counting a boxer out, or disqualifying one of the contestants for fouling, is ((held to be)) in effect giving a decision((; in case the referee decides that one or both the contestants are not honestly competing and the knockdown is "a dive" or the foul is prearranged termination of the bout, he shall not finish the knockdown count or disqualify for fouling or award decision to opponent, but shall stop the bout and order the purses of both boxers held pending investigation by the commission. The announcer shall so inform the audience, particularly that no decision has been rendered)).~~

~~(4) ((Once given, the)) A referee's decision ((cannot be changed, except as follows: Should the commission at any time following the rendering of a decision, determine there was collusion affecting the result of any contest, such decision shall be changed as the commission may direct. No purse ordered held for investigation can be released except by order of the commission)) rendered at the termination of any~~

boxing contest is final and shall not be changed unless following the rendition of a decision the commission determines that any one of the following occurred:

(a) There was collusion affecting the result of any contest;  
 (b) The compilation of the scorecard of the referee or referee and judges shows an error which would mean that the decision was given to the wrong boxer;

(c) There was a clear violation of the laws or rules and regulations governing boxing which affected the result of any contest.

If the commission determines that any of the above occurred with regards to any contest then the decision rendered shall be changed as the commission may direct.

#### AMENDATORY SECTION (Amending Rule .04.170, filed 9/22/60)

WAC 36-12-170 REFEREE'S FEES TO BE PAID BY ((CLUB)) PROMOTER. ((+)) The commissioner in each district shall decide the fee and number of referees to be used at each boxing card ((and wrestling exhibition)), in each city under his jurisdiction.

((2) The commission through its chief inspectors, shall select and assign all referees.

In charity shows sanctioned by the commission all referee fees will be fixed by the commission.))

#### AMENDATORY SECTION (Amending Rule .04.180, filed 12/6/67)

WAC 36-12-180 CHIEF INSPECTORS. (1) Each commissioner shall serve as chief inspector in his district, but shall receive no compensation for said service.

(2) The chief inspectors shall select and assign inspectors, timekeepers, referees, announcers ((and)), judges, and physicians for all bouts held in their respective districts unless the commission directs otherwise.

#### AMENDATORY SECTION (Amending Order 84-1, filed 7/26/84)

WAC 36-12-190 DUTIES OF ((STATE)) COMMISSION INSPECTOR. (1) They shall attend to the forwarding of all reports to the ((executive secretary of the)) commission office; prepare reports on suspensions, applications for reinstatement, and all other matters arising in their respective districts which require joint action by the commission.

(2) ((They)) Commission representatives shall have under their charge the issuing of licenses to boxers, managers, seconds, ((wrestlers;)) referees, timekeepers, ((clubs)) promoters, physicians, judges, and announcers ((and trainers)). They shall investigate applications for ((club)) promoter licenses and report same to the commission but shall not issue ((club)) promoter licenses except upon the order of the commission. ((They shall not reinstate anyone under suspension or release fines or money held for forfeiture, these being matters for action by the commission's representative in the form of certified checks made payable to the order of the state boxing commission of Washington.))

(3) Inspectors shall report directly to the chief inspector of the district and be under his authority.

(4) Inspectors shall be in charge of all details of the contest that do not come under the jurisdiction of the other officials.

(5) Inspectors shall see that all necessary equipment is provided, that the contestants are ready on time, that the seconds are properly instructed in their duties, that the ((doctor's)) physician's report and the statement of weights are delivered to the referee, and that all regulations pertaining to the proper conduct of the bout are enforced.

(6) Inspectors shall insist that ((clubs)) promoters enforce the rule against gambling.

(7) Inspectors shall see that all seconds present a neat appearance and are attired according to the requirements of the rules.

(8) The referee's report shall be made on the form supplied for that purpose by the inspector. The referee shall sign the report in the presence of a ((state inspector)) commission representative after the termination of the show.

(9) In accordance with the law, each inspector shall receive for each contest officially attended a fee not to exceed one percent of the net gate of such contest up to a maximum of one hundred fifty dollars for closed circuit televised contests and ((three)) five hundred dollars for all other boxing contests. Fifty dollars shall be the minimum charge for such fee with respect to closed circuit televised contests and ((twenty dollars)) for all other contests.

((10) Inspectors will check the number and places of ticket cans at the gates and see that they are sealed and padlocked. After the show have them opened and tickets counted under their supervision.))

#### NEW SECTION

WAC 36-12-195 LICENSE FEES. The commission's license year is July 1st through June 30th and license fees are paid annually. Fees are as follows:

- (1) Manager - \$40.00
- (2) Referee - \$15.00
- (3) Boxer - \$15.00
- (4) Matchmaker - \$40.00
- (5) Second - \$15.00

#### AMENDATORY SECTION (Amending Order 80-2, filed 2/6/81)

WAC 36-12-200 ((CONTESTANTS)) BOXERS. (1) ((Effective July 1, 1981 the fee for wrestler's license will be \$15.00.

(2) Effective July 1, 1981 the fee for boxer's license will be \$15.00.

(3)) Boxers ((and wrestlers)) may assume and use ring names, but the right to use any certain name is subject to the approval of the commission and may be denied either at the time of presenting application for license or later, should reason for such denial be brought before the commission.

((4) No professional boxer shall be allowed to sell tickets for any show in which he is engaged, on a commission basis or otherwise, on which he will receive remuneration for his services, as a boxer.

(5)) (2) Contestants shall report to the inspector in the dressing room at least one hour before ((they are due to appear in the ring)) the scheduled time of the first match.

((6)) (3) Contestants shall box in proper costume, including such foul proof protection cups as shall be listed as approved by the commission ((all of which shall be firmly adjusted before leaving the dressing room. Failure to obey this rule may result in a fine of not less than \$5.00 being imposed on the violator)). Proper costume shall include abdominal guard, two pair of trunks of contrasting color, shoes and approved mouthpiece.

Approved mouthpiece shall mean a custom-made individually fitted mouthpiece.

In addition, female boxers shall also include a breast protector and body shirt with their ring costume.

Each boxer shall be equipped and use throughout the bout a custom made individually fabricated mouth guard.

((7) Boxers signed to engage in a contest must appear at scheduled ring time equipped with a pair of regulation trunks, which may be black, purple, dark green, dark red, dark blue or orange. These trunks must be of solid colors except white. They may be ornamented with a stripe around the belt and down the sides of a color which contrasts with the trunks, but which must also be chosen from one of the colors above specified. These trunks may bear a suitable emblem or insignia provided it is not of a commercial or advertising nature. The contestants shall not wear the same colors in the ring.

Boxers must wear regulation trunks which are loose fitting and made of light-weight cloth similar to an athlete's running pants.

Fights will not be permitted:

The belt of the trunks shall not extend above the waist line.

Shoes shall be of soft material, and shall not be fitted with spikes, cleats, hard soles, or hard heels. Socks, rolled down to the tops of the shoes, may be of any color. No other apparel than above specified may be worn in the ring, except a bathrobe, sweat clothes or jacket.

(8)) (4) The use of grease or other substances that might handicap an opponent is prohibited.

((9)) (5) Contestants must be clean and present a tidy appearance ((and be cleanly shaved)).

((10) Any) (6) No contestant ((absenting)) may absent himself from a show in which he has signed or has been signed by his duly licensed manager, without a valid written excuse or furnishing a certificate from a commission physician in advance in case of a physical disability ((, automatically suspends himself for a period of sixty days)). Any boxer who files a certificate from a commission physician stating that he is unable to fulfill a contract on account of a physical disability must, on being restored to the eligible list fulfill his contract with the same opponent or a suitable substitute ((at)) as the ((club)) promoter specified in the contract within a reasonable time, such period to be set by the commission, unless the boxer is released from the contract by mutual agreement.

~~((11)) A boxer must be in the city where appearing, forty-eight hours before the contest. Main event boxers scheduled to appear in cities of more than 75,000 population shall be present in such city at least five days in advance of the date on which the bout is scheduled for the purpose of training, publicity and for whatever other purposes the promoter may desire.~~

~~Any boxer or manager of boxers who violates this rule will be suspended and fined.))~~

(7) When a boxer competes anywhere in a bout of more than four rounds he will not be allowed to compete again until six days have elapsed.

When a boxer competes anywhere in a bout of four rounds or less, he will not be allowed to compete again until two days have elapsed.

~~((12))~~ (8) No one shall be allowed in the boxer's dressing room except his manager, seconds and commission or ~~((club))~~ promoter representatives.

~~((13)) In each application for a bout, the results of the last six bouts for each main event contestant shall be included in a sworn statement signed by the boxer, manager and promoter. This shall include a clause certifying that the boxer is in excellent physical condition and is not concealing an illness or injury.))~~ (9) Boxer's licensing requirements are:

(a) Completed application.

(b) Complete physical.

(c) Two small photos.

(d) Fee is listed under License fees WAC 36-12-195. (Forms are supplied by the commission.) These requirements must be received by the commission office before a boxer appears in any event.

#### AMENDATORY SECTION (Amending Rule .04.220, filed 9/22/60)

WAC 36-12-220 FOUls IN BOXING. (1)(a) Hitting below the belt.

(b) Hitting an opponent who is down or is getting up after being down.

(c) Holding an opponent with one hand and hitting with the other.

(d) Holding or deliberately maintaining a clinch.

(e) Wrestling or roughing at the ropes.

(f) Pushing an opponent about the ring or into the ropes, or striking an opponent who is helpless as a result of blows and so supported by the ropes that he cannot fall.

(g) Butting with the head, the shoulder or using the knee or elbow.

(h) Hitting with the open glove or with the butt or inside of the hand, the elbow, the wrist and all back-hand blows.

(i) Purposely going down without being hit or for the purpose of avoiding a blow.

(j) Striking deliberately at that part of the body over the kidneys.

(k) The use of the pivot blow or the rabbit punch.

(l) Jabbing opponent's eyes with the thumb of the gloves. ~~((Sub-jects offender to fine or suspension:))~~

(m) The use of abusive language in the ring.

(n) Any unsportsmanlike trick or action causing injury to an opponent.

(o) Hitting on the break.

(p) Hitting after the bell has sounded ending the round.

(q) Roughing at the ropes.

(r) Pushing an opponent about the ring or into the ropes.

(2) Any boxer guilty of foul tactics in a boxing contest may be disqualified or fined, or both, and his purse withheld from payment, and the boxer shall be automatically suspended. Disposition of the purse and the penalty to be imposed upon the boxer shall be determined by the commission.

(3) If a bout is stopped because of accidental fouling, the referee and physician shall determine whether the boxer who has been fouled can continue or not and if his chances have not been seriously jeopardized as a result of the foul, may order the bout continued after a reasonable interval set by the referee, who shall so instruct the timekeeper.

If conditions, except as otherwise provided by these rules and particularly as otherwise provided by WAC 36-12-120(4), relating to accidental butting, make it necessary to stop the bout the referee shall order as follows, and so notify the boxers, their managers, and the ~~((club))~~ promoter, whose announcer shall notify the spectators:

~~((The remuneration of both boxers shall be withheld by the commission for use by the club in paying the boxers (in the same amount if the commission so orders) for a second contest between them, to take place as an "added attraction" at the next show held by the club, or at a later date set by the commission after a hearing.~~

~~The club must provide preliminaries and main bouts of normal quality so that the rematch will be actually an "added attraction." Where a rematch is ordered the first two days of the ticket sale shall be reserved, and so announced and advertised, for purchase of tickets by holders of seats at the first show, who will be given choice of locations as they present their ticket stubs at the box office.~~

~~Suspensions, fines and forfeitures of payments of either or both contestants shall be held in abeyance after the first bout, where a rematch is ordered by the referee or the commission, and the ensuing conduct of the boxers in the rematch will be considered by the commission in its final ruling. All moneys held will be forwarded to the commission office.))~~ (4) Referees shall not permit unfair practices that may cause injuries to a contestant, and are held strictly responsible for the enforcement of the rules. The only fair blow is a blow delivered with the padded knuckle part of the glove on the front or sides of the head and body above the belt. After sufficient warning has been given the referee shall punish persistent disregard of the rules.

#### AMENDATORY SECTION (Amending Rule .04.240, filed 12/6/67)

WAC 36-12-240 TO PREVENT INJURY TO BOXERS—PHYSICAL QUALIFICATIONS AND EXAMS—STIMULANTS—ASSUMED NAME—PROFESSIONAL COMPETING WITH AMATEUR. (1) Any boxer applying for a license must first be examined by a physician, ~~((who has been appointed by the commission as examining physician.))~~ to establish both physical and mental fitness for competition, and annually thereafter the boxer must take this required examination. The fee for all examinations must be paid by the boxer. The commission may order examinations of boxers ~~((or wrestlers))~~ at any time for the purpose of determining whether such boxer ~~((or wrestler))~~ is fit and qualified to engage in future contests. The printed form supplied to the physician must be filled out and returned to the commission, by the physician, and must be in the possession of the commission before the license application can be acted upon. The examination must be repeated and reports turned in once a year, as long as the boxer is licensed by the commission.

~~((It is the suggestion of the commission that all boxers and wrestlers have, in addition to the ordinary heart examination a fluoroscopic examination of the heart. This should be reinstated after a lapse of ninety days, with no further charge to the contestant.~~

~~Lists of qualified physicians appointed by the commission for this work may be obtained from the boxing inspector of the district. The fee for this examination must be paid by the boxer or wrestler. A boxer presenting himself for physical examination must be clean in person and clothing. Failure to conform strictly to this rule is ground for suspension.))~~

(2) The use of any drugs, ~~((alcoholics))~~ alcohol or stimulants, or injections in any part of the body, either before or during a match, by any boxer is adequate grounds for revoking his license, as well as revoking the license of the person administering the same.

(3) ~~((Boxers who have been knocked out shall be kept in a prone position until they shall have recovered.~~

~~((4)) An application for boxer's license must be in writing.~~

~~((5))~~ Before a license is issued to any boxer, the application for such license must be approved by ~~((a member of))~~ the commission.

~~((6))~~ (4) If a boxer uses an assumed ring name, both the real name and his ring name must be included in the application. The word "killer" or "bloody" or any similar term must not be used by any contestant and must be eliminated from all advertisements and announcements referring to boxing ~~((and wrestling contests or exhibitions)).~~

~~((7))~~ (5) Whenever a licensed boxer, because of injuries or illness, is unable to take part in a contest for which he is under contract, he (or his manager) must immediately report the fact to the nearest inspector, and submit to an examination by a physician designated by the inspector. The examination fee to be paid by the boxer, or ~~((club))~~ promoter, if the latter requests an examination.

~~((8))~~ (6) Any professional boxer engaging in amateur contests shall automatically have his license revoked.

~~((9))~~ (7) All professional boxers should have attained their 18th birthday before being allowed to compete in any boxing contest in this state. No boxer under ~~((18))~~ eighteen or over ~~((36))~~ thirty-six years old shall be granted a license except by special action of the commission.

~~((10))~~ (8) No license shall be issued to any applicant for a boxer's license who is found to be blind in one eye or whose vision in one eye shall be so poor as to cause any examining physician to recommend that no license be granted. This rule will be effective regardless of how

keen the boxer's vision may be in the other eye. Nor shall a boxer's license be issued to any boxer who has suffered a cerebral hemorrhage or any other serious head injury.

((+)) (9) When a boxer has been knocked out, none of his handlers are to touch him, except to remove his rubber mouth protector until the attending physician enters the ring and personally attends the fallen boxer, and issues such instructions as he sees fit to the boxer's handlers.

#### AMENDATORY SECTION (Amending Order 80-2, filed 2/6/81)

WAC 36-12-250 MANAGERS. (1) ~~((Manager's license fee will be \$40.00 per annum.~~

(2)) Managers must not sign a contract for the appearance of any boxer with whom he has not a written contract on file with the commission. Contracts between boxer and manager must be on a contract form approved by and furnished by the commission, except that any particular contract form not furnished by the commission may be approved by the commission as a whole. A contract between a manager and a boxer on file with the commission will be recognized until such time as a court of competent jurisdiction determines it to be of no further force and effect.

((3)) (2) Managers must not attempt to select or insist upon the selection of any designated referee in a bout in which a boxer under his management is to appear and shall not have the name of such referee written into the official contract, ~~(, under penalty of a fine of not less than \$100.00. Managers cannot contribute to the pay of any referee under any circumstances).~~

((4)) (3) Managers who act as seconds for their own boxers, exclusively, are not required to take out a second's license.

((5)) (4) Contracts between manager and boxer are not transferable except with approval and consent of the commission and may be voided by the commission for cause. In case of a minor, the contract must be executed by his proper legal guardian. To settle dispute, a birth certificate may be required.

((6)) (5) All contracts between manager and boxer must be in writing and signed in triplicate, the original filed with the commission for approval. Contracts must state the division of the boxer's earnings, which in no case shall allow the manager more than 33-1/3 percent of the boxer's purse.

((7)) (6) No assignment of any part or parts of a boxer's or a manager's interest in a contract can be made without the written approval and consent of the commission.

((8)) (7) No manager shall be allowed to contract for the services of a boxer under his management for a match to take place on a date after the expiration of the contract between the boxer and the manager.

((9)) (8) Any boxer not under contract to a manager can make his own matches, sign contracts and need not apply for a manager's license to handle his own affairs.

((10)) (9) In cases where boxers sign contracts with managers the boxer's share of any purse which he may earn will not be less than 66-2/3 percent.

((11)) (10) If a manager shall fail to make application for a license he shall forfeit all rights to boxers on whom he has filed contracts in this state and the boxer shall be free to sign contracts with other licensed managers. Managers must file contracts on all boxers under their management.

((12)) (11) If a manager is doing business for a boxer not signed to a contract, such boxer must personally sign all contracts for appearances ~~((at))~~ for licensed ~~((clubs))~~ promoters and his signature must be properly witnessed.

((13)) (12) No boxer can have more than one manager without the express approval of the commission.

(13) No contract shall be approved between a manager and a boxer for a period exceeding five years.

(14) All disputes between the parties of a boxer/manager contract, including the validity of the contract, shall be handled as a civil matter.

(15) Any manager who advances or loans any money to any boxer or incurs indebtedness on behalf of any boxer shall furnish a statement to the boxer. This statement shall be specific and shall set forth as to each transaction or item at least the following information: The amount of money involved, the date that the indebtedness occurred, the purpose of the indebtedness, and the name of the person to whom the debt is owed.

The manager shall obtain the boxer's signature and date of signature on each accounting, within fourteen days of the loan or obligation being incurred.

#### AMENDATORY SECTION (Amending Order 80-2, filed 2/6/81)

WAC 36-12-260 SECONDS. (1) ~~((Second's annual license fee effective July 1, 1981 will be \$20.00.~~

(2)) Seconds and managers acting as seconds must be neatly attired when in the ring ~~((and wear jerseys of plain colors and with sleeves. Sport shirts without ties are permissible. No advertising matter shall appear on the person or clothing of seconds or managers or on the person or clothing of anyone appearing in the ring in any capacity)).~~

((3)) (2) A second holding only a second's license shall not attempt to act as a manager, or assist in any way in procuring matches, or take a share of the boxer's earnings. If found guilty of such actions he shall be suspended.

((4)) (3) Seconds shall not be more than three in number, including "house assistant second."

((5) Seconds must not coach or in any way assist a principal during a round, or by word or action attempt to heckle or annoy his opponent. They must remain seated in place, and be silent.

((6)) (4) A second shall not excessively coach a boxer during a round and shall remain seated and silent when so directed by the commission inspector on duty.

(5) Before a bout the referee shall be informed of the identity of the chief second.

((7) No father, brother, mother, sister or wife of a boxer shall be allowed to act as his second unless special permission is obtained in writing from the commission.

((8)) (6) Fans may be used between rounds, but swinging of towels is prohibited. ~~((Seconds must not spray or forcefully throw water on a contestant.~~

(9)) (7) Seconds shall not enter a ring until the bell indicates the end of a round. They shall leave the ring at the sound of the ~~((timer's))~~ timekeeper's whistle ten seconds before a round is to begin, removing all obstructions, buckets, stools, etc., promptly at the sounding of the bell or gong.

((10)) (8) Violations of the above rules ~~((shall be followed by ejection of offenders from the ring corner, and))~~ may result in an indefinite suspension of the offenders by the commission and disqualification of their principal ~~((by the referee)).~~

#### AMENDATORY SECTION (Amending Order 80-2, filed 2/6/81)

WAC 36-12-270 MATCHMAKERS. (1) ~~((Matchmaker's license fee \$40.00.~~

(2)) Matchmakers must observe all of the rules and requirements with respect to weight agreement and weighing-in, and the proper execution and filing of contracts.

((3)) (2) Matchmakers will be held responsible by the commission if they make matches in which one of the principals is outclassed. Persistent lack of judgment in this matter will be regarded as cause for canceling the license of the matchmaker and the ~~((club))~~ promoter which he represents, for the protection of both the boxers and the public.

((4)) (3) Managers are not allowed to have more than three boxers under their management appear in any one show ~~((without special permission in writing from the commission)).~~ Matchmakers must rigidly enforce this rule.

((5) A matchmaker can make matches for only one club unless special written permission is obtained from the commission, after a vote has been taken.

(6) Any promoter or matchmaker who deals with an unlicensed manager may have his license revoked or suspended and he may be subject to such fine as the commission may determine.

(7)) (4) Any promoter or matchmaker found guilty of managing a boxer shall have his license suspended, and in the case of a promoter, his club license may be revoked.

#### AMENDATORY SECTION (Amending Rule .04.280, filed 9/22/60)

WAC 36-12-280 TIMEKEEPER. (1) ~~((He))~~ The timekeeper must be seated at ~~((the))~~ ringside close to the gong or bell. He shall indicate the beginning and ending of each round by striking the gong or bell with a hammer.

(2) He shall provide himself with a whistle and an accurate stopwatch that shall have been properly examined ((and certified)) before it is used.

(3) Ten seconds before the beginning of each round the timekeeper shall give a warning to the seconds of the contestants by blowing the whistle.

(4) In the event of a contest terminating before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.

(5) The timekeeper's procedure in the case of a knockdown is detailed in ((the section of these rules under)) WAC 36-12-140(4) and 36-12-150.

#### AMENDATORY SECTION (Amending Rule .04.290, filed 9/22/60)

WAC 36-12-290 ANNOUNCER. (1) After contestants and their chief seconds are in the ring the announcer shall announce the names of the contestants, their correct weights, and other matters as may be directed by the commission ((or the)), inspector, or the promoter. ((Clubs)) Promoters shall provide the announcement of rounds. The announcer shall announce the decisions.

(2) All substitutions of contestants or changes in any boxing program shall be announced to the audience by the announcer before the first boxing contest.

#### AMENDATORY SECTION (Amending Rule .04.300, filed 9/22/60)

WAC 36-12-300 JUDGES. (((+)) There may be two or three judges who shall be appointed by the commission. At the discretion of the commission, three judges may be used to score a contest. In which case the third judge would vote in lieu of the referee. The commission may elect to appoint two judges and a referee, in which case the referee shall score in the same manner as the judges, and his score shall be included with the score of the judges in determining the winner. The majority opinion shall be conclusive and if there is no majority then the decision shall be a draw.

~~In event two votes are a draw, and one vote is for one fighter the decision is a draw.~~

~~Only by special commission action can a referee only be the judge.~~

~~When scoring a contest, the elements of offense, defense, clean hitting, ring generalship and sportsmanship should be considered.~~

(2) The judges shall sit at opposite sides of the ring, and shall reach their decision without conferring in any manner with any other official or person.

(3) The ten point system of scoring for each round will be used. The winner of any round is marked "10." The loser may be marked from 1 to 9. When a round is even each contestant is given a score of "10."

At the conclusion of the contest, the judges' and referee's vote, which are equal in value, shall be added and turned over to the announcer, who in turn, will hand the votes to the commission and their decision to be given by the announcer.

(4) A knockdown, being the closest approach to a knockout, should be scored. A knockdown is rated as such as soon as it occurs.

The use of foul blows and other such tactics shall result in a penalty of two points for each foul committed. The referee shall advise the judges of the number of points to be deducted immediately upon the termination of the round during which such deductions apply.

The referee and the judges shall clearly write their decisions and sign the same.

When a contestant fails to answer the bell for a round, his opponent shall be credited with a "T.K.O." in the ensuing round rather than in the one just completed. It is advisable to actually ring the bell for the next round and then count out the contestant who does not answer the bell.

(5) Points for each round shall be awarded immediately after the termination of the round.

(6) The referee shall have the power to penalize either contestant for any foul which does not, in his opinion, merit disqualification. In the case of fouls or other infractions of the rules, the referee shall be the sole judge of the number of points to be deducted from the offender's total in any particular round, and the referee shall at the conclusion of each round notify the judges of the number of points to be deducted in accordance with his determination.

When necessary to deduct points because of fouls or other infractions of the rules, the referee shall warn the offender and at the end of the round shall notify both contestants of any penalties which may be assessed either boxer.

~~Points deducted for any foul or infraction of the rules shall be deducted in the round in which they occur. No boxer shall be penalized in a later round by virtue of a previous foul or infraction of the rules.~~

At the conclusion of the contest, the judges and the referee shall total the points for each contestant on their respective score sheets and encircle the name of the winner or draw, as the case may be, sign their sheets and hand them to the announcer who shall announce the winner in the customary manner. The announcer shall then deliver the sheets to the state inspector in charge.

(7) In contests of four rounds or more the contestant receiving a majority of points shall be awarded the decision.

Judges shall keep their score secret from surrounding spectators and ignore any suggestions or advice.

Coaching or advice by seconds from the corners of contestants is forbidden and strictly enforced by the referee under penalty of suspension. (1) The commission inspector in charge at all boxing shows shall, before the start of each bout, give the judges a regulation scorecard. Judges shall score each round of the bout on this card and sign it at the conclusion of the contest.

(2) Judges shall score all contests and determine the winner through the use of the ten point must system. In this system the winner of each round receives ten points and the opponent a proportionately less number. If the round is even, each boxer receives ten points. No fraction of points may be given.

(3) The majority opinion on the judges scorecards shall be conclusive and if there is no majority then the decision shall be a draw.

(4) At the termination of each contest, the referee will pick up and deliver the scorecards to a commission representative. When the commission representative has verified the results of the contest, the ring announcer shall be informed of the decision and shall announce the decision.

(5) The commission inspector will deliver or mail all scorecards with the rest of his reports to the commission office.

#### AMENDATORY SECTION (Amending Order 80-1, filed 7/16/80)

WAC 36-12-310 ((CLUB)) COMMISSION PHYSICIAN. (1) Within eight hours of entering the ring each contestant must be given a thorough physical examination by a physician who has been appointed by the commission.

(2) Should the boxer examined prove unfit for competition, through physical injury, faulty heart action, the presence of any infection or contagious disease, or any weakness or disability discovered by the examining physician ((that should bar him)), ((the)) said boxer ((must)) shall be rejected and ((immediate report of that fact made)) barred from contest. This decision must be reported immediately to the ((club)) promoter and the commission inspector.

(3) ((One hour before the start of a boxing show)) The physician shall certify to the inspector in writing over his signature that the contestants passed by him are in good physical condition to engage in the contest, and shall ((mail to the commission)) give his written report on the boxers ((examined, within twenty-four hours)) to the commission inspector.

(4) The physician shall be in attendance at the ringside during all the contests and shall be prepared to assist should any serious emergency arise. The commission physician at ringside will have the authority to stop a fight when he considers a boxer badly injured or in no shape to continue. Whenever a fight is stopped between rounds by the physician or otherwise because of injuries, the opponent shall be credited with a TKO for the round just concluded. No bout shall be allowed to proceed unless the physician is in his seat. ((This also applies, where applicable, to wrestling matches.))

(5) The ((club)) commission physician shall have a suitable place or room in which to make the examinations. Physicians, other than those licensed by the commission shall not be allowed in the dressing room of any boxer before a bout.

(6) ((Physicians are to report boxers who fail to comply with the rule that any boxer presenting himself for physical examination must be clean in person and clothing.

(7)) A boxer rejected by a ((club)) commission physician for disability will be placed on the suspended list until it is shown that such disability no longer exists.

#### AMENDATORY SECTION (Amending Order 80-1, filed 7/16/80)

WAC 36-12-320 REGARDING SUSPENSIONS. (1) ((Clubs)) Promoters and their matchmakers ((will take notice of the suspension bulletins sent out by the commission, and)) will not permit any person



under suspension to take any part whatsoever, as a participant or in arranging or conducting matches or exhibitions, during the period of suspension.

(2) Every person debarred or suspended by the commission shall refrain from participating in any detail of matchmaking or holding bouts during such disbarment or suspension.

(3) ~~(All persons under suspension or whose licenses have been revoked are barred from the dressing rooms of all clubs, and from occupying seats within six rows of the ring platform, and from approaching within six rows of seats from the ring platform and from holding intercourse in the arena with any of the principals in the bouts, or their managers or seconds or the referee, directly or by messenger, during any boxing show. Any violator of this rule is to be ejected from the arena or club building, and the price paid for the ticket shall be refunded to him upon his presenting the ticket stub at the box office, and he shall thereafter be barred entirely from all club arenas in this state during the holding of contests or exhibitions.~~

~~(4)) Any person holding a license under this commission who has been suspended for using dishonest methods to affect the outcome of any contest, or for any conduct reflecting serious discredit upon the sport of boxing shall not be eligible for reinstatement.~~

~~((5)) (4) Any manager under temporary suspension shall be considered to have forfeited for the duration of his suspension all rights in this state held under the terms of any contract with a licensed boxer. Any attempt by a suspended manager to exercise such contract right shall make the suspension permanent, and a boxer who continues any of the contract relations with a suspended manager shall be indefinitely suspended.~~

~~((6)) (5) Any person holding a license under the commission may be suspended for violations of the law or the rules, or for arrest or conviction on a charge involving moral turpitude.~~

~~((7)) (6) A boxer whose manager has been suspended may continue boxing independently during the term of such suspension, signing his own contract for matches. No payment of a boxer's earnings may be made by any licensed ~~(club)~~ promoter to a manager under suspension, or to his agent, but the purse in full shall be paid to the boxer.~~

~~((8)) (7) Revocation of license or permanent suspension of a manager shall automatically cancel all of his contract rights in this state under any and all contracts with boxers made under authority of this commission.~~

~~((9)) (8) In case of such revocation or permanent suspension the boxers are at liberty to operate independently and make their own matches, or to enter into contracts with other managers licensed by the commission and in good standing.~~

~~((10)) (9) Following the knockout or technical knockout of a boxer, that boxer shall have his license to box suspended for a minimum period of ~~((30))~~ thirty days for a TKO and sixty days for a KO. Boxers will not be permitted to engage in any contact boxing during this period without approval of the commission.~~

This suspension is to take effect immediately following the knockout or technical knockout. If the commission feels that ~~((a 30 day))~~ this suspension is not sufficient they may impose a longer period or the suspension may be for an indefinite period pending the outcome of a physical examination.

~~((11)) Any contestant who has lost six consecutive fights ~~((must))~~ will be automatically suspended and cannot be reinstated until he has submitted to a complete medical examination, which will also include a neurological examination.~~

~~(10) If at any time a boxer's ability to perform is questionable, whether for reasons of health, mental condition, or no longer possessing the ability to compete or for any other reason, the commission may, upon being satisfied of the boxer's lack of ability to perform, retire the boxer from further competition.~~

#### AMENDATORY SECTION (Amending Order 84-1, filed 7/26/84)

WAC 36-12-330 CONTRACTS. (1) All contracts between ~~(clubs)~~ promoters and boxers or their managers must be ~~((drawn in triplicate))~~ on the official forms supplied by the commission. The original copy for the ~~((state boxing))~~ commission must be filed at the commission office at least five days before the bout.

(2) All contracts must name the opponent and fix a certain date for the contest. If a boxer is signed for a series of bouts, dates and names of opponents must be a part of the agreement and a separate contract signed for each bout. Each contract shall be accompanied by an affidavit, signed by the boxer and manager and properly attested, giving an

accurate account of his ring record. Such affidavit shall be in a form and style prescribed by the commission.

~~(3) ~~((It is provided, however, that should the club desire to rematch the boxer with the winner of an ensuing contest that may be done by writing in the space reserved for opponent's name, as follows: "(Name) or (name) or the winner of their contest on (date)."~~ In signing the opponent in the case the matchmaker of the club may sign both principals in the said ensuing contest and with consent of all parties to the contract, have written in the blank space below, in each of their official contracts the provisions: "This contract shall become null and void if the boxer loses the contest with (name of opponent) on (date) and may be declared null and void at the pleasure of the club in the event of a "draw" decision, or a decision of "no decision."~~

~~(4)) All papers filed with the commission, shall be the property of the commission.~~

~~((5)) (4) No verbal agreement or written agreement other than the contract on the official contract form, and no "blanket contract" or option on a boxer's services will be recognized by the commission. Such options and contracts are expressly prohibited.~~

~~((6)) (5) All contracts shall be paid in full according to their contracts, and no part or percentage of their remuneration may be withheld except by order of the commission or its referee, nor shall any part thereof be returned through arrangement with the boxer and his manager, to any matchmaker or ~~((club))~~ promoter official.~~

~~((7)) (6) As a matter of record all communications to the commission regarding contracts, or violations or threatened violations thereof, must be made in writing or by telegraph to the commission through its nearest chief inspector, and rulings of the chief inspector or the commission must be made only in writing or by telegraph.~~

~~((8)) (7) If, through inclement weather (in case of an outdoor show), or other happening not within the control of the ~~((club))~~ promoter, a postponement becomes necessary, the commission may grant an extension of the contracts and set a new date, and the action of the commission shall be binding upon all parties to the contracts.~~

A small advance ticket sale shall not be regarded as a legitimate reason for a postponement or cancellation.

#### AMENDATORY SECTION (Amending Rule .04.340, filed 9/22/60)

WAC 36-12-340 PAYMENT OF CONTESTANTS. (1) All payments of purses shall be made through the commission's ~~((chief))~~ inspector ~~((or such inspector as he appoints to act for him))~~. Payments shall be made immediately after the contest or exhibition, or in case of a percentage contract, as soon as the percentage can be determined.

The ~~((club's))~~ promoter's authorized representative shall deliver to the inspector ~~((in the club office))~~, the checks made out by the ~~((club))~~ promoter to the parties entitled to payment as follows:

If the contestant has no manager legally entitled to represent him, the check shall be made payable to the ~~((said))~~ contestant in the full amount due him under his contract with the ~~((club))~~ promoter.

If the contestant has ~~((such))~~ a manager the ~~((club))~~ promoter shall provide a check made out by the ~~((club))~~ promoter to the manager for the ~~((percentage of the contestant's purse to which he is entitled under his contract with the contestant, not in any case to be in excess of 33-1/3 percent of the purse.~~

Also a check made out to the contestant for his contract share of the purse, not less than ~~66-2/3 percent))~~ full contract amount. After receipt of payment the manager is then responsible for paying the purse share of ~~66-2/3 percent to his boxer.~~

The inspector shall deliver each check to the person it is made out to, and shall ~~((take))~~ obtain a signed receipt ~~((therefor))~~ for payment received on the printed form provided by the commission ~~((and fill in the form as required and deliver it))~~. This receipt shall be mailed or delivered by the inspector to the commission office along with the other required event reports.

(2) Should any ~~((club))~~ promoter's check be protested, claim shall be made for the amount of the check upon the surety company, as provided in ~~((clause WAC 36-12-090 of these rules))~~ RCW 67.08.030.

~~((Clubs))~~ Promoters will hold all endorsed payment checks for inspection at the commission's order.

In the event the referee fails to render a decision at the termination of any bout, the ~~((club))~~ promoter shall deliver payment checks covering such bout to the commission.

AMENDATORY SECTION (Amending Order 84-1, filed 7/26/84)

WAC 36-12-350 TICKETS. (1) ~~((The sale of tickets for any proposed exhibition is prohibited until plans showing the seating arrangement, aisle spacing, exit facilities, and the location of fire appliances have been approved by the fire department.~~

~~((2) Clubs)) Promoters may use only tickets ((obtained from a printer)) approved by the commission. ~~((Authorized printers shall send by mail to the commission office, not less than twenty-four hours before the exhibition for which the tickets have been printed a sworn inventory of all tickets delivered to any licensed club. This inventory shall account also for any over prints, changes or extras. Clubs will notify printers of this requirement.)) The promoter shall provide to the commission before each event, a sworn inventory from the printer of all tickets printed showing number and prices, including any over prints, changes, or extras.~~~~

~~((3)) (2) No exchange of tickets shall be made except at the box office, and no ticket shall be redeemed after the show has taken place. Tickets in the hands of agencies must be returned to the box office not later than two hours after the show has started.~~

~~((4)) (3) All tickets ~~((exclusive of working press, official, employee, and photographer;)) shall have the price and name of ((club)) promoter and date of show printed plainly thereon. Changes in ticket prices or dates of shows must be referred to the commission for approval.~~~~

~~((5)) (4) No ticket shall be sold except at the price printed on it.~~

~~((6) Every club holding either boxing or wrestling matches must have printed on the stub of every ticket sold the following advice:~~

~~"Retain this coupon in event of postponement or no contest. Refund \$....."~~

~~The price paid for the ticket shall be printed in the foregoing blank space and the coupon detached and returned to the ticket holder at the entrance gate. This coupon check shall also show the name of the club, and date of the exhibition, and shall be redeemed at its face value by the club upon presentation by the purchaser if the advertised main event is postponed or does not take place as advertised.~~

~~((7)) (5) Tickets of different prices ~~((must)) shall be printed ((on cardboard of)) in different colors on cardboard or heavy paper.~~~~

~~((8) Inspectors will check numbers and places of ticket cans at gates and see that they are sealed and padlocked, and after the show have them opened and tickets counted under their supervision.~~

~~((9)(a) All tickets issued to the press shall be marked "press." Working press tickets shall be consecutively numbered to correspond to the seats and shall not be issued to exceed the comfortable seating capacity of the press box surrounding the ring, and no one, except the officials designated by the commission and the timekeeper, shall be allowed to sit at the press table unless actually engaged in reporting the contest.~~

~~((b) All complimentary and attache tickets shall be marked "complimentary" and "attache" in large letters. Attache tickets must be made available for commission use.~~

~~((c)) (6) No person shall be admitted to any ~~((wrestling show or)) boxing contest, held in the state of Washington without presenting to the doorkeeper an official ticket, or pass.~~~~

~~((d) Each promoter shall provide himself with a rubber stamp with the word "attache" thereon.~~

~~((e) The persons who may receive "attache" passes or tickets for admission are included in the following list:~~

~~((i) Officials connected with the specific boxing or wrestling show on any given date:~~

~~((ii) Actual contestants:~~

~~((iii) Licensed seconds scheduled to work for said contestants:~~

~~((iv) Managers of actual contestants:~~

~~((v) Ushers scheduled to work at the specific show:~~

~~((vi) An agreed number of firemen and policemen in uniform, who are assigned to work at the specific show:~~

~~((vii) Two working newspaper reporters from each daily newspaper in the city where show is held. In case of a major or championship match, special arrangements may be made with the commission for passes to out-of-town news reporter, actually engaged in reporting the show.~~

~~((viii) Building custodian or manager, commission inspectors and referees assigned to work at a specific show.~~

~~All other persons to whom passes are issued by the management, including newspaper employees, check room employees, concessionaires, peanut, popcorn and refreshment vendors, must each present his pass to the box office window and purchase a state tax ticket for which he shall pay as follows: If the established price is \$1.00 or less (exclusive~~

~~of federal tax) the state tax is 5 cents; if the established price is more than \$1.00 and not over \$2.00, the state tax ticket will cost 10 cents; if the established price is more than \$2.00 and not over \$3.00 the state tax ticket will cost 15 cents. Add 5 cents for each dollar or fraction thereof in excess of an established price of \$3.00 — example, a \$4.00 top will cost 20 cents; a \$5.00 top will cost 25 cents.~~

~~If the promoter elects to make a service charge on his passes, he must include in his charge the amount of the federal tax; the state tax as per the schedule set forth in this section and any other taxes, such as local city tax.~~

~~The pass and the tax ticket must be presented to the ticket taker at the door in order to gain admission.~~

~~No policemen, firemen, constables and/or employees of the sheriff's office either in uniform or in civilian attire should be admitted to any boxing or wrestling show without a pass and tax ticket, except policemen and firemen designated in subsection (9)(c)(vi) of this section: FIVE PERCENT STATE TAX MUST BE PAID ON THE VALUE OF THE SEAT REGARDLESS OF COURTESY TICKETS OR ANY OTHER FORM OF PARTIAL PASS.~~

~~((10)) (7) Complimentary tickets or passes shall be limited to ~~((one)) two percent of the ((seating capacity of the house unless permission is obtained from the state boxing commission to exceed the said one percent)) total tickets sold. All tickets exceeding this amount shall be subject to tax under RCW 67.08.050(2).~~~~

~~((11)) (8) Under no circumstances shall a ticketholder be passed through the gate without having the ticket separated from the stub, or be allowed to occupy a seat, unless in possession of a ticket stub.~~

~~((12)) (9) Ushers must see to it that spectators get the seats their ticket stubs entitle them to, and that anyone occupying such seat unlawfully is asked to vacate, and if necessary is ejected.~~

~~((13)) (10) The sale of tickets cannot exceed the seating capacity of the house, and no person can be sold the right of admission without a ticket.~~

~~((14)) (11) Whenever an exhibition or contest is ~~((given)) held, an authorized representative of the licensed ~~((club)) promoter holding such ((exhibition)) event shall, in addition to the written report required by the commission, give ((a memorandum in writing)) an accounting to the inspector immediately after the close of the box office, showing the number of each class of tickets unsold or unused ~~((and permit)). The inspector ((to)) will examine all unsold or unused tickets, stubs, coupons, books, cash, and all other matters relating to the box office and ticket takers. The inspector will then make a formal report to the commission by mail immediately upon the completion of such examination. Any fraud on the part of the ~~((club's)) promoter's representative will be deemed the act of the ((club)) promoter.~~~~~~~~~~

AMENDATORY SECTION (Amending Order 84-1, filed 7/26/84)

WAC 36-12-360 ~~((CLUBS)) PROMOTERS. All promoters must be licensed to promote boxing in the state of Washington. A license certificate is issued when a promoter's application has been approved by the commission and a bond has been obtained and approved. Medical insurance must be obtained before any scheduled event takes place. (See RCW 67.08.030 and 67.08.040.)~~

~~((1) ((Licensed clubs shall not be allowed to hold more than one set of boxing bouts a week without special permission. All main event and semifinals must have the okay of the commissioner or chief inspector in each particular district, before a bout or card is announced or publicity given to the newspapers.~~

~~((2) Clubs)) All boxing contests must be approved by the commission. No promoter may release the names of contestants to the media or otherwise publicize a contest unless a contract has been executed between the parties and the contest approved by the commission.~~

~~((2) The grounds for denial or cancellation by the commission for a boxing contest are as follows:~~

~~((a) The failure of the promoter or any person connected with the promotion and under the jurisdiction of the commission to comply with any statute or rule regulating boxing in Washington.~~

~~((b) The contest would tend to be a mismatch based on the record, experience, skill, and condition of the contestants.~~

~~((c) The contestants have not completed licensing requirements within the seventy-two hour time frame set by the commission.~~

~~((d) The commission does not have adequate staff to enforce the statutes and rules regulating boxing enacted and adopted to protect the health, safety, and welfare of the participants and consumers and guarantee the collection of revenue due to the state from the contest and all ancillary rights incidental thereto.~~



(3) Promoters will be held responsible for maintaining order, and any person who is intoxicated, abusive or disorderly in conduct, to the annoyance of surrounding spectators, must be ejected.

~~((3)) Licensed clubs are not to exceed forty rounds of boxing for any one program, without written consent~~ (4) Promoters shall not schedule less than twenty-six rounds of boxing, nor more than forty rounds, for any one program except with the approval of the commission. An emergency bout ~~((must))~~ shall be provided in ~~((case))~~ the event an arranged card breaks down and if it is necessary to put on another bout. ~~((The emergency bout should not be paid for unless used, but the boxers must then be given a preliminary bout at the following exhibition:))~~

~~((4))~~ (5) Advance notices for all boxing shows must be in the office of the commission ~~((three))~~ seven days prior to the holding of any boxing show. In addition to the regular scheduled boxers the advance notice must show the names of boxers engaged by the ~~((club))~~ promoter for an emergency bout.

~~((5))~~ (6) Notice of any change in announced or advertised programs for any contest must be filed immediately with the commission and the press. Notice of such change or substitution must also be conspicuously posted at the box office, and announced from the ring before the opening contest, and if any of the patrons desire to have the price of their tickets refunded, such refund shall be made if the tickets or ticket stubs are presented at the box office at once. The box office must remain open a reasonable time to redeem such tickets.

~~((6))~~ (7) Substitutions will not be permitted in ~~((the main))~~ any bout unless more than twenty-four hours before weighing-in time of the day of the contest, and then will be permitted only when the substitute has been approved by the commission.

~~((7))~~ (8) No intermission shall exceed a period of ~~((10))~~ ten minutes at any boxing ~~((or wrestling))~~ show ~~((and the inspector in charge shall see that this rule is strictly enforced))~~.

The time allowed for putting ~~((the))~~ gloves on main event boxers within the ring, shall not exceed five minutes ~~((and the referee and timekeeper shall advise the inspector in charge if this rule is violated))~~.

~~((8)) Clubs are not allowed to "farm out" or sell their show to any matchmaker, or manager of boxers, or other person.~~

~~No person other than boxer or person officially identified with the sport may be introduced from the ring.~~

(9) No promoter, or club, or member ~~((or))~~ stockholder, or official of a club shall be permitted to act directly or indirectly as a manager of a boxer, or to hold any financial interest in such management or in the boxer's ring earnings.

(10) Every ~~((club))~~ promoter must provide a suitable room or place and a scale for the examination of contestants by the ~~((club))~~ commission physician. The ~~((club))~~ promoter must furnish ice bags, a stretch-er, and a blanket at each boxing show, to be in readiness in the event same will be deemed necessary by the commission physician.

(11) Copies of all boxing contracts must be filed with the commission. The making of secret agreements contrary to the terms of the contracts so filed is prohibited under penalty of suspension of all parties thereto.

(12) Any ~~((club))~~ promoter doing business directly or indirectly with managers or boxers under suspension may have its license revoked.

(13) Requests for charity shows must be referred to the commission.

(14) No soliciting of any kind by any individual, or organization shall be allowed in any boxing arena without the ~~((written permission))~~ approval of the commission.

(15) All drinks shall be dispensed only in plastic or paper cups. Violations of this rule may result in the suspension or revocation of the offending ~~((club's))~~ promoter's license.

(16) Promoters must provide adequate security as approved by the commission.

(17) A ~~((club))~~ promoter shall not employ any unlicensed ~~((referee))~~ second, ~~((timekeeper))~~ boxer, matchmaker, or announcer ~~((or club physician))~~.

~~((It is imperative that every boxer competing must be licensed and in possession of his identification card bearing his photo and license number. Contestants must show their identification cards to the inspector in charge, and those not having cards in their possession will be required to pay an additional license fee as a fine, which fine with report concerning same by inspector shall be sent to the commission for approval or refund. Only one appearance is allowed on a receipt.~~

~~((7))~~ (18) No admission can be charged ~~((to a training quarters))~~ where boxers are training except ~~((by permission))~~ with the approval of the commission. ~~((Where such))~~ When an admission fee is charged it shall be considered by the commission ~~((that it is charged))~~ as a

charge for the privilege of seeing an exhibition of boxing, and the ~~((club))~~ promoter or person making the charge for admission shall furnish the commission with a certified written report, detailing the number of admissions and the total amount of money taken in, within ~~((72))~~ seventy-two hours thereafter. The state tax of ~~((5))~~ five percent on such gross receipts, exclusive of any federal taxes paid thereon shall be forwarded to the commission with the report.

~~((10))~~ (19) The commission requires that whenever any person, licensed by the ~~((state boxing))~~ commission ~~((of Washington))~~ is approached with a request or suggestion that a sham or collusive contest be entered into or that the contest shall not be conducted honestly and fairly, such licensed person must immediately report the matter to the ~~((state boxing))~~ commission.

~~((11))~~ (20) A ~~((state boxing))~~ commissioner, chief inspector, or any commission inspector ~~((in attendance upon and))~~ supervising a contest or exhibition has the full power of the commission in enforcing the rules and regulations of the commission.

~~((20)) SHOULD ANY QUESTION COME UP, NOT COVERED BY THESE RULES, THE STATE BOXING COMMISSION OF WASHINGTON RESERVES THE RIGHT TO MAKE WHATEVER DECISION SEEMS TO IT FAIR AND EQUITABLE, AND IN ACCORDANCE WITH THE SPIRIT AS WELL AS THE LETTER OF THE LAW, AND SUCH DECISION SHALL BE FINAL.~~

## PROFESSIONAL WRESTLING RULES

### NEW SECTION

WAC 36-12-365 DEFINITIONS. The term "participant" as used in this chapter means any person actually engaged physically in the wrestling exhibition or show. This includes, but is not limited to wrestlers, referees, and managers.

### NEW SECTION

WAC 36-12-367 PARTICIPANTS. (1) Any person under the age of eighteen years old shall not be eligible for a license with the commission.

(2) All applications for a participant's license shall be in writing on a form furnished by the commission. Any person who makes a false statement or misrepresents any information on an application may have his license denied or revoked by the commission.

(3) All applicants for a participant's license shall be found after examination by a physician to be physically and mentally fit to participate in a wrestling show or exhibition.

(4) Upon application for a participant's license, all applicants shall pay a fee in the amount of fifteen dollars.

(5) Two small photos are required and must be provided to the commission before a license can be issued.

(6) All licenses are valid from the time of issuance until the expiration of the licensing year. July 1st is the beginning of each license year.

(7) No licensed promoter is eligible for a participant's license.

### AMENDATORY SECTION (Amending Rule .04.370, filed 9/22/60)

WAC 36-12-370 RING. (1) The ~~((professional boxing rules governing the size, construction and equipment of boxing rings shall apply to wrestling rings, except as otherwise provided in this section))~~ ring shall not be less than sixteen feet square within the ropes and the ring floor shall extend beyond the ropes not less than eighteen inches.

(2) The ring floor shall be padded to a thickness of at least ~~((two inches))~~ one inch. A regular one-piece wrestling mat is ~~((to be))~~ preferred, although soft padding of a proper thickness may be used, with a top covering of clean canvas tightly stretched and laced to the ring platform.

(3) ~~((Any mat or padding and canvas covering which has been used for boxing matches shall not be used for wrestling matches until the mat or canvas covering has been washed and is free from resin.~~

~~((4))~~ The promoter shall keep the mat ~~((or padding))~~ and covering in a clean and sanitary condition. ~~((Each club shall have two canvas covers, using one while the other is being cleaned:))~~

### NEW SECTION

WAC 36-12-385 COMMISSION INSPECTOR. (1) A commission inspector shall attend all wrestling events scheduled. He will make sure all participants are properly licensed and that all laws, rules, and regulations are enforced.

(2) The inspector shall forward all reports and the gross revenue tax due from each event to the commission office.

(3) In accordance with the law, each inspector shall receive for each event officially attended, a fee not to exceed one percent of the net gate of each event up to a maximum of three hundred dollars and a minimum of twenty-five dollars which shall be paid by the promoter.

#### AMENDATORY SECTION (Amending Rule .04.400, filed 9/22/60)

##### WAC 36-12-400 TIMEKEEPERS AND ANNOUNCERS.

~~((1) There shall be a timekeeper appointed by the commission present at all matches. He shall officially keep time and follow the instructions of the referee.~~

~~(2) The timekeeper shall take his cue to commence time in any match from the nod of the referee and shall sound the gong simultaneously with the referee's call of "time."~~

~~(3) At the termination of each five-minute period, the timekeeper shall call out the time that the contestants have been wrestling sufficiently loud for the referee to hear, as "five minutes," "ten minutes," etc.~~

~~(4) In time limit matches the timekeeper shall sound the gong at the end of the designated time limit to indicate the end of the match. If the length of any time limit match is one hour or less, rest periods shall be excluded as part of the time of the match, but if the time limit for a match is more than one hour all rest periods must be included by the timekeeper as a part of the time of the match.~~

~~(5) In matches of one fall, he shall sound the gong when the referee announces the winner, and he shall announce the time of the fall to the referee.~~

~~(6) In matches of two or more falls, he shall sound the gong when the referee announces the winner of the fall and again at the end of the five-minute rest period when the contestants resume the match for the next fall. He shall take his cue from the nod of the referee as in starting the match.) Timekeepers and announcers will be provided by the promoter and must be licensed with the commission. A completed application and two small photos are the licensing requirements for such license.~~

#### AMENDATORY SECTION (Amending Rule .04.410, filed 12/6/67)

~~WAC 36-12-410 MATCHES. (1) ((All wrestling bouts must be billed, announced and advertised as exhibitions unless written permission is obtained from the commission to bill, advertise and announce a bout as a contest.~~

~~(2) Three days before each wrestling match)) The promoter shall furnish the commission with an advance notice, giving the names of the ((wrestlers)) participants to be used ((in the match and the amount of the purse or percentage of the gate receipts each contestant is to receive for his services)) prior to each event.~~

~~((3) No wrestler shall be permitted to tape his hands, arms, or any other part of his body without the consent of the club physician.~~

~~(4) No wrestler shall wrestle at more than one club on the same night.~~

~~(5) All wrestling matches shall be limited to two hours. Ninety minute matches shall be decided by two out of three falls, except as otherwise expressly provided herein. Preliminary matches may be one fall or time limit matches.~~

~~(6) If, in a 90 minute match, neither contestant procures a fall or has a marked advantage after 90 minutes of wrestling, the referee may in his discretion, following a five minute rest period, order the match continued for an added 30 minutes. If one of the contestants wins a fall during the added 30 minute period, he shall be declared the winner. If at the end of the added 30 minute period the referee is unable to decide the winner, the match shall be declared a draw.~~

~~(7) If there is only one fall within 90 minutes of wrestling the winner of that fall shall be declared the winner of the match. If each contestant has gained a fall within 90 minutes of wrestling, the referee may in his discretion allow the match to continue after a five minute rest period for an added 30 minutes, and if at the expiration of the added time neither of the contestants has gained another fall, the match shall be declared a draw.~~

~~(8) If a match is limited to a period of time less than 90 minutes and neither of the contestants gains a fall or each of them gains a fall, the referee may award the decision on the basis of the following factors:~~

- ~~(a) Aggressiveness~~
- ~~(b) Willingness to mix~~
- ~~(c) Counter wrestling~~

The match shall be awarded to the contestant who excels in those factors:

~~(9) Both shoulder blades momentarily pinned to the mat for the referee's count of three seconds shall constitute a fall. Flying and rolling falls shall not count.~~

~~(10) Conceding a fall or quitting because of receiving punishment by means of legitimate holds constitutes a fall. The referee shall slap the contestant securing the fall on the back or shoulders in order that the under-man will not be strained by being held too long in a painful position.~~

~~((11) If a contestant falls, pitches or is accidentally thrown out of the ring, he shall be allowed 20 seconds to reenter the ring. If he is not inside the ropes within that period, the referee may award the fall to his opponent.~~

~~((12) If a contestant is injured by falling or pitching out of a ring, the referee shall allow sufficient time for examination by the club physician to determine whether he can continue. If he cannot continue, the match shall be awarded to the other contestant on a technical fall.~~

~~((13) No wrestler shall deliberately leave the ring during the course of any match except during a rest period and then only with the consent of the referee.) (2) Under no circumstances shall any ((wrestlers be conducted)) participants engage another participant outside of the ring. ((If a wrestler deliberately steps outside the ropes he may immediately be disqualified and his purse may be paid to the commission for whatever disposition it may deem appropriate.)) Any wrestlers involved in this action will be suspended immediately for a period of time set by the commission.~~

~~((14) Wrestlers shall be allowed a five minute rest period between falls if the match provides for two out of three falls.~~

~~((15) If the contestants refuse to observe the rules of the commission, the referee may disqualify the offenders or declare the match "no decision." If a match is declared "no decision" the purse of the offenders may be forfeited to the commission.~~

~~((16) If a wrestler fails to answer the bell for the resumption of the match after the rest period following any fall, he shall forfeit the match.~~

~~((17) In no circumstances shall any wrestler molest, hit or physically abuse a spectator or manhandle a referee.~~

~~((18) Wrestlers contesting outside the ropes of the ring in which the match is being held or in the aisles may be penalized as provided in subsection ((13)) above. Wrestlers who attempt to strike each other with any object or who manhandle the referee may be suspended, for 60 days for the first offense, one year for the second offense, and may have their licenses revoked and be disqualified from wrestling for life in the state of Washington for the third offense. In addition to suspension the commission may assess a fine against the contestant according to the seriousness of the offense.~~

~~((19) If circumstances arise which are not covered by these rules during the course of any match, the referee shall decide the question, and his decision thereon shall be final.))~~

#### NEW SECTION

WAC 36-12-415 TICKETS. (1) Tickets must be printed and consecutively numbered.

(2) A ticket manifest must be provided to the commission upon request.

(3) All tickets must have prior approval by the commission.

#### NEW SECTION

WAC 36-12-425 CONTRACTS. Any contract or agreement between a participant and a promoter shall be in writing, signed by all parties, and made available to the commission upon request.

#### NEW SECTION

WAC 36-12-435 RECORDS. Promoters shall maintain a full, true, and accurate set of books of account and other records of receipts and disbursements in connection with all shows or exhibitions, and the records shall be open for inspection and audit by representatives of the commission for a period of six months after each event or exhibition.

#### NEW SECTION

WAC 36-12-445 BUILDINGS. Any building or facility where wrestling events are held must meet state and local fire and safety requirements.

**AMENDATORY SECTION** (Amending Rule .04.450, filed 12/21/62)

**WAC 36-12-450 MISCELLANEOUS PROVISIONS.** (1) ((Wrestling matches shall be conducted in a standard size ring of the type, size and description first approved by the commission, which shall not contain any foreign substances or materials. No wrestling match shall include more than two participants, without the express written approval of the commission.

(2) No wrestling club license holder shall be permitted to stage any special wrestling exhibition or program without permission of the commission.

(3) If a referee works with the wrestlers and makes himself a part of the match to the extent that he helps in any way in staging an act or stunt, his license shall be revoked and he shall be disqualified from working as a referee in the state of Washington.

(4) If a wrestler is booked to wrestle for a club and does not appear, unless he is sick or injured and can produce a doctor's certificate to that effect or has a valid excuse that meets with the approval of the commission, he shall be subject to such penalties as may be imposed upon him by the commission.

(5) It shall be the duty of the referee, promoter, and his agents, attaches and employees, and the participants in any wrestling match to maintain peace, order and decency in the conduct of any match. Foul and profane language by either contestant, is prohibited.

(6) Any wrestler guilty of foul tactics in a wrestling match may be disqualified and his purse withheld from payment, and the wrestler may automatically be suspended. Disposition of the purse and the penalty to be imposed, if any, upon the wrestler shall be subject to the action of the commission.

(7) No wrestler's license shall be issued to any person who is over 55 or under 18 years of age. Two licenses, one as a wrestler and the other as a referee to the same person, will not be issued.)) Dangerous conduct; punishment. The referee shall not permit physically dangerous conduct or tactics by any participant. Any participant who fails to discontinue such tactics, after being warned by the referee or a commission official shall be disqualified and subject to disciplinary action.

**(2) Duties of licensees.**

It shall be the duty of the promoter, his agents, employees, and the participants in any wrestling show or exhibition to maintain peace, order, and decency in the conduct of any show or exhibition. There shall be no abuse of a commission official at any time. Foul and profane language by participants is prohibited.

**(3) Responsibility of promoter.**

(a) Each promoter shall be directly responsible to the commission for the conduct of its employees and any violation of the laws, rules, or regulations of the commission by any employee of a promoter shall be deemed to be a violation by the promoter.

(b) Promoters are responsible for any violations of the law or commission rules by their participants.

**(4) Postponement or cancellation.**

A small advance sale of tickets shall not be regarded as a legitimate reason for a postponement or cancellation. Indoor wrestling shows or exhibitions shall not be cancelled for any reason except with the approval of the commission.

**(5) Discrimination.**

There shall be no discrimination against any participant in regard to sex, race, color, or creed.

**(6) Appeals.**

(a) Licensees may appeal any suspension, revocation, or fine to the commission in the manner provided in chapter 34.05 RCW.

(b) Such appeals must be received in the commission office within twenty days from the date of the notice sent by the commission.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 36-12-090 BOND.
- WAC 36-12-230 REFEREES NOT TO PERMIT UNFAIR BOXING PRACTICES—CERTAIN ILLEGAL BLOWS DEFINED.
- WAC 36-12-380 SELECTION OF MATCH OFFICIALS.
- WAC 36-12-390 DUTIES OF REFEREES.
- WAC 36-12-420 FOULS AND PERMISSIBLE WRESTLING HOLDS.
- WAC 36-12-430 COSTUMES FOR WRESTLERS.
- WAC 36-12-440 PAYMENT OF CONTESTANTS.

- WAC 36-12-460 BUILDINGS.
- WAC 36-12-470 MISCELLANEOUS RULES OF BOXING AND WRESTLING CLUB LICENSES.
- WAC 36-12-480 METHOD OF OPERATION.

**WSR 91-05-033****PROPOSED RULES****GRAYS HARBOR COLLEGE**

[Filed February 12, 1991, 2:51 p.m.]

**Original Notice.**

Title of Rule: Chapter 132B-120 WAC, Student conduct code.

Purpose: To establish rules governing loss of eligibility for athletes who violate chapter 69.41 RCW; and to change references from "dean of student affairs" to dean of student services" and "dean of instruction" to "vice-president for instruction."

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: RCW 69.41.340.

Summary: Identifies grounds for loss of eligibility of student athletes and establishes procedures to determine ineligibility due to violations of chapter 69.41 RCW; changes references to titles of certain disciplinary officials.

Reasons Supporting Proposal: To comply with the requirements of RCW 69.41.340.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Craig Wellington, Dean of Student Services, Grays Harbor College, (206) 532-9020.

Name of Proponent: Grays Harbor College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These new and amendatory rules identify a violation of chapter 69.41 RCW as a ground for students to be disqualified from participation in school-sponsored athletic events or activities, to comply with RCW 69.41.340. Also, references to the dean of student affairs and dean of instruction are changed to the dean of student services and vice-president for instruction, respectively, to reflect current titles.

Proposal Changes the Following Existing Rules: Amends WAC 132B-120-170 to authorize the disciplinary committee to decide that a student be disqualified from participation in school-sponsored athletic events or activities; changes dean of student affairs to dean of student services in WAC 132B-120-010, 132B-120-060, 132B-120-100, 132B-120-120, 132B-120-140, 132B-120-160, 132B-120-180, and 132B-120-190; and changes dean of instruction to vice-president for instruction in WAC 132B-120-010, 132B-120-120, 132B-120-160, and 132B-120-190.

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

Hearing Location: Grays Harbor College, Board Meeting Room, 200 Building, Aberdeen, Washington 98520, on May 20, 1991, at 3:30 p.m.

Submit Written Comments to: Dr. Jewell Manspeaker, President, Grays Harbor College, Aberdeen, Washington 98520, by May 20, 1991.

Date of Intended Adoption: May 20, 1991.

February 7, 1991  
Dr. Jewell Manspeaker  
President

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

WAC 132B-120-010 DEFINITIONS. As used in this document the following words and phrases shall mean:

(1) "Board" shall mean the board of trustees of Community College District No. 2, state of Washington.

(2) "College" shall mean Grays Harbor College or any additional community college hereafter established within Community College District No. 2, state of Washington.

(3) "Liquor" shall mean the definition of liquor as contained within RCW 66.04.010(16) as now law or hereafter amended.

(4) "Drugs" shall mean and include any narcotic drug as defined in RCW 69.50.101(o), any controlled substance as defined in RCW 69.50.201 through 69.50.212 or any legend drug as defined in RCW 69.41.010(8) as now or hereafter amended.

(5) "College facilities" shall mean and include any or all real property controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "President" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) "Disciplinary officials" shall mean the hearing committee as denominated in WAC (~~(132B-120-180)~~) 132B-120-170, the (~~(associate)~~) dean of student (~~(affairs)~~) services and/or the (~~(dean-of)~~) vice-president for instruction, and the president.

(8) "Student" shall mean and include any person who is regularly enrolled at the college.

(9) "Disciplinary action" shall mean and include the warning, probation, expulsion, suspension, or reprimand of any student pursuant to WAC 132B-120-120 for the violation of any designated rule or regulation of the rules of student conduct for which a student is subject to disciplinary action.

**NEW SECTION**

WAC 132B-120-045 LOSS OF ELIGIBILITY—STUDENT ATHLETIC PARTICIPATION. Any student found to have violated chapter 69.41 RCW, legend drugs, by virtue of a criminal conviction or by final decision of the college president shall, in lieu of or in addition to any other disciplinary action which may be imposed, be disqualified from participation in any school-sponsored athletic events or activities.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

WAC 132B-120-060 FREE MOVEMENT ON CAMPUS. The president is authorized in the instance of any event that he deems impedes the movement of persons or vehicles or which he deems to disrupt the ingress or egress of persons from the college facilities, to prohibit the entry of, or withdraw the license of, or privileges of a person or persons or any group of persons to enter onto or remain upon any portion of the college facility. The president may, in his stead, act through the (~~(associate)~~) dean of student (~~(affairs)~~) services or any other persons he may designate.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

WAC 132B-120-090 CAMPUS SPEAKERS. (1) Student organizations officially recognized by the college may invite speakers to the campus to address their own membership and other interested students and faculty providing suitable space is available and there (~~(m)~~) is no interference with the regularly scheduled program of the college. Although properly allowed by the college, the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints. In case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Speakers are subject to the normal considerations for

law and order and to the specific limitations imposed by the state constitution which prohibits religious worship, exercise or instruction on state property.

(2) In order to insure an atmosphere of open exchange and to insure that the educational objectives of the college are not obscured, the president, in a case attended by strong emotional feeling, may prescribe conditions for the conduct of the meeting, such as requiring a designated member of the faculty as chairman, or requiring permission for comments and questions from the floor. Likewise, the president may encourage the appearance of one or more additional speakers at any meeting or at a subsequent meeting so that other points of view may be expressed. The president may designate representatives to recommend conditions such as time, manner, and place for the conduct of particular meetings.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

WAC 132B-120-100 DISTRIBUTION OF INFORMATION.

(1) Handbills, leaflets, newspapers and similarly related materials may be sold or distributed free of charge by any student or students, or by members of recognized student organizations, or by college employees on or in college facilities at locations specifically designated by the (~~(associate)~~) dean of student (~~(affairs)~~) services; provided such distribution or sale does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

(2) Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.

(3) All nonstudents shall register with the (~~(associate)~~) dean of student (~~(affairs)~~) services prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution or sale must not interfere with the free flow of vehicular or pedestrian traffic.

(4) Any person or persons who violate provisions of subparagraphs (1) and (2) above will be subject to disciplinary action.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

WAC 132B-120-120 DISCIPLINARY PROCESS. (1) Any infractions of college rules and regulations may be referred by any college faculty or staff member to the (~~(associate)~~) dean of student (~~(affairs)~~) services or in his absence the (~~(dean-of)~~) vice-president for instruction. That official shall then follow the appropriate procedures for any disciplinary action which he deems necessary relative to the alleged misconduct. In addition, a student may appeal disciplinary action taken by an instructor or faculty member pursuant to the provisions in WAC 132B-120-180.

(2) The disciplinary official may take whatever action he deems appropriate within the framework of these regulations. If the student concludes that any sanctions imposed upon him are inappropriate, he may appeal to the student/faculty disciplinary committee.

(3) If a referral or an appeal is made to the student/faculty disciplinary committee, the committee shall hold a hearing, reach conclusions and may impose sanctions. If the student concludes that the action of the disciplinary committee is inappropriate, he may appeal the matter to the president of the college.

(4) The president of the college, after reviewing the case, may reverse, sustain or modify any sanctions which may have been imposed by the student/faculty disciplinary committee. The decision of the president is final.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

WAC 132B-120-140 READMISSION AFTER SUSPENSION/EXPULSION. Any student suspended from the college for disciplinary reasons will normally be readmitted upon expiration of the time period for which the suspension was issued. If the student has been expelled or feels that circumstances warrant reconsideration of a temporary suspension prior to its expiration, or if the student was suspended with conditions imposed for readmission, the student may be readmitted following approval of a written petition submitted to the (~~(associate)~~) dean of student (~~(affairs)~~) services. Such petition must state reasons which support a reconsideration of the matter. Before readmission may be granted, such petition must be reviewed and approved by the college president or his designee.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)**WAC 132B-120-160 DISCIPLINARY AUTHORITY OF THE ((ASSOCIATE)) DEAN OF STUDENT ((AFFAIRS)) SERVICES AND ((DEAN-OF)) VICE-PRESIDENT FOR INSTRUCTION.**

(1) The ((associate)) dean of student ((affairs)) services or, in his absence, the ((dean-of)) vice-president for instruction of the college is responsible for initiating disciplinary proceedings for infractions of rules and regulations as outlined in the procedures. The ((associate)) dean of student ((affairs)) services or, in his absence, the ((dean-of)) vice-president for instruction, may delegate this responsibility to members of their staff and they may also establish committees or other hearing bodies to advise or act for them in disciplinary matters.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student involved shall be informed at the initial conference or hearing of the several sanctions that may be involved for the misconduct.

(3) After considering the evidence in a case and interviewing the student or students involved, the ((associate)) dean of student ((affairs)) services, or in his absence, the ((dean-of)) vice-president for instruction, may take any of the following actions:

- (a) Terminate the proceeding, exonerating the student or students.
- (b) Dismiss the case after whatever counseling and advice maybe appropriate.
- (c) Impose disciplinary sanctions directly, subject to the student's right of appeal as described in this procedure. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally.
- (d) Refer the matter to the student/faculty disciplinary committee on conduct and standards for appropriate action. The student shall be notified in writing that the matter has been referred to the committee.

(4) This section shall not be construed as preventing the appropriate official from summarily suspending a student. In the event of summary suspension, the student will be given oral or written notice of the charges against him, an explanation of the evidence against him if he denies the charges, and an informal opportunity to present his side of the matter. He will also be given an opportunity to invoke the formal hearing process set forth in this code.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-170 STUDENT/FACULTY DISCIPLINARY COMMITTEE.** (1) The student/faculty disciplinary committee, convened for that purpose, will hear, de novo, and make recommendations on all disciplinary cases referred to by the appropriate authority or appeal to it by students. The committee will be composed of the following persons:

- (a) A member appointed by the president of the college
- (b) Two members of the faculty, appointed by the president of the faculty association
- (c) Two representatives from the student council, appointed by the student body president.

(2) None of the above-named persons shall sit on any case in which he has a complaint or witness, in which he has a direct or personal interest, or in which he has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the disciplinary committee as a whole. The disciplinary committee chairman will be elected by the members of the disciplinary committee.

- (3) The committee may decide that the student involved:
  - (a) Be given a disciplinary warning;
  - (b) Be given a reprimand;
  - (c) Be placed on disciplinary probation;
  - (d) Be given a suspension;
  - (e) Be expelled;
  - (f) Be exonerated with all proceedings terminated and with no sanctions imposed;
- (g) Be disqualified from participation in any school-sponsored athletic events or activities.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-180 PROCEDURAL GUIDELINES.** (1) The student, if he wishes to appeal, has a right to a fair and impartial

hearing before the committee on any charge of misconduct. His failure to cooperate with the hearing procedures, however, shall not preclude the committee from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties.

(2) The student shall be given notice of the date, time and place of the hearing, the charges against him, a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. This notice shall be given to the student in writing and shall be provided in sufficient time to permit him to prepare a defense. The notice may be amended at any time prior to the hearing, but if such amendment is prejudicial to the student's case, the hearing shall be rescheduled to a later date if so requested in writing by the student.

(3) The student or his representative shall be entitled to hear and examine the evidence against him and be informed of the identity of its sources; he shall be entitled to present evidence in his own behalf and to question witnesses testifying against him as to factual matters. The student shall have all authority which is possessed by the college to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

(4) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether he is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation for disciplinary action.

(5) The student may be represented by counsel and/or accompanied by an advisor of his choice.

(6) Hearings conducted by the committee may be held in closed session at the discretion of the committee, the only exception being when the student involved invites particular persons or requests an open hearing. If at any time during the conduct of the hearing invited guests are disruptive of the proceedings, the chairman of the committee may exclude such persons from the hearing room.

(7) A majority of the committee shall set the time, place and available seating capacity for a hearing.

(8) All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.

(9) An adequate summary of the proceedings will be kept. As a minimum, such summary would include a tape recording of testimony. Such record will be available for inspection and copying in the office of student ((affairs)) services during regular business hours.

(10) The student will be provided with a copy of the findings of fact and with the conclusions of the committee. He will also be advised of his right to present, within ten calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of an unmarried student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation will be sent to the parents or guardian of the student.

(11) The committee chairman shall establish general rules of procedures for conducting hearings consistent with the foregoing procedural guidelines.

(12) The president of the college or his designated representative, after reviewing the case, including the report of the committee and any statement filed by the student, shall either indicate his approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision, or shall nullify previous sanctions imposed by reversing its decision. He shall then notify the official who initiated the proceedings, the student and the committee chairperson.

**AMENDATORY SECTION** (Amending Order 80-1, Resolution No. 10-80, filed 8/6/80)

**WAC 132B-120-190 APPEALS.** Any disciplinary action may be appealed as described below. Notice of an appeal by a student shall be made in writing and addressed to the ((associate)) dean of student ((affairs)) services within ten calendar days of the college's giving of the notice of the disciplinary action.

(1) Disciplinary action by a faculty member or other college staff member may be appealed to, and shall be reviewed by, the ((associate)) dean of student ((affairs)) services, or in his absence, the ((dean-of)) vice-president for instruction.

(2) Disciplinary action by the appropriate disciplinary official may be appealed to, and shall be reviewed by, the student/faculty disciplinary committee.

(3) Disciplinary action by the student/faculty disciplinary committee may be appealed to, and shall be reviewed by, the college president or his designee.

(4) Disciplinary action by the president shall either indicate his approval of the conclusions by sustaining the decision or shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing its decision. All appeals to the president shall be final.

**WSR 91-05-034**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 12, 1991, 3:27 p.m.]

**Original Notice.**

Title of Rule: WAC 388-95-320 Eligibility determination—Institutional.

Purpose: To have the rules regarding the availability of resources and income of the parents of institutional children consistent with the time periods that a spouse is responsible for a spouse.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The department shall consider the parents' income and resources available to an institutionalized child if the child is expected to be institutionalized for less than thirty consecutive days.

Reasons Supporting Proposal: This rule is necessary to change the rules to show that parents' income and resources are available to an institutionalized child if the child is expected to be institutionalized for less than thirty days.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance, 753-0529.

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

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

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 12, 1991  
D. L. Henry  
for Rosemary Carr  
Acting Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 3020, filed 5/31/90, effective 7/1/90)

WAC 388-95-320 ELIGIBILITY DETERMINATION—INSTITUTIONAL. (1) ~~((Individuals are considered institutionalized if they reside))~~ The department shall find a person residing in or are expected to reside in a Medicaid-approved medical facility for thirty consecutive days(=) eligible for institutional care, if the person:

(a) ~~Is Title XVI-related ((individuals in medical facilities shall have their eligibility determined by comparing their))~~ with gross income ~~((to))~~ at or below three hundred percent of the SSI federal benefit amount payable under section 1611 (b)(1) of the Social Security Act to ~~((an individual))~~ a person residing in ~~((their))~~ the person's own home who ~~((has no))~~ does not have income or resources ~~((SSI cap))~~. ~~((b))~~ If gross income is:

(i) Equal to or less than three hundred percent of SSI federal benefit amount, the department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than three hundred percent of SSI ~~((cap))~~ federal benefit amount, the ~~((individual's))~~ department shall determine a person's eligibility ~~((shall be determined))~~ under the limited casualty program—medically needy ~~((in chapter 388-99))~~ as determined under WAC(=

(c) Allocation of recipient income is defined in WAC 388-95-360.

(d) Consideration of)) 388-95-400;

(b) Does not have nonexcluded resources ~~((is described))~~ under WAC 388-95-380 and ~~((38-95-390. (c) Transferring))~~ 388-95-395, greater than the limitations under WAC 388-95-390; and

(c) Is not subject to a period of ineligibility for transferring of resources ~~((is described))~~ under WAC 388-95-395.

(2) ~~((Individuals))~~ The department shall allocate recipient's income and resources as described under WAC 388-95-360.

(3) When both spouses are institutionalized, the department shall determine eligibility of each spouse individually.

(4) Persons residing or ~~((are))~~ expected to reside in a Medicaid-approved medical facility less than thirty consecutive days shall have ~~((their))~~ the person's eligibility determined as for a noninstitutionalized person.

~~((3))~~ Individuals seventeen years of age or under residing in an approved inpatient psychiatric facility shall have their eligibility determined as follows:

(a) If the individual's absence from the home is temporary, the income and resources of the parents are considered available whether income and resources are actually contributed. Absence is considered temporary if the individual is placed in an acute care facility and return to the home is expected within ninety days.

(b) If the individual's absence from the home is other than temporary, the income and resources of the parents are not considered available unless income and resources are actually contributed. Absence is considered other than temporary if the individual is:

(i) Placed in an acute care facility and return to the home is not expected within ninety days, i.e., following discharge, placement will be other than in the home; or

(ii) Placed in an approved inpatient psychiatric long-term care facility:

~~((4))~~ For individuals eighteen through)) (5) Effective January 1, 1991, for an institutionalized person twenty years of age ~~((residing in an approved inpatient psychiatric facility))~~ or under, the department shall not consider the income and resources of the parents available unless the income and resources are actually contributed.

(6) The department shall not consider a person's transfer between institutions as a change in institutional status.

(7) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

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 91-05-035**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH**  
**(Public Assistance)**

[Order 3139—Filed February 12, 1991, 3:30 p.m., effective February 13, 1991]

Date of Adoption: February 12, 1991.

Purpose: To have the rules regarding the availability of resources and income of the parents of institutional children consistent with the time periods that a spouse is responsible for a spouse.

Citation of Existing Rules Affected by this Order: Amending WAC 388-95-320 Eligibility determination—Institutional.

Statutory Authority for Adoption: RCW 74.08.090.

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

Reasons for this Finding: This rule is necessary to change the rules to show that parents' income and resources are available to an institutionalized child if the child is expected to be institutionalized for less than thirty days.

Effective Date of Rule: February 13, 1991.

February 12, 1991

D. L. Henry

for Rosemary Carr

Acting Director

Administrative Services

**AMENDATORY SECTION** (Amending Order 3020, filed 5/31/90, effective 7/1/90)

**WAC 388-95-320 ELIGIBILITY DETERMINATION—INSTITUTIONAL.** (1) ~~((Individuals are considered institutionalized if they reside))~~ The department shall find a person residing in or are expected to reside in a Medicaid-approved medical facility for thirty consecutive days((-)) eligible for institutional care, if the person:

(a) ~~Is Title XVI-related ((individuals in medical facilities shall have their eligibility determined by comparing their))~~ with gross income ((to)) at or below three hundred percent of the SSI federal benefit amount payable under section 1611 (b)(1) of the Social Security Act to ((an individual)) a person residing in ((their)) the person's own home who ((has no)) does not have income or resources ((SSI cap)). ~~((b))~~ If gross income is:

(i) Equal to or less than three hundred percent of SSI federal benefit amount, the department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than three hundred percent of SSI ((cap)) federal benefit amount, the ((individual's)) department

shall determine a person's eligibility ((shall be determined)) under the limited casualty program—medically needy ((in chapter 388-99)) as determined under WAC((-

(c) Allocation of recipient income is defined in WAC 388-95-360.

~~((d) Consideration of))~~ 388-95-400;

(b) Does not have nonexcluded resources ((is described)) under WAC 388-95-380 and ((38-95-390-(c) Transferring)) 388-95-395, greater than the limitations under WAC 388-95-390; and

(c) Is not subject to a period of ineligibility for transferring of resources ((is described)) under WAC 388-95-395.

(2) ((Individuals)) The department shall allocate recipient's income and resources as described under WAC 388-95-360.

(3) When both spouses are institutionalized, the department shall determine eligibility of each spouse individually.

(4) Persons residing or ((are)) expected to reside in a Medicaid-approved medical facility less than thirty consecutive days shall have ((their)) the person's eligibility determined as for a noninstitutionalized person.

~~((3))~~ Individuals seventeen years of age or under residing in an approved inpatient psychiatric facility shall have their eligibility determined as follows:

(a) If the individual's absence from the home is temporary, the income and resources of the parents are considered available whether income and resources are actually contributed. Absence is considered temporary if the individual is placed in an acute care facility and return to the home is expected within ninety days.

(b) If the individual's absence from the home is other than temporary, the income and resources of the parents are not considered available unless income and resources are actually contributed. Absence is considered other than temporary if the individual is:

(i) Placed in an acute care facility and return to the home is not expected within ninety days, i.e., following discharge, placement will be other than in the home; or

(ii) Placed in an approved inpatient psychiatric long-term care facility.

~~((4) For individuals eighteen through))~~ (5) Effective January 1, 1991, for an institutionalized person twenty years of age ((residing in an approved inpatient psychiatric facility)) or under, the department shall not consider the income and resources of the parents available unless the income and resources are actually contributed.

(6) The department shall not consider a person's transfer between institutions as a change in institutional status.

(7) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

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 91-05-036**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 91-10—Filed February 12, 1991, 4:49 p.m.]

Date of Adoption: February 12, 1991.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-33-01000V.

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: Preseason run size estimates for lower river spring chinook indicate harvestable numbers are available. This regulation is adopted at the recommendation of the February 12, 1991, Columbia River Compact meeting.

Effective Date of Rule: Immediately.

February 12, 1991  
 Sally J. Hicks  
 for Joseph R. Blum  
 Director

**NEW SECTION**

**WAC 220-33-01000W COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE.** Notwithstanding the provisions of WAC 220-33-010, 220-33-020 and 220-33-030:

(1) It is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes from Columbia River SMCRA 1A, 1B, 1C, and that portion of Area 1D downstream from Kelly Point at the mouth of the Willamette River, except:

Noon February 10 until 6:00 p.m. February 13, 1991.

Noon February 17 until 6:00 p.m. February 22, 1991.

Noon February 24 until 6:00 p.m. March 1, 1991.

(2) It is unlawful to fish for salmon, shad and sturgeon with gill net gear with a mesh size less than 8 inches.

(3) During the season provided for in subsection 1 of this section, the following sanctuaries, as defined in WAC 220-33-005, are closed waters:

Grays Bay, Elokomin-A, Kalama-A, Lewis-A, Washougal, Cowlitz, Gnat Creek.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 220-33-01000V COLUMBIA RIVER GILL NET SEASONS BELOW BONNEVILLE. (91-06)**

**WSR 91-05-037**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**

[Order 91-09—Filed February 13, 1991, 9:01 a.m., effective February 18, 1991, 12:01 a.m.]

Date of Adoption: February 12, 1991.

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 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: Trawl fishing in the vicinity of Protection Island during this period will impact Pacific cod. There is not harvestable surplus of Pacific cod at this time.

Effective Date of Rule: 12:01 a.m., February 18, 1991.

February 12, 1991  
 Judith Merchant  
 Deputy  
 for Joseph R. Blum  
 Director

**NEW SECTION**

**WAC 220-48-01500E BEAM TRAWL AND BOTTOM TRAWL—SEASONS.** Notwithstanding the provisions of WAC 220-48-015, effective 12:01 a.m. February 18, 1991 through 11:59 p.m. April 15, 1991, is it unlawful to fish for or possess bottom fish taken for commercial purposes with beam trawl or bottom trawl gear in those waters of Marine Fish Shellfish Management and Catch Reporting Area 25A.

**WSR 91-05-038**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 13, 1991, 9:05 a.m.]

Date of Adoption: February 13, 1991.

Purpose: Remove language relating to border county sales tax. Correct the addresses shown for Department of Revenue offices.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 458-20-237.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 91-01-113 on December 19, 1990.

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

February 13, 1991  
 Edward L. Faker  
 Assistant Director



AMENDATORY SECTION (Amending Order ET 83-2, filed 4/15/83)

WAC 458-20-237 RETAIL SALES TAX COLLECTION SCHEDULES. (1) STATE RETAIL SALES AND USE TAX. Under the provisions of section 6, chapter 7, Laws of 1983 the state retail sales tax was increased to 6.5% effective March 1, 1983(~~(, except that the retail sales tax levied and collected in the "border counties" (as defined in section 3, chapter 7, Laws of 1983, i.e., Clark, Cowlitz, Klickitat, and Skamania) remains at 5.4%).~~). For purposes of the state retail sales tax, where a retail sale occurs is to be determined under RCW 82.14.020 and WAC 458-20-145.

(2) LOCAL SALES AND USE TAX. RCW 82.14.030 (1) and (2) authorizes counties and cities to levy a local sales and use tax of .5% and an additional local option sales and use tax of up to .5%~~((, such))~~. These local taxes ~~((to be))~~ are collected along with the 6.5% ~~((or 5.4%))~~ state tax. ~~((By))~~

(a) RCW 82.14.045 authorizes all cities and counties, after voter approval, ~~((are authorized))~~ to levy an additional sales and use tax of .1%, .2%, ~~((or))~~ .3%, ~~((and, in the case of a Class AA county,))~~ .4%, .5%, or .6%, to finance public transportation systems~~((, which))~~. This tax is ~~((also to be))~~ collected along with the other state and local tax.

(b) Section 43, chapter 43, Laws of 1990 which took effect March 14, 1990, allows cities that operate transit systems, county transportation authorities, Metro and public transportation benefit areas, after voter approval, to levy a local sales and use tax in addition to those authorized in RCW 82.14.030 not to exceed an additional 1.0%. This tax is also collected along with the other state and local tax.

(3) AVAILABILITY OF SALES TAX SCHEDULES. Under the authority of RCW 82.08.060 and 82.14.070, the department of revenue has published schedules to govern the collection of retail sales tax on all retail sales. ~~((The schedules are in the amounts 5.9%, 6.2%, 6.4%, 6.5%, 7.2%, 7.3%, 7.5%, 7.6%, 7.7%, 7.8%, 7.9%, and 8.1%. These schedules have been distributed to all retailers registered with the department of revenue. Additional))~~ Copies of the schedules may be obtained by writing to Department of Revenue, ~~((Office Operations, 4th Floor))~~ Information and Education Section, General Administration Building, Olympia, Washington 98504-0090 or by contacting one of the local department of revenue district offices listed below.

(4) STREET AND MAILING ADDRESSES OF LOCAL DISTRICT OFFICES.

~~((2700 Simpson Avenue))~~  
110 W. Market  
P.O. Box 1018  
Aberdeen 98520  
(206) 533-9312

919 SW Grady Way  
P.O. Box 877  
Renton 98057  
~~((206) 382-6100))~~  
1-800-647-7706

~~((2500 Elm Street, Suite C))~~  
1904A Humboldt St.  
P.O. Box 1176  
Bellingham 98227  
(206) 676-2114

~~((710 Second Avenue))~~  
400 Mercer, Room 100  
~~((901 Dexter Horton Bldg.))~~  
Seattle ~~((98104))~~ 98109  
~~((206) 464-6827))~~  
1-800-647-7706

~~((245 4th Street Bldg.))~~  
4841 Auto Center Way  
~~((Rm. 408))~~ Suite 102  
Bremerton ~~((98310))~~ 98312  
(206) ~~((478-4961))~~ 478-4961

2020 35th Street  
P.O. Box 6  
Everett 98206  
(206) ~~((259-8566))~~ 339-1880

711 Vine Street  
P.O. Box 240  
Kelso 98626  
Longview/Kelso Office  
  
(206) 577-2015

1024 Cleveland, Suite B  
P.O. Box 278  
Mount Vernon 98273  
(206) 336-9616

~~((9th and Columbia Bldg.))~~  
1107 South Eastside  
P.O. Box ~~((448))~~ 7  
Olympia ~~((98504))~~ 98507  
~~((206) 753-5510))~~  
1-800-647-7706

2110 West Henry  
P.O. Box 2844  
Pasco ~~((99301))~~ 99302  
(509) 545-2442

1601 East Front Street  
Bldg. 2, Suite A  
P.O. Box 400  
Port Angeles 98362  
(206) ~~((457-8503))~~ 457-2564

300 Northtown Office Bldg.  
North 4407 Division  
P.O. Box 7248  
Spokane 99207-0248  
(509) 456-3140

~~((Professional Bldg., Rm. 207))~~  
11707 - 21st Ave. S.  
~~((705 South 9th))~~ P.O. Box 44010  
Tacoma ~~((98405))~~  
98444-4010  
(206) 593-2874

~~((311 West 11th))~~  
8008 - 4th Plain Blvd.  
P.O. Box ~~((787))~~ 1648  
Vancouver ~~((98666))~~  
98668  
(206) 577-2015

~~((1815 Portland Avenue))~~  
~~((Walla Walla 99362))~~  
~~((509) 527-4412))~~

~~((1139 Princeton))~~  
630 N. Chelan Ave., Ste. B3  
P.O. Box 220  
Wenatchee 98801  
(509) 663-9714

~~((214 Washington))~~  
1714 South 16th Ave.  
~~((Mutual Bldg.))~~  
Yakima ~~((98907))~~  
98902-5713  
(509) 575-2783~~((:))~~

INQUIRIES FROM OUT-OF-STATE, CALL:  
1-800-233-6349

**WSR 91-05-039**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
[Filed February 13, 1991, 9:07 a.m.]

Date of Adoption: February 13, 1991.

Purpose: To clarify B&O tax reporting classification for advertising income of cable television providers. To clarify that this rule includes all subscriber television service providers.

Citation of Existing Rules Affected by this Order:  
Amending WAC 458-20-227.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 91-01-114 on December 19, 1990.

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

February 13, 1991  
Edward L. Faker  
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/20/83 [3/30/83])

WAC 458-20-227 ~~((COMMUNITY ANTENNA))~~ SUBSCRIBER TELEVISION SERVICES.  
~~((Persons furnishing community antenna television~~

~~(CATV) services operate a central television receiving station or antenna from which cables are run to individual locations. The cost of the service to the subscriber consists of a flat fee for installation plus a monthly charge for the maintenance of the service. Title to the cable extensions remains at all times in the person furnishing the reception service.~~

~~Persons engaging in this business are subject to the business tax under the classification service and other activities upon the gross income of the business. "Gross income," in this instance, includes both the charge made for installation and the monthly rental or service fee.)~~

(1) DEFINITIONS. The following definitions apply to this section.

(a) "Subscriber television" refers to all businesses providing television programming to consumers for a fee. It includes, but is not limited to, cable television and satellite television. Subscriber television often transmits to its customers special channels offering a variety of programming such as movies, sporting events, children's entertainment, news and other informational services.

(b) "Fee" includes the amount paid by the subscriber to receive the subscription television service. Generally, the fee consists of an amount for installation and a monthly charge for maintenance or service.

(2) BUSINESS AND OCCUPATION TAX. Persons engaging in the business of subscriber television are subject to the business and occupation tax as follows:

(a) Gross income derived from the charge made for installation and the monthly rental or service fee is subject to tax under the classification service and other activities. (See WAC 458-20-224.)

(b) Gross income derived from advertising revenues is subject to tax under the classification radio and television broadcasting. (See WAC 458-20-241.)

(c) No deductions from gross income may be taken for affiliate fees, video service fees, satellite fees, copyright fees, or any other amounts paid to other firms for special programming provided to subscribers.

(3) USE TAX. Persons engaging in the business of subscriber television are subject to retail sales tax or use tax on all purchases of tangible personal property utilized or required in providing service to subscribers. (See WAC 458-20-178.)

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

**WSR 91-05-040**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
 [Filed February 13, 1991, 9:09 a.m.]

Date of Adoption: February 13, 1991.

Purpose: To clarify that the deduction for the Washington state health insurance pool is to be deducted from the measure of the B&O tax and to indicate that insurance companies are subject to B&O tax or sales of salvage.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-163.

Statutory Authority for Adoption: RCW 82.32.300.  
 Pursuant to notice filed as WSR 91-01-115 on December 19, 1990.

Effective Date of Rule: Thirty-one days after filing.  
 February 13, 1991  
 Edward L. Faker  
 Assistant Director

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

WAC 458-20-163 INSURANCE COMPANIES, INCLUDING SURETY COMPANIES, FRATERNAL BENEFIT SOCIETIES, FRATERNAL FIRE INSURANCE ASSOCIATIONS, BENEFICIARY CORPORATIONS OR SOCIETIES AND WASHINGTON STATE HEALTH INSURANCE POOL. (1) EXEMPTIONS. The ((provisions of the)) business and occupation tax ((do)) does not apply to:

(a) Any person with respect to insurance business upon which a tax based on gross premiums is paid to the state of Washington. (RCW 82.04.320.) It should be noted, however, that the ((statute)) law provides expressly that this exemption does not extend to "any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies(;)" or to "any bonding company . . . with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor." ((In addition,)) The exemption also does not apply to any business engaged in by an insurance company other than its insurance business. An insurance company is subject to the retailing or wholesaling business and occupation tax on sales of salvaged property unless the sales are casual or isolated sales as described in WAC 458-20-106. Also see WAC 458-20-102 for resale certificate requirements for wholesale sales.

(b) Fraternal benefit societies or fraternal fire insurance associations organized or licensed pursuant to Title 48 RCW(;) and ((beneficiary)) as defined in RCW 48.36A.010.

(c) Beneficiary corporations or societies organized under and existing by virtue of Title 24 RCW, if such beneficiary corporations or societies provide in their by-laws for the payment of death benefits. This exemption, however, is limited to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such persons. It is not intended that all the varied, regular business activities (e.g., sales of food, liquor, admissions, and amusement devices receipts) of these societies or organizations be exempted from the business and occupation tax. Only that portion of income which can be demonstrated as directly attributable to charges made for providing death benefits is exempt.

(2) DEDUCTIONS. Effective May 18, 1987, a member of the Washington state health insurance pool ((is entitled to)) may take a deduction from the measure of the business and occupation tax for assessments paid by that member to the pool. (((Chapter 431, Laws of 1987-))) (See RCW 82.04.4329). The deduction amount should

be shown in the deduction column of the business and occupation tax section on the combined excise tax return, where it will be subtracted from the gross amounts, to arrive at a net taxable amount upon which the actual business and occupation tax is computed. If the deduction cannot be fully ((utilized)) used because the assessment total exceeds the gross receipts reported in the business and occupation tax ((liability)) section of the tax return, the member may carry forward the unused portion of the deduction to ((succeeding)) future reporting periods until the deduction is ((exhausted)) fully taken. The explanation of the deduction should be "Amount paid to Washington state health insurance pool, per RCW 82.04.4329 and WAC 458-20-163." This deduction does not apply to a member who has deducted such assessments from the insurance premiums tax, RCW 48.14.020.

(3) RETAIL SALES AND USE TAX. Insurance companies are subject to the retail sales tax or use tax upon retail purchases or articles acquired for their own use.

When insurance companies make sales to consumers of salvaged property (e.g., from automobile collisions, fire loss, burglary or theft recoveries) or any other tangible personal property, they must collect and report retail sales tax on those sales.

**WSR 91-05-041**  
**PREPROPOSAL COMMENTS**  
**DEPARTMENT OF LICENSING**  
 [Filed February 13, 1991, 4:30 p.m.]

**Subject of Possible Rule Making:** The board is considering adopting a new section in chapter 196-24 WAC. Said new section will establish the conditions, under which individuals working within a corporation or public agency, must seal/stamp engineering/land surveying plans.

Persons may Comment on this Subject in the following ways: Correspondence, pro or con, concerning the proposed section. Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98504, on March 22, 1991.

Other Information or Comments by Agency at this Time, if any: The board is proposing this section to establish in rule form, what is generally believed as expected professional conduct of professional engineers and land surveyors. Responding individuals and/or agencies are encouraged to provide suggestive wording if desired.

February 11, 1991  
 Alan E. Rathbun, P.E.  
 Registrar

**NEW SECTION**

**WAC 196-24-098 DOCUMENTS PREPARED BY A PUBLIC AGENCY OR CORPORATION:** Within any governmental agency, corporation, organization or other entity that provides engineering and/or land surveying services as defined in RCW 18.43.020 and employing individuals registered in accordance with chapter 18.43 RCW, the registrants signing and sealing the maps, drawings, plans and/or specifications prepared by said agency/corporation must meet the criteria for "direct supervision" as outlined in WAC 196-24-095.

**WSR 91-05-042**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
**(By the Code Reviser's Office)**  
 [Filed February 13, 1991, 4:42 p.m.]

WAC 173-16-064, proposed by the Department of Ecology in WSR 90-16-040, appearing in issue 90-16 of the State Register, which was distributed on August 15, 1990, is withdrawn by the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 91-05-043**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**  
 [Filed February 13, 1991, 5:00 p.m.]

The Department of Community Development hereby withdraws proposed amendments to chapter 212-12 WAC, filed with the Code Reviser's Office on September 28, 1990, as WSR 90-20-061.

Chuck Clarke  
 Director

**WSR 91-05-044**  
**WITHDRAWAL OF PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed February 14, 1991, 1:16 p.m.]

The Washington State Gambling Commission wishes to withdraw the following rule proposal: Amendatory section WAC 230-20-380 Persons obtaining a special amusement game license to conduct activities only at limited locations, filed by WSR 90-24-006 on November 26, 1990, and continued by WSR 91-03-049 on January 14, 1991.

Sharon M. Tolton  
 Special Agent III  
 Rules Coordinator

**WSR 91-05-045**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed February 14, 1991, 1:18 p.m.]

Original Notice.

Title of Rule: WAC 230-30-080 Limitation on pull tab dispensing devices.

Purpose: To provide requirements for the use of pull tabs in dispensing devices.

Statutory Authority for Adoption: RCW 9.46.070(11).

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Incorporates the use of a new dispensing device into the current rule.

Name of Agency Personnel Responsible for Drafting and Enforcement: Frank L. Miller, Deputy Director, Lacey, 438-7640; and Implementation: Ronald O. Bailey, Director, Lacey, 438-7640.

Name of Proponent: Over and Under Int. Inc., submitted as a petition, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Petitioner seeks to accommodate a new dispensing device capable of holding 4800+ tabs. Device can hold two pull tab series operated separately. Nonresettable LED counters account for each ticket dispensed.

Proposal Changes the Following Existing Rules: The proposed rule change expands the scope of an existing rule.

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

The agency has considered whether this rule change would create an economic impact on small businesses. It has determined that there is no adverse impact as a result of this proposal.

Hearing Location: *Endel's*, 1300 North 1st Street, Yakima, WA 98902, on April 12, 1991, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, 4511 Woodview Drive S.E., Olympia, WA 98504-2400, by April 10, 1991.

Date of Intended Adoption: April 12, 1991.

February 14, 1991  
 Ronald O. Bailey  
 Director

**AMENDATORY SECTION** (Amending Order 136, filed 9/13/83)

WAC 230-30-080 LIMITATION ON PULL TAB DISPENSING DEVICES. (1) No pull tabs shall be placed out for public play unless the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pull tabs. The total number of pull tabs originally in the series will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator.

(2) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture.

(3) (a) No pull tab series, or any portion thereof, shall be placed in, or if a spindle upon, any pull tab dispensing device until any other series of pull tabs previously in, or upon, the device has been played out or permanently removed from public play.

(b) Provided, that in the use of a multiple series dispenser, each series shall be played independently and in accordance with the provisions in (a) above.

(4) No pull tab once placed in, or if a spindle upon, a pull tab dispensing device out for public play shall be removed from the dispensing device until the series is permanently removed from public play, except only:

- (a) Those pull tabs actually played by consumers,
- (b) Those pull tabs removed by representatives of the commission, or other law enforcement agency inspecting the device, and
- (c) Those tabs temporarily removed during necessary repair or maintenance of the device.

Excepting only tabs removed under (b) and (c) hereinabove, once a pull tab has been removed from public play it shall not again be put out for public play.

(5) No person shall put out any pull tab series for public play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device used for dispensing that series.

(6) No person shall sell or transfer to another person in this state, or for use within this state, or shall place out for public play any device for the dispensing of pull tabs not so constructed as to allow a consumer to clearly see each pull tab within, or if a spindle upon, the device prior to playing the device. However, a metal plate, not to exceed 3/4 inch in height, may be affixed across the front at the bottom of the dispensing columns of a mechanical pull tab dispensing device.

(7) No person shall sell or transfer to any other person in this state, or for use within this state, or put out for public play any device for the dispensing of pull tabs without permanent lines or markings on the face or viewable through the face of the device and clearly visible to the consumer which effectively divide the tabs remaining in the device into divisions of approximately 25 tabs so that the consumer can determine how many tabs remain within the device.

(8) No person shall put out for public play any device for the dispensing of pull tabs which is not so constructed as to provide for at least one selection position for every ~~((400))~~ 1,200 pull tabs originally in the series in play in the machine.

(The following schedule shall be followed in the enforcement of this subsection:

MINIMUM NUMBER OF TABS FROM WHICH SELECTION MUST BE AVAILABLE	THE NUMBER OF TABS ORIGINALLY IN SERIES OF PLAY
1	001 - 400
2	401 - 800
3	801 - 1200
4	1201 - 1600
5	1601 - 2000
6	2001 - 2400
7	2401 - 2800
8	2801 - 3200
9	3201 - 3600
10	3601 - 4000))

(9) No person shall sell or transfer to another person in this state, or for use within this state, or put out for public play, any pull tab series which contains more than ~~((4000))~~ 6,000 individual pull tabs.

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 91-05-046**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed February 14, 1991, 1:23 p.m.]

Continuance of WSR 91-03-049.

Title of Rule: WAC 230-30-075 Minimum percentages of prizes for certain gambling activities.

Purpose: Increases the amount that may be expended for merchandise prizes.

Statutory Authority for Adoption: Chapter 9.46 RCW.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: Allows an increase from \$300 to \$400 for merchandise prizes.

Name of Agency Personnel Responsible for Drafting and Enforcement: Frank L. Miller, Deputy Director, Lacey, 438-7640; and Implementation: Ronald O. Bailey, Director, Lacey, 438-7640.

Name of Proponent: Washington State Licensed Beverage Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Allows pull tab operators to purchase larger merchandise prizes.

Proposal Changes the Following Existing Rules: The proposed change expands the scope of an existing rule.

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

The agency has considered whether this rule change significantly impacts small businesses as defined by chapter 19.85 RCW. There is no economic impact to small businesses as a result of these proposals.

Hearing Location: Nendel's, 2800 Pacific, Everett, WA 98201, on March 8, 1991, at 10:00 a.m.

Submit Written Comments to: Washington State Gambling Commission, 4511 Woodview Drive S.E., Lacey, WA 98504-2400, by March 6, 1991.

Date of Intended Adoption: March 8, 1991.

February 14, 1991

Ronald O. Bailey

Director

**AMENDATORY SECTION** (Amending Order 154, filed 10/14/85)

WAC 230-30-075 MINIMUM PERCENTAGE OF PRIZES FOR CERTAIN GAMBLING ACTIVITIES. No operator shall put out for play and no distributor or manufacturer of punchboards and pull tabs shall sell or otherwise provide to any person in this state or for use in this state any punchboard or pull tab series that does not contain the following minimum percentage in prizes:

- (1) Punchboards - a minimum of 60 percent respecting each punchboard placed out for public play.
- (2) Pull tabs - a minimum of 60 percent respecting each series of pull tabs placed out for public play.
- (3) For the purpose of determining the percentage of prizes offered on any punchboard, or in any pull tab series under this section, total merchandise prizes shall be computed at the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.
- (4) Single cash prized on punchboards/pull tabs shall not exceed:
  - (a) Two hundred in cash; or
  - (b) A merchandise prize, or combination merchandise prize, for which the operator has not expended more than ~~((three))~~ four hundred dollars.
- (5) Multiple winners on an individual pull tab or punch shall not exceed the single cash or merchandise prize limit in (4) above.

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 91-05-047**

**PERMANENT RULES**

**GAMBLING COMMISSION**

[Order 220—Filed February 14, 1991, 1:28 p.m.]

Date of Adoption: February 8, 1991.

Purpose: Clarifies that employee salaries at fund raising events are not considered "payment" under certain conditions; provides regulations for the use of pull tabs which may be in a series; and provides rules for Washington Blackjack, an approved, nonbanking, card game.

Citation of Existing Rules Affected by this Order: Amending WAC 230-25-265, 230-30-080, and 230-40-125.

Statutory Authority for Adoption: Chapter 9.46 RCW.

Pursuant to notice filed as WSR 90-24-006 on November 26, 1990.

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

February 14, 1991

Ronald O. Bailey

Director

**AMENDATORY SECTION** (Amending Order 111, filed 9/15/81)

WAC 230-25-265 FUND RAISING EVENT—REGULAR SALARY FOR LICENSEE'S EMPLOYEE NOT "PAYMENT" FOR WORK ON FUND RAISING EVENT UNDER CERTAIN CONDITIONS—FOOD AND BEVERAGE EXCEPTION.

The salary of a regular and full time employee, or a regular but part time employee if the organization has employed a person in that part time position for the past three consecutive years, of an organization licensed to conduct fund raising events shall not be deemed "payment" (as the term "paid" is used in RCW 9.46.02(~~((33)))~~33) for work performed by the employee in connection with a fund raising event conducted by that organization when all of the following conditions are met:

- (1) The position held by the employee has been created for purposes unrelated to the conduct of fund raising events and requires the performance of duties unrelated to fund raising events year around. The employee's contribution to fund raising events must be an incidental part of his or her total duties, consisting of less than 1% of total time worked for the organization; and
- (2) The employee is paid on a recurring basis on a regular and established rate throughout the calendar year, unrelated to the income produced by any fund raising event; and
- (3) The employee does not operate any gambling game or lottery at any fund raising event conducted by the organization but confines his or her services in connection with the event to assisting the organization's other members with the overall planning and organization of the event and with supervision of the supporting services for the event. However, such an employee who is also a bona fide member of the organization or its bona fide auxiliary and is not otherwise scheduled for duty in his or her assigned employee duties at the time the fund raising event is to be held may participate in the conduct of the fund raising event as a bona fide member as set out in WAC 230-25-260.

(4) For the purposes of this rule, the furnishing of food and nonalcoholic beverages to event volunteers, not to exceed \$20 per volunteer per event, shall not be construed as payment or compensation, and such expenses shall not be applicable to the statutory limitation on revenue.

**AMENDATORY SECTION** (Amending Order 136, filed 9/13/83)

WAC 230-30-080 LIMITATION ON PULL TAB DISPENSING DEVICES. (1) No pull tabs shall be placed out for public play unless the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pull tabs. The total number of pull tabs

originally in the series will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator.

(2) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture.

(3) No pull tab series, or any portion thereof, shall be placed in, or if a spindle upon, any pull tab dispensing device until any other series of pull tabs previously in, or upon, the device has been played out or permanently removed from public play.

(4) No pull tab once placed in, or if a spindle upon, a pull tab dispensing device out for public play shall be removed from the dispensing device until the series is permanently removed from public play, except only:

- (a) Those pull tabs actually played by consumers,
- (b) Those pull tabs removed by representatives of the commission, or other law enforcement agency inspecting the device, and
- (c) Those tabs temporarily removed during necessary repair or maintenance of the device. Excepting only tabs removed under (b) and (c) hereinabove, once a pull tab has been removed from public play it shall not again be put out for public play.

(5) No person shall put out any pull tab series for public play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device used for dispensing that series.

(6) No person shall sell or transfer to another person in this state, or for use within this state, or shall place out for public play any device for the dispensing of pull tabs not so constructed as to allow a consumer to clearly see each pull tab within, or if a spindle upon, the device prior to playing the device. However, a metal plate, not to exceed 3/4 inch in height, may be affixed across the front at the bottom of the dispensing columns of a mechanical pull tab dispensing device.

(7) No person shall sell or transfer to any other person in this state, or for use within this state, or put out for public play any device for the dispensing of pull tabs without permanent lines or markings on the face of the device and clearly visible to the consumer which effectively divide the tabs remaining in the device into divisions of approximately 25 tabs so that the consumer can determine how many tabs remain within the device.

(8) No person shall put out for public play any device for the dispensing of pull tabs which is not so constructed as to provide for at least one selection position for every 400 pull tabs originally in the series in play in the machine.

The following schedule shall be followed in the enforcement of this subsection:

MINIMUM NUMBER OF TABS FROM WHICH SELECTION MUST BE AVAILABLE	THE NUMBER OF TABS ORIGINALLY IN SERIES OF PLAY
1	1 - 400
2	401 - 800
3	801 - 1200
4	1201 - 1600
5	1601 - 2000

MINIMUM NUMBER OF TABS FROM WHICH SELECTION MUST BE AVAILABLE	THE NUMBER OF TABS ORIGINALLY IN SERIES OF PLAY
6	2001 - 2400
7	2401 - 2800
8	2801 - 3200
9	3201 - 3600
10	3601 - 4000
11	4001 - 4400
12	4401 - 4800
13	4801 - 5200
14	5201 - 5600
15	5601 - 6000

6	2001 - 2400
7	2401 - 2800
8	2801 - 3200
9	3201 - 3600
10	3601 - 4000
11	4001 - 4400
12	4401 - 4800
13	4801 - 5200
14	5201 - 5600
15	5601 - 6000

(9) No person shall sell or transfer to another person in this state, or for use within this state, or put out for public play, any pull tab series which contains more than ~~((4000))~~ 6,000 individual pull tabs.

**AMENDATORY SECTION** (Amending Order 205 [90-11-058], filed 2/14/90 [5/15/90], effective 3/17/90 [6/15/90])

**WAC 230-40-125 WASHINGTON BLACK-JACK—RULES OF PLAY—WAGERING LIMITS.** Washington blackjack is a nonhouse banking, card game and shall be permitted in Class A and E card rooms only and shall be played only in the following manner:

(1) One or two standard fifty-two-card decks shall be used with suits disregarded and each card valued numerically only: Ace, 1 or 11; face cards (K, Q, J), 10 each; others according to their spots, 10 to 2. One or two decks may be used when there are six or less players. Two decks shall be used when there are seven or more players. The cards shall be dealt from a shoe at all times. The game is played with a dealer/banker and only a player may be a dealer/banker.

(2) When starting a new table the cards are cut to determine who the first dealer/banker will be. The dealer shall announce the amount of money that he or she will put into the bank. A minimum bank may be established as per individual house rule.

(3) Once the bank has been established, the player to the immediate left of the dealer places his/her wager on the bet line and the dealer covers that wager by matching it with a like amount of chips. Each player makes their wager in turn and each wager is immediately matched by the dealer. The maximum wager shall not be more than ten dollars and the minimum wager may be set by house rule. If the bank runs out of money (tapped out) prior to the commencement of the deal, then only those players with a wager covered will be dealt a hand. No player may be dealt more than one hand.

(4) The play begins with the dealer dealing one card face up to each covered player including himself/herself, one more card face up to each covered player, and then one down card to himself/herself. If a player holds an ace and a face card or a ten, it is a "natural" 21 and the player collects twice the amount of their bet from the dealer, unless the dealer also has a natural which results

in a tie (push). All ties result in the players and the dealer recovering their wagers.

(5) If the dealer has a "natural," he/she collects the wagers from players who do not have a "natural." If the dealer does not have a "natural," he/she pays off any player with a "natural" starting with the one closest to their left. Should the dealer not have enough money in the bank to make up the two for one payoff due on a "natural," then those hands and wagers will be frozen in place until the additional wagers are made up or the hand is over. If after the hand is over, a dealer cannot cover the two for one, the player shall get the amount of wager that was covered by the dealer.

(6) If the dealer does not have a "natural," play continues with the player on the dealer's immediate left. The dealer deals cards face up, one by one, as that player calls for them. The player's aim is to total 21 or as close to 21 without going over. When a player is satisfied with their total, they shall declare "stand." If more cards are wanted, the player declares "hit." If a player goes over a 21 point count, the hand is a "bust" and they must turn the hand down, while the dealer collects the bet.

(7) The dealer does the same with each remaining player. Any player who stands must wait while the dealer draws his or her cards. If the dealer goes bust, each standing player is paid the amount of their wager. If the dealer "stands," the down card is turned up and players whose totals are higher than the dealer's are paid. The dealer collects from any player whose total is less. Action is always to the left of the dealer. Any frozen wagers needing to be "made up" will be done in order, to the left of the dealer from losing wagers the dealer collects. Should the dealer not be able to cover all frozen wagers then those frozen wagers are released to the winning players and the deal passes immediately to the left at which time the new dealer shall announce their bank and shuffle the cards. The same shall apply if the dealer has no money in the bank. The dealer may, if allowed by house rule, add to their bank in between hands.

(8) Upon completion of the shuffle, the player to the right of the dealer shall cut the cards. After the cards have been placed into the shoe the dealer shall insert a blank card approximately three quarters of the way through the deck(s). A dealer may deal from the shoe until he/she reaches the blank card. After the blank card appears, the dealer may continue dealing that hand, but will not start a new hand. The deal must then pass to the player on the dealer's immediate left. The discards may only be reshuffled to complete the last hand.

(9) Once wagers are placed and covered on the bet line, no player, including the dealer, may touch those wagers until the winner has been determined. Any player touching the wagers may be ruled to have fouled and their wager forfeited.

(10) Any player who lifts their cards up from the table or slides their cards out of their own playing area shall be ruled to have fouled and their wager may be forfeited.

(11) No player may "buy" the bank. The deal must pass around the table to the left and no player can authorize another player to deal for him or her. A new

player entering the game may not participate as the dealer/banker until at least two other players have dealt. If a player does not wish to deal and passes the deal, that player may not play in the first two hands conducted by the next dealer. A dealer may after completing one full hand, pass the deal and be able to participate in the next hand.

(12) The dealer must stand on 17 or above and must take hits on 16 or below. If a dealer has an ace, it shall be counted as 11 (eleven) if it brings his or her total to 17 or more (but not over 21).

(13) If a player's first two cards total exactly 9, 10 or 11, they may double their wager and receive one more card. The player must then stand on those three cards. If the dealer's bank is insufficient to cover a double down wager, the player may wager an amount equal to the dealer's remaining bank. The dealer must then cover that wager. If the dealer has no bank then a player may not double down.

(14) If the dealer's face-up card is a ten, face card or ace, he/she may look at their face-down card to see if they have a natural; if his/her face-up card is anything else, they may not look at their face-down card until their turn comes to draw. Should the dealer violate this rule their hand may be ruled to have been fouled, which shall result in forfeiture of all remaining dealer wagers.

(15) If a player's first two cards are a pair, then that player may split the pair into two separate hands. The amount of the player's original bet then goes on one of the cards, and they must place an equal amount as a bet on the other card. When this player's turn to draw comes, they receive an up-card for each hand and then play each hand in order. If the dealer does not have enough in their bank to cover the doubled bet, the dealer must cover an amount equal to the value of their remaining bank. The player then has the option to divide the wagers in any manner between the two hands, not to exceed the allowable limit per hand. If the dealer has no bank then the player may divide their wager in any manner between the two hands. If a player's original bet was a minimum allowed in that game then they may not split their pair. A player may only split a pair once.

(16) The dealer will pay only on the value of the cards held by the player and shall not pay on the number of cards received or the card sequence.

(17) There shall be no credit or I.O.U. issued by any player or management.

(18) Washington blackjack shall be authorized for a ~~((one year))~~ test beginning April 1, 1990, and concluding ~~((March 31))~~ December 31, 1991. Of the five tables authorized under RCW 9.46.0281(1) the card room licensee may utilize no more than two tables for Washington blackjack, and must notify the director ten days prior to initiating play.

(19) The director may limit the number of participants in the test when in his judgement the number of participants exceed the ability of the staff to adequately monitor the test.

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



**WSR 91-05-048**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Order 142—Filed February 14, 1991, 3:22 p.m.]

Date of Adoption: February 14, 1991.

Purpose: To implement RCW 70.170.060 regarding hospital charity care.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-453-085; and amending WAC 246-453-001, 246-453-010, 246-453-070, 246-453-080, and 246-453-090.

Statutory Authority for Adoption: RCW 70.170.060.

Pursuant to notice filed as WSR 90-22-109 on November 7, 1990.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made as a response to public comments: WAC 246-453-010(16) "reading impaired patients" was changed to "other patients who cannot read or comprehend the writing and explanation." This change was made to ensure that hospitals interpret the notice whenever an impairment limits the patient's ability to understand it; WAC 246-453-010(17) "dividends and interest" was changed to "net earnings from business and investment activities paid to the individual" "or disability benefits" was added. These changes were made to clarify the sources of income used to determine charity care eligibility; WAC 246-453-010(18) the definition of "family" was replaced with the definition used in federal regulations; WAC 246-453-010(20) "and which appear on their merits to have a chance of achieving third party sponsorship in full or in part" was added to the end of the definition. This clarifies the criteria under which the impact of a failure to pursue an appeal should be judged in achieving a final determination of sponsorship status; WAC 246-453-020(1)(c) "reasonable" was inserted before "efforts to reach a final determination of sponsorship status." This is consistent with prohibitions against unreasonably burdensome application requirements included in WAC 246-453-020(5); WAC 246-453-020(9)(a) "need to" was changed to "shall"; and several other grammatical changes were made.

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

February 14, 1991

Kristine Gebbie  
Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-453-001 PURPOSE. This chapter is adopted by the Washington state (~~hospital commission pursuant to chapter 70.39 RCW as amended by sections 14, 15, and 18, chapter 288, Laws of 1984~~) department of health to implement the provisions of section 506, chapter 9, Laws of 1989 1st ex. sess. and chapter 70.170 RCW. These sections relate to hospital policies for charity care (~~and~~), bad debt and emergency medical care, including admission(s) practices, ((and)) the compilation and measurement of the level of charity care

services provided by each hospital, and penalties for violation of these provisions. (~~The purpose of such policies and measurements is:~~

(1) ~~To assure that no hospital or its medical staff either adopts or maintains practices or policies which result in a significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for all or part of hospital services.~~

(2) ~~To assure that uniform procedures and criteria for identifying care to be classified as charity care are observed by all hospitals.)~~

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-453-010 DEFINITIONS. As used in this chapter, unless the context requires otherwise,

(1) (~~"Commission" means the Washington state hospital commission created by chapter 70.39 RCW~~) "Department" means the Washington state department of health created by chapter 9, Laws of 1989 1st ex. sess., RCW 43.70.020;

(2) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW((; but shall not include beds utilized by a comprehensive cancer center for cancer research, or any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination));

(3) "Manual" means the ((Washington state hospital commission's)) Accounting and Reporting Manual for Hospitals, adopted under WAC 261-20-030((-));

(4) "Indigent persons" shall mean those patients who have exhausted any third-party sources, including Medicare and Medicaid, and whose ((gross)) income is equal to or below 200% of the federal poverty standards, adjusted for family size((-) or is otherwise not sufficient to enable them to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payor;

(5) "Charity care" means ((necessary hospital health care rendered)) appropriate hospital-based medical services provided to indigent persons, as defined in ((WAC 261-14-020(4).)) this section;

(6) "Bad debts" shall mean uncollectible amounts, excluding contractual adjustments, arising from failure to pay by patients whose care has not been classified as charity care((-));

(7) (~~"Region" means one of the health service areas established pursuant to RCW 70.38.085, except that King County shall be considered as a separate region.))~~ "Appropriate hospital-based medical services" shall mean those hospital services which are reasonably calculated to diagnose, correct, cure, alleviate, or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the person requesting the service. For purpose of this section,



"course of treatment" may include mere observation or, where appropriate, no treatment at all;

(8) (~~"Regional average" shall be the arithmetic mean:~~) "Medical staff" shall mean physicians, dentists, nurses, and other professional individuals who have admitting privileges to the hospital, and may also participate as members of the medical staff committees, serve as officers of the medical staff, and serve as directors or chiefs of hospital departments;

(9) "Third-party coverage" and "third-party sponsorship" shall mean an obligation on the part of an insurance company or governmental program which contracts with hospitals and patients to pay for the care of covered patients and services, and may include settlements, judgments, or awards actually received related to the negligent acts of others which have resulted in the medical condition for which the patient has received hospital services;

(10) "Unusually costly or prolonged treatment" shall mean those services or combinations of services which exceed two standard deviations above the average charge, and/or three standard deviations above the average length of stay, as determined by the department's discharge data base;

(11) "Emergency care or emergency services" shall mean services provided for care related to an emergency medical or mental condition;

(12) "Emergency department" and "emergency room" shall mean that portion of the hospital facility organized for the purpose of providing emergency care or emergency services;

(13) "Emergency medical condition" shall mean a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(a) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

(b) Serious impairment of bodily functions;

(c) Serious dysfunction of any bodily organ or part.

With respect to a pregnant woman who is having contractions the term shall mean:

(d) That there is inadequate time to effect a safe transfer to another hospital before delivery; or

(e) That transfer may pose a threat to the health or safety of the woman or the unborn child;

(14) "Responsible party" shall mean that individual who is responsible for the payment of any hospital charges which are not subject to third-party sponsorship;

(15) "Limited medical resources" shall mean the non-availability of services or medical expertise which are required or are expected to be required for the appropriate diagnosis, treatment, or stabilization per federal requirements of an individual's medical or mental situation;

(16) "Publicly available" shall mean posted or prominently displayed within public areas of the hospital, and provided to the individual in writing and explained, at the time that the hospital requests information from the responsible party with regard to the availability of any

third-party coverage, in any language spoken by more than ten percent of the population in the hospital's service area, and interpreted for other non-English speaking or limited-English speaking or other patients who can not read or understand the writing and explanation;

(17) "Income" shall mean total cash receipts before taxes derived from wages and salaries, welfare payments, Social Security payments, strike benefits, unemployment or disability benefits, child support, alimony, and net earnings from business and investment activities paid to the individual;

(18) "Family" means a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family;

(19) "Initial determination of sponsorship status" shall mean an indication, pending verification, that the services provided by the hospital may or may not be covered by third party sponsorship, or an indication from the responsible party, pending verification, that he or she may meet the criteria for designation as an indigent person qualifying for charity care; and

(20) "Final determination of sponsorship status" shall mean the verification of third party coverage or lack of third party coverage, as evidenced by payment received from the third party sponsor or denial of payment by the alleged third party sponsor, and verification of the responsible party's qualification for classification as an indigent person, subsequent to the completion of any appeals to which the responsible party may be entitled and which on their merits have a reasonable chance of achieving third-party sponsorship in full or in part.

## NEW SECTION

WAC 246-453-020 UNIFORM PROCEDURES FOR THE IDENTIFICATION OF INDIGENT PERSONS. For the purpose of identifying those patients that will be classified as indigent persons, all hospitals shall adopt and implement the following procedures:

(1) The initiation of collection efforts directed at the responsible party shall be precluded pending an initial determination of sponsorship status, provided that the responsible party is cooperative with the hospital's efforts to reach an initial determination of sponsorship status;

(a) Collection efforts shall include any demand for payment or transmission of account documents or information which is not clearly identified as being intended solely for the purpose of transmitting information to the responsible party;

(b) The initial determination of sponsorship status shall be completed at the time of admission or as soon as possible following the initiation of services to the patient;

(c) If the initial determination of sponsorship status indicates that the responsible party may meet the criteria for classification as an indigent person, as described in WAC 246-453-040, collection efforts directed at the responsible party will be precluded pending a final determination of that classification, provided that the responsible party is cooperative with the hospital's reasonable efforts to reach a final determination of sponsorship status;

(d) During the pendency of the initial determination of sponsorship status and/or the final determination of the applicability of indigent person criteria, hospitals may pursue reimbursement from any third-party coverage that may be identified to the hospital;

(e) The requirements of this subsection shall not apply to clinics operated by disproportionate share hospitals, as defined and identified by the department of social and health services, medical assistance services, provided that patients are advised of the availability of charity care at the time that services are provided and when presented with a request for payment.

(2) Notice shall be made publicly available that charges for services provided to those persons meeting the criteria established within WAC 246-453-040 may be waived or reduced.

(3) Any responsible party who has been initially determined to meet the criteria identified within WAC 246-453-040 shall be provided with at least fourteen calendar days or such time as the person's medical condition may require, or such time as may reasonably be necessary to secure and to present documentation as described within WAC 246-453-030 prior to receiving a final determination of sponsorship status.

(4) Hospitals must make every reasonable effort to determine the existence or nonexistence of third-party sponsorship that might cover in full or in part the charges for services provided to each patient.

(5) Hospitals may require potential indigent persons to use an application process attesting to the accuracy of the information provided to the hospital for purposes of determining the person's qualification for charity care sponsorship. Hospitals may not impose application procedures for charity care sponsorship which place an unreasonable burden upon the responsible party, taking into account any physical, mental, intellectual, or sensory deficiencies or language barriers which may hinder the responsible party's capability of complying with the application procedures. The failure of a responsible party to reasonably complete appropriate application procedures shall be sufficient grounds for the hospital to initiate collection efforts directed at the patient.

(6) Hospitals may not require deposits from those responsible parties meeting the criteria identified within WAC 246-453-040 (1) or (2), as indicated through an initial determination of sponsorship status.

(7) Hospitals must notify persons applying for charity care sponsorship of their final determination of sponsorship status within fourteen calendar days of receiving information in accordance with WAC 246-453-030; such notification must include a determination of the amount for which the responsible party will be held financially accountable.

(8) In the event that the hospital denies the responsible party's application for charity care sponsorship, the hospital must notify the responsible party of the denial and the basis for that denial.

(9) All responsible parties denied charity care sponsorship under WAC 246-453-040 (1) or (2) shall be provided with, and notified of, an appeals procedure that enables them to correct any deficiencies in documentation or request review of the denial and results in review

of the determination by the hospital's chief financial officer or equivalent.

(a) Responsible parties shall be notified that they have thirty calendar days within which to request an appeal of the final determination of sponsorship status. Within the first fourteen days of this period, the hospital may not refer the account at issue to an external collection agency. After the fourteen day period, if no appeal has been filed, the hospital may initiate collection activities.

(b) If the hospital has initiated collection activities and discovers an appeal has been filed, they shall cease collection efforts until the appeal is finalized.

(c) In the event that the hospital's final decision upon appeal affirms the previous denial of charity care designation under the criteria described in WAC 246-453-040 (1) or (2), the responsible party and the department of health shall be notified in writing of the decision and the basis for the decision, and the department of health shall be provided with copies of documentation upon which the decision was based.

(d) The department will review the instances of denials of charity care. In the event of an inappropriate denial of charity care, the department may seek penalties as provided in RCW 70.170.070.

(10) Hospitals should make every reasonable effort to reach initial and final determinations of charity care designation in a timely manner; however, hospitals shall make those designations at any time upon learning of facts or receiving documentation, as described in WAC 246-453-030, indicating that the responsible party's income is equal to or below two hundred percent of the federal poverty standard as adjusted for family size. The timing of reaching a final determination of charity care status shall have no bearing on the identification of charity care deductions from revenue as distinct from bad debts.

(11) In the event that a responsible party pays a portion or all of the charges related to appropriate hospital-based medical care services, and is subsequently found to have met the charity care criteria at the time that services were provided, any payments in excess of the amount determined to be appropriate in accordance with WAC 246-453-040 shall be refunded to the patient within thirty days of achieving the charity care designation.

#### NEW SECTION

**WAC 246-453-030 DATA REQUIREMENTS FOR THE IDENTIFICATION OF INDIGENT PERSONS.** (1) For the purpose of reaching an initial determination of sponsorship status, hospitals shall rely upon information provided orally by the responsible party. The hospital may require the responsible party to sign a statement attesting to the accuracy of the information provided to the hospital for purposes of the initial determination of sponsorship status.

(2) Any one of the following documents shall be considered sufficient evidence upon which to base the final determination of charity care sponsorship status, when the income information is annualized as may be appropriate:

(a) A "W-2" withholding statement;

- (b) Pay stubs;
- (c) An income tax return from the most recently filed calendar year;
- (d) Forms approving or denying eligibility for Medicaid and/or state-funded medical assistance;
- (e) Forms approving or denying unemployment compensation; or
- (f) Written statements from employers or welfare agencies.

(3) In the event that the responsible party's identification as an indigent person is obvious to hospital personnel, and the hospital personnel are able to establish the position of the income level within the broad criteria described in WAC 246-453-040 or within income ranges included in the hospital's sliding fee schedule, the hospital is not obligated to establish the exact income level or to request the aforementioned documentation from the responsible party, unless the responsible party requests further review.

(4) In the event that the responsible party is not able to provide any of the documentation described above, the hospital shall rely upon written and signed statements from the responsible party for making a final determination of eligibility for classification as an indigent person.

(5) Information requests, from the hospital to the responsible party, for the verification of income and family size shall be limited to that which is reasonably necessary and readily available to substantiate the responsible party's qualification for charity sponsorship, and may not be used to discourage applications for such sponsorship. Only those facts relevant to eligibility may be verified, and duplicate forms of verification shall not be demanded.

#### NEW SECTION

**WAC 246-453-040 UNIFORM CRITERIA FOR THE IDENTIFICATION OF INDIGENT PERSONS.** For the purpose of identifying indigent persons, all hospitals shall use the following criteria:

(1) All responsible parties with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for charity sponsorship for the full amount of hospital charges related to appropriate hospital-based medical services that are not covered by private or public third-party sponsorship;

(2) All responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances;

(3) Hospitals may classify any individual responsible party whose income exceeds two hundred percent of the federal poverty standard, adjusted for family size, as an indigent person eligible for a discount from charges based upon that responsible party's individual financial circumstances.

#### NEW SECTION

**WAC 246-453-050 GUIDELINES FOR THE DEVELOPMENT OF SLIDING FEE SCHEDULES.** All hospitals shall, within ninety days of the adoption of these rules, implement a sliding fee schedule for determination of discounts from billed charges for responsible parties meeting the criteria in WAC 246-453-040(2). These sliding fee schedules must be made available upon request.

(1) In developing these sliding fee schedules, hospitals must consider the following guidelines:

(a) The sliding fee schedule should consider the level of charges that are not covered by any public or private sponsorship in relation to or as a percentage of the responsible party's family income;

(b) The sliding fee schedule should determine the maximum amount of charges for which the responsible party will be expected to provide payment, with flexibility for hospital management to hold the responsible party accountable for a lesser amount after taking into account the specific financial situation of the responsible party;

(c) The sliding fee schedule should take into account the potential necessity for allowing the responsible party to satisfy the maximum amount of charges for which the responsible party will be expected to provide payment over a reasonable period of time, without interest or late fees; and

(d) Hospital policies and procedures regarding the sliding fee schedule should specify the individual financial circumstances which may be considered by appropriate hospital personnel for purposes of adjusting the amount resulting from the application of the sliding fee schedule, such as:

(i) Extraordinary nondiscretionary expenses relative to the amount of the responsible party's medical care expenses;

(ii) The existence and availability of family assets, which may only be considered with regard to the applicability of the sliding fee schedule;

(iii) The responsible party's future income earning capacity, especially where his or her ability to work in the future may be limited as a result of illness; and

(iv) The responsible party's ability to make payments over an extended period of time.

(2) Examples of sliding fee schedules which address the guidelines in the previous subsection are:

(a) A person whose annual family income is between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be responsible for that portion of his/her hospital charges that are not covered by public or private sponsorship that is forty percent of the amount by which that person's annual family income exceeds one hundred percent of the federal poverty standard, adjusted for family size. This responsibility may be adjusted by appropriate hospital personnel after taking into consideration the individual financial circumstances of the responsible party. The responsible party's financial obligation which remains after the application of this sliding fee schedule

may be payable in monthly installments over a reasonable period of time, without interest or late fees, as negotiated between the hospital and the responsible party.

(b) A person whose family income is between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall have his/her hospital charges that are not covered by public or private sponsorship reduced according to the schedule below. The resulting responsibility may be adjusted by appropriate hospital personnel after taking into consideration the individual financial circumstances of the responsible party. The responsible party's financial obligation which remains after the application of this sliding fee schedule may be payable in monthly installments over a reasonable period of time, without interest or late fees, as negotiated between the hospital and the responsible party. The schedule is as follows:

<u>INCOME AS A PERCENTAGE OF FEDERAL POVERTY LEVEL</u>	<u>PERCENTAGE DISCOUNT</u>
One hundred one to one hundred thirty-three	Seventy-five percent
One hundred thirty-four to one hundred sixty-six	Fifty percent
One hundred sixty-seven to two hundred	Twenty-five percent

(3) The provisions of this section and RCW 70.170.060(5) shall not apply to the professional services of the hospital's medical staff, provided that the charges for such services are either submitted by the individual medical staff or are separately identified within the hospital's billing system.

**NEW SECTION**

**WAC 246-453-060 DENIAL OF ACCESS TO EMERGENCY CARE BASED UPON ABILITY TO PAY AND TRANSFER OF PATIENTS WITH EMERGENCY MEDICAL CONDITIONS OR ACTIVE LABOR.** (1) No hospital or its medical staff shall adopt or maintain admission practices or policies which result in:

- (a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;
- (b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is, or is likely to be, less than the anticipated charges for or costs of such services; or
- (c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

(2) No hospital shall adopt or maintain practices or policies which would deny access to emergency care based on ability to pay. No hospital which maintains an emergency department shall transfer a patient with an emergency medical condition or who is in active labor unless the transfer is performed at the request of the patient or is due to the limited medical resources of the transferring hospital. Hospitals must follow reasonable

procedures in making transfers to other hospitals including confirmation of acceptance of the transfer by the receiving hospital.

(3) The department shall monitor hospital compliance with subsections (1) and (2) of this section. The department shall report to the legislature and the governor on hospital compliance with these requirements and shall report individual instances of possible noncompliance to the state attorney general or the appropriate federal agency. For purposes of monitoring compliance with subsection (2) of this section, the department is to follow all definitions and requirements of federal law.

(4) Except as required by federal law and subsection (2) of this section, nothing in this section shall be interpreted to indicate that hospitals and their medical staff are required to provide appropriate hospital-based medical services, including experimental services, to any individual.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

**WAC 246-453-070 STANDARDS FOR ACCEPTABILITY OF HOSPITAL POLICIES FOR CHARITY CARE AND BAD DEBTS.** (1) Each hospital shall develop ~~((a charity care policy for indigent persons which considers the guidelines and criteria for determining charity care found in Appendix G of the manual, HFMA Principles and Practices Board Statement 2 Defining Charity Service as Contrasted to Bad Debts))~~, and submit to the department, within ninety days of the adoption of these rules, charity care policies, procedures, and sliding fee schedules consistent with the requirements included in WAC 246-453-020, 246-453-030, 246-453-040, and 246-453-050. Any subsequent modifications to those policies, procedures, and sliding fee schedules must be submitted to the department no later than thirty days prior to their adoption by the hospital.

(2) Each hospital shall develop, and submit to the department within ninety days of the adoption of these rules, bad debt policies and procedures, including reasonable and uniform standards for collection of the unpaid portions of hospital charges that are the patient's responsibility ((by March 31, 1985)). These standards are to be part of each hospital's system of accounts receivable management manuals, which support hospital collection policies. Manuals should cover procedures for preadmission, admission, discharge, outpatient registration and discharge, billing, and credit and collections. ~~((Manuals shall be available for inspection by the commission))~~ All subsequent modifications to these bad debt policies must be submitted to the department no later than thirty days prior to their adoption by the hospital.

(3) The department will review the charity care and bad debt policies and procedures submitted in accordance with the provisions of this section. If any of the policies and procedures do not meet the requirements of this section or WAC 246-453-020, 246-453-030, 246-453-040, or 246-453-050, the department shall reject the policies and procedures and shall so notify the hospital. Such notification shall be in writing, addressed to the hospital's chief executive officer or equivalent, and

shall specify the reason(s) that the policies and procedures have been rejected. Any such notification must be mailed within fourteen calendar days of the receipt of the hospital's policies and procedures. Within fourteen days of the date of the rejection notification, the hospital shall revise and resubmit the policies and procedures.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

~~WAC 246-453-080 REPORTING REQUIREMENTS. ((1) Each hospital shall submit a copy of its charity care policy by March 31, 1985. All modifications to such policies shall be submitted to the commission within thirty days after adoption.~~

~~(2) Each hospital shall submit a copy of its policies on reasonable and uniform standards for procedures to collect the unpaid portions of hospital charges that are the patient's responsibility. All modifications to such policies shall be submitted to the hospital commission within thirty days after adoption.~~

~~(3) Each hospital shall compile data on charity care provided, as defined by this chapter, beginning April 1, 1985. Data shall be transmitted to the commission by August 15, 1985, covering the period of April 1, 1985 through June 30, 1985. Thereafter, quarterly data transmissions, due 45 days following each quarter, shall be sent to the commission. Report formats will be prescribed by the commission.) Each hospital shall compile and report data to the department with regard to the amount of charity care provided, in accordance with instructions issued by the department.~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

~~WAC 246-453-090 PENALTIES FOR VIOLATION. ((RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform any act which that chapter makes it his/her duty to perform shall be guilty of a misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation.))~~

~~(1) Failure to file the policies, procedures, and sliding fee schedules as required by WAC 246-453-070 or the reports required by WAC ((261-14-040) 246-453-080 shall constitute a violation of chapter 9, Laws of 1989 1st ex. sess., and the ((commission may)) department will levy a civil penalty ((not to exceed)) of one hundred dollars per day for each day following official notice of the violation ((by the commission)). The ((executive director of the commission)) department may grant extensions of time to file the reports, in which cases failure to file the reports shall not constitute a violation until the extension period has expired.~~

~~(2) Failure to comply with other provisions of Part V of chapter 9, Laws of 1989 1st ex. sess., and chapter 70.170 RCW, and chapter 246-453 WAC, will result in~~

civil penalties as provided within RCW 70.170.070(2), with the exception that the terms "not exceeding" and "not to exceed" will be read to mean "of."

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-453-085 CHARITY CARE MEASUREMENT.

#### **WSR 91-05-049**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF HEALTH (Board of Pharmacy)**

[Filed February 14, 1991, 3:24 p.m.]

Please withdraw WSR 90-19-022, filed on September 11, 1990. This filing contained the following WAC section[s] pertaining to hospital pharmacy standards: WAC 360-17-010, 360-17-040, 360-17-070, 360-17-075, 360-17-095, and 360-17-100. The Board of Pharmacy will be amending and refiling these rules at a later date.

Donald H. Williams  
Executive Director

#### **WSR 91-05-050**

#### **NOTICE OF PUBLIC MEETINGS EDMONDS COMMUNITY COLLEGE**

[Memorandum—February 14, 1991]

Tuesday, February 19, 1991  
Lynnwood Hall, Room 424  
4:30 - 6:25

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and brailled or taped information for blind individuals will be provided upon request when adequate notice is given.

#### **WSR 91-05-051**

#### **NOTICE OF PUBLIC MEETINGS COUNCIL ON VOCATIONAL EDUCATION**

[Memorandum—February 14, 1991]

Room B-11  
New Market Vocational Skills Center  
7299 New Market Street  
Tumwater, WA

February 21, 1991, work session/committee meetings, Room B-11, New Market Vocational Skills Center.

February 22, 1991, council meeting.

The meeting site is barrier free. People needing special accommodations should contact the council office at (206) 753-3715.

**WSR 91-05-052**  
**EMERGENCY RULES**  
**HIGHER EDUCATION**  
**PERSONNEL BOARD**

[Filed February 14, 1991, 3:46 p.m.]

Date of Adoption: February 14, 1991.

Purpose: To determine salary increases following board revisions to the classification plan.

Citation of Existing Rules Affected by this Order: Amending WAC 251-08-112 Salary—Reallocation.

Statutory Authority for Adoption: RCW 28B.16.100.

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: Due to the significance of the office support classification study completed by the Higher Education Personnel Board, the legislature, Office of Financial Management, institutions, and employees must know well in advance what rules will be in effect at the time of implementation in order to establish the cost of implementing the study. The tentative date of implementation of the study is July 1, 1991, however, the allocations affected by this study must be done in April.

Effective Date of Rule: Immediately.

February 14, 1991  
 John A. Spitz  
 Director

**AMENDATORY SECTION** (Amending Order 166, filed 12/31/87, effective 2/1/88)

**WAC 251-08-112 SALARY—REALLOCATION.** (1) An employee occupying a position that is reallocated to an existing class with a higher salary range maximum shall receive an increase in the same manner as is provided for promotion in WAC 251-08-110. The periodic increment date shall be established as provided in WAC 251-08-100.

(2) An employee occupying a position that is reallocated to an existing class with a lower salary maximum shall be placed in the salary step in the new range which is closest to the current salary, provided such salary does not exceed the top step of the new salary range.

(3) When reallocation is necessary because the board has created, abolished, or modified a class, the incumbent will remain in the position and the following will apply:

(a) An employee occupying a position reallocated to a class with a lower salary range maximum will retain his/her current salary and will be allowed to achieve the salary maximum of the former class at the time of reallocation. The employee will lose the right to such salary maintenance if he/she voluntarily demotes, promotes, or moves to another class;

(b) An employee occupying a position reallocated to a class with a higher salary range maximum will (~~receive an increase as provided in WAC 251-08-110~~) have

his/her salary adjusted to the same step in the new range as was held in the previous range. The periodic increment date of the affected employee will remain unchanged;

(c) A reallocation which results from the board's abolishment of a class will be effective the date of the board's action.

**WSR 91-05-053**  
**PREPROPOSAL COMMENTS**  
**BUILDING CODE COUNCIL**  
 [Filed February 14, 1991, 4:03 p.m.]

Subject of Possible Rule Making: State Building Code, consideration of amendments to the state regulations for barrier-free facilities.

Persons may Comment on this Subject in the Following Ways: Provide comments in writing, State Building Code Council, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, on February 25, 1991, through April 30, 1991.

Other Information or Comments by Agency at this Time, if any: Provide comments concerning potential statewide amendments to the state regulations for barrier-free facilities, chapter 51-10 WAC, possible amendments necessitated by the Federal Fair Housing Act of 1989 or the Americans with Disabilities Act of 1990, possible amendments necessitated by adoption of accessibility standards into the 1991 Uniform Building Code and any other matter relevant to the adoption of the state regulations for barrier-free facilities, chapter 51-10 WAC. Formal rulemaking will commence in June 1991 with public hearings in August and September 1991. Adoption will occur by November 30, 1991. Contact: Willy O'Neil, State Building Code Council, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151, (206) 586-0486.

February 8, 1991  
 Gene Colin  
 Chair

**WSR 91-05-054**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**PERSONNEL BOARD**  
 [Filed February 15, 1991, 9:24 a.m.]

Continuance of WSR 91-02-038.

Title of Rule: WAC 251-19-155 Workers' compensation—Return-to-work—Purpose; 251-19-156 Workers' compensation—Return to work—Opportunity; 251-19-157 Workers' compensation—Return to work—Program; 251-19-158 Workers' compensation—Return to work—Eligibility; and 251-24-030 Training and development programs—Contents.

Purpose: To provide incentives for institutions of higher education to participate in return-to-work programs.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: RCW 28B.16.300 [28B.16.100].

Summary: Rules set forth the purpose of a return-to-work program, specify the establishment of a policy at each institution of higher education and eligibility, and specify that supervisors will be trained on implementation of the policy.

Reasons Supporting Proposal: To comply with new legislation, chapter 204, Laws of 1990.

Name of Agency Personnel Responsible for Drafting: Bill Gunther, 1202 Black Lake Boulevard, FT-11, Olympia, 753-0380; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, 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: The rule proposal resulted from a legislative finding that workplace safety in state employment is of paramount importance in maintaining a productive and committed state workforce. A purpose of this new law is to provide incentives for agencies and institutions of higher education to participate in industrial insurance safety programs and return-to-work programs by authorizing use of the industrial insurance premium refunds earned by agencies or institutions of higher education participating in industrial insurance retrospective rating programs.

Proposal Changes the Following Existing Rules: Proposal amends WAC 251-24-030 to specify that supervisors will be trained on implementation of the institution return-to-work policy.

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

Hearing Location: Centralia College, Centralia, Washington, on April 4, 1991, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by April 3, 1991.

Date of Intended Adoption: April 4, 1991.

January 29, 1991

John A. Spitz

Director

**WSR 91-05-055**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**PERSONNEL BOARD**

[Filed February 15, 1991, 9:25 a.m.]

Continuance of WSR 91-02-039.

Title of Rule: WAC 251-12-085 Hearing examiners; 251-19-120 Appointment—Temporary; and 251-19-160 Appointment—Conversion of exempt position.

Purpose: WAC 251-12-085 addresses written and oral argument for exceptions hearings; WAC 251-19-

120 specifies parameters regarding temporary appointments; and WAC 251-19-160 specifies conversion of exempt positions to classified positions.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: RCW 28B.16.100.

Summary: Housekeeping correction which was accidentally omitted from amended rule filed on June 8, 1990; housekeeping correction to accurately reflect amendments to WAC 251-01-415 which were adopted January 7, 1990; and housekeeping correction to accurately reflect amendments to WAC 251-04-040 which were adopted October 1, 1990.

Name of Agency Personnel Responsible for Drafting: Holly Galloway, 1202 Black Lake Boulevard, FT-11, Olympia, 586-8642; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, 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: Each of these housekeeping changes reflect previous board action on other rule amendments.

Proposal Changes the Following Existing Rules: Keeps all rules in alignment with one another by reflecting board action in amendments made earlier this year.

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

Hearing Location: Centralia College, Centralia, Washington, on April 4, 1991, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by April 3, 1991.

Date of Intended Adoption: April 4, 1991.

January 29, 1991

John A. Spitz

Director

**WSR 91-05-056**  
**PERMANENT RULES**  
**STATE BOARD**  
**OF EDUCATION**

[Filed February 15, 1991, 10:44 a.m.]

Date of Adoption: January 25, 1991.

Purpose: To establish criteria for three categories of certificates: A substandard, for persons of unusual distinction or talent, and an internship.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-230.

Statutory Authority for Adoption: RCW 28A.410.010.

Pursuant to notice filed as WSR 91-01-092 on December 18, 1990.

Changes Other than Editing from Proposed to Adopted Version: Changes were primarily editorial and adding clarifying language. Sections were added requiring 60 clock hours of study within the first 60 days of employment for teachers hired under WAC 180-79-230 and



180-79-236. Language was added to WAC 180-79-241 to provide assistance to the intern teacher during their first week of teaching.

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

February 14, 1991  
Dr. Monica Schmidt  
Executive Director  
Secretary

AMENDATORY SECTION (Amending WSR 90-12-075, filed 6/1/90, effective 7/2/90)

WAC 180-79-230 LIMITED CERTIFICATES. Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) ~~((Consultant special teacher or educational staff associate certificate:~~

~~(a) The issuance of consultant special certificates is limited to:~~

~~(i) Persons highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools;~~

~~(ii) Persons who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3);~~

~~(iii) Persons who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program;~~

~~(iv) Persons who possess a baccalaureate or higher degree as otherwise required in WAC 180-79-125 and who possess a state of Washington license for a nurse, occupational therapist, or physical therapist: PROVIDED, That this exception to other certification requirements shall terminate as of midnight August 31, 1991.~~

~~(b) Such certificates are issued to individuals who are screened by the local school district or educational service district superintendents. The educational service district or local district superintendent will verify that the following criteria have been met when requesting the consultant special teacher or educational staff associate certificate:~~

~~(i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;~~

~~(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional or educational staff associate activities and will not be serving in a paraprofessional role which would not require certification;~~

~~(iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field;~~

~~(iv) Personnel so certificated will be oriented and prepared for the specific assignment and will be apprised of any legal liability, the lines of authority, and the duration of the assignment; and~~

~~(v) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment and will verify that general requirements for certification as set forth in WAC 180-75-085 (1) and (2) have been met.~~

~~(c) The certificate is valid for one year and only for the activity specified, by endorsement, on such certificate. The certificate may be reissued on application and evidence that requirements continue to be met: PROVIDED, That the superintendent of public instruction may extend the validity of the certificate for more than one year but no more than four years:)) Conditional certificate.~~

~~(a) Such certificates are issued upon application by the local school district or educational service district superintendent to persons:~~

~~(i) Who meet the age, good moral character, and personal fitness requirements of WAC 180-75-085 (1) and (2); and~~

~~(ii) Who are highly qualified and experienced in subject matter to be taught in the common or nonpublic schools; or~~

~~(iii) Who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or~~

~~(iv) Who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program; or~~

~~(v) Who possess a baccalaureate or higher degree or otherwise required in WAC 180-79-125 and who possess a state of Washington license for a nurse, occupational therapist, or physical therapist: PROVIDED, That this exception to other certification requirements shall terminate as of midnight August 31, 1991.~~

~~(b) The educational service district or local district superintendent will verify that the following criteria have been met when requesting the conditional certificate:~~

~~(i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;~~

~~(ii) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment;~~

~~(iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field.~~

~~(c) When requesting the conditional certificate for persons who are highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools, the educational service district superintendent or local district superintendent will verify that the following additional criteria will be met:~~

~~(i) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district mentor and will not be serving in a paraprofessional role which would not require certification;~~

~~(ii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district. A written plan of assistance will be developed, in~~



cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to teaching the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iii) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district.

(d) The certificate is valid for two years or less and only for the activity specified. The certificate may be re-issued for two years and for two year intervals thereafter upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate as approved by the employing school district.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of Washington certificates have expired, or

(ii) Persons who have completed state approved preparation programs at regionally accredited colleges and universities for certificates.

(b) The substitute certificate is valid for life:

(c) PROVIDED, That if the district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under this subsection for use in a particular school district once the list of otherwise qualified substitutes has been exhausted. Such emergency substitute certificates shall be valid for three years.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: PROVIDED, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate.

(b) The emergency certificate is valid for one year.

(4) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 392-193-055(1) and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(5) Nonimmigrant alien foreign language teacher. Applicants for certification as a nonimmigrant alien foreign language teacher must qualify pursuant to WAC 392-193-055(2) and possess a baccalaureate degree or

establish equivalency to a baccalaureate degree by having his or her college or university transcripts evaluated as equivalent by any accredited college or university within the state of Washington.

#### NEW SECTION

WAC 180-79-236 INSTRUCTIONAL SPECIALIST CERTIFICATE. In order to provide opportunities for persons of unusual distinction or exceptional talent to teach in Washington, the state board of education establishes the instructional specialist certificate that shall be issued under the specific circumstances set forth below:

Instructional specialist certificate.

(1) Such certificates are issued upon application by the local school district or educational service district superintendents for a limited assignment and responsibility in a specified activity/field to persons:

(a) Who have unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and or awards;

(b) Whose records of accomplishments or awards are documented by the local school district or educational service district superintendent who has requested such a certificate;

(c) Who meets the age, good moral character, and personal fitness requirements of WAC 180-75-085 (1) and (2).

(2) Such certification applications will be reviewed by the office of the superintendent of public instruction and approved by the state board of education before issuance of the certificate.

(3) When requesting the instructional specialist certificate for persons of unusual distinction or exceptional talent, the school district or educational service district superintendent will verify that the following criteria will be met:

(a) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district mentor and will not be serving in a paraprofessional role which would not require certification;

(b) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to teaching the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(c) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district.

(4) The certificate is valid for two years or less and only for the activity specified. The certificate may be re-issued for two years and for two-year intervals thereafter upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the

issuance of the most recent certificate as approved by the employing school district.

### NEW SECTION

**WAC 180-79-241 INTERNSHIP CERTIFICATE.** In order to broaden the base of persons eligible to pursue teaching careers, the state board of education establishes a teaching internship certificate pilot project under the specific circumstances set forth below:

#### Internship certificate.

(1) Candidates shall be eligible for internship certificates which allow the holder full authority to serve as a part-time or full-time teacher and will be subject to the local school district's evaluation procedures under the following conditions:

(a) Persons must possess a master's degree and have a minimum of forty-five quarter hours (thirty semester hours) in an endorsement area or in a directly related area of study; or a bachelor's degree with a minimum of forty-five quarter hours (thirty semester hours) in an endorsement area or in a directly related area of study and at least five years of relevant work experience, subsequent to the bachelor's degree, as determined by the college or university;

(b) Candidates must be admitted to an approved Washington state college or university teacher education program, and hold a contract for employment in a participating school district.

(2) The college or university approved internship program shall be designed as follows:

(a) At least ten students must be enrolled at the time of the commencement of the program;

(b) Students shall proceed through the program as a cohort group;

(c) The program shall be a minimum of forty-five quarter hours (thirty semester hours) of upper division and/or graduate study and must meet the state board of education standards for approved programs;

(d) The program shall provide the intern a minimum of fifteen quarter hours (ten semester hours) of study prior to the beginning of the school year, five quarter hours (three semester hours) for each quarter/semester of the school year and fifteen quarter hours (ten semester hours) in the summer following the first year of teaching;

(e) Prior to beginning teaching, the candidate must complete a minimum of fifteen quarter hours (ten semester hours) of course work in pedagogy including but not limited to: Child or adolescent psychology, classroom management, methods instruction in the appropriate endorsement area, the legal responsibilities of the professional educator, reading in a content area, and the safety and supervision of children (the course work must include forty hours of observation of school students in learning situations);

(f) During each quarter/semester the interns shall participate in a college/university three hour seminar weekly in order to provide the interns with peer interaction and assistance on issues associated with their teaching experiences;

(g) The college/university shall assign a college supervisor to work with each intern;

(h) The school district shall assign a staff member to serve as a mentor (who shall be selected using the criteria established for the teacher assistance program) for each intern;

(i) The school district and the college/university shall specify in detail the resources they will provide and the procedures they will follow to assure that the intern is qualified to assume full-time responsibility when placed in the classroom as a teacher.

(j) The year of internship teaching shall be deemed comparable to the state board of education student teaching requirement, provided, the college/university evaluates the intern's teaching as satisfactory. The local school district evaluation of the intern shall be shared with the college/university in making its decision;

(k) The internship certificate shall be issued for one year and may be renewed only once for one additional year to persons who for good cause were unable to complete the program upon recommendation by the college or university where the person is enrolled in the teacher education program.

(3) At least one college/university and one school district that meet the following criteria shall be approved by the state board of education to conduct this pilot program:

(a) Colleges and universities and school districts wishing to participate in this program must submit joint proposals to the state board of education for its consideration, provided, one college/university may have joint agreements with more than one school district and may include within such agreements a cooperative arrangement with an educational service district.

(b) Colleges/universities and school districts shall submit a detailed description of the program based on the requirements in subsection (2) of this section, provided, the state board of education will consider modifications to the requirements if the proposal indicates how the intent of the program can be met in a different curricular design.

(4) The internship teaching program shall be reviewed annually by the respective professional education advisory board and evaluated by the professional education advisory committee during its third year of operation. After receiving the recommendation from the professional education advisory committee, the state board of education shall determine whether or not or under what circumstances the pilot project shall be continued.

(5) The pilot project shall terminate on August 31, 1995, unless the state board of education extends or revises the existing program.

**WSR 91-05-057**

**ATTORNEY GENERAL OPINION**

**Cite as: AGO 1991 No. 5**

[February 13, 1991]

**PUBLIC RECORDS—OPEN PUBLIC MEETINGS ACT—  
CORPORATIONS—SMALL BUSINESS EXPORT FINANCE  
ASSISTANCE CENTER**

1. The Open Public Meetings Act and public records provisions of the Public Disclosure Act apply to state agencies. An organization or entity is a state agency for these purposes if it is the functional equivalent of a state agency.
2. A four-part analysis is used to determine if an organization or entity is the functional equivalent of a state agency: (1) whether the organization performs a governmental function; (2) the level of government funding; (3) the extent of government involvement or regulation; and (4) whether the organization was created by the government.
3. The Small Business Export Finance Assistance Center is not the functional equivalent of a state agency under this four-part analysis. Therefore, the Center is not subject to the Open Public Meetings Act or the public records provisions of the Public Disclosure Act.

## Requested by:

The Honorable Ray Moore  
Washington State Senate  
431 John A. Cherberg Building  
Mail Stop: AS-32  
Olympia, Washington 98504

**WSR 91-05-058**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 3113AAA—Filed February 15, 1991, 2:36 p.m., effective April 1, 1991]

Date of Adoption: February 15, 1991.

Purpose: To extend the effective date of this permanent rule from February 15, to April 1, 1991.

Citation of Existing Rules Affected by this Order: Amending chapter 388-77 WAC, Family independence program.

Statutory Authority for Adoption: RCW 74.21.070.

Pursuant to notice filed as WSR 90-21-149 on October 24, 1990; WSR 90-24-026 on November 30, 1990; and WSR 91-01-062 on December 14, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-77-010 is modified to include and clarify the definition of "good cause for late reporting." Although included by reference to the Washington Administrative Code (WAC) for the aid to families with dependent children program, some commenter felt that the definition should be set out specifically in FIP WAC; and WAC 388-77-500(2) is modified to limit the 185% gross income test to applications only. As proposed, the test would have applied to applications and to ongoing eligibility. The change is in response to and reflects the concerns raised by the legal services community.

Effective Date of Rule: April 1, 1991.

February 15, 1991  
D. L. Henry  
for Rosemary Carr  
Acting Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 2630, filed 6/1/88)

WAC 388-77-010 DEFINITION. Unless the context clearly requires otherwise, the definitions in WAC 388-77-010 apply throughout chapter 388-77 WAC. When using the definition for child, parent, stepparent, etc., this can stand for either singular or plural. Other definitions applicable to FIP are contained in chapters 388-22 and 388-49 WAC.

(1) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(2) "Benchmark standard" means the basic monthly level of cash benefits, established according to family size, which equals the state's payment standard under the aid to families with dependent children program, plus food cash assistance as determined in WAC 388-77-820.

(3) "Dependent" means spouse, minor children or stepchildren, full-time students eighteen years of age and under nineteen years of age who are reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which nineteen years of age is reached.

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive FIP cash assistance or other services under the family independence program.

(5) "Transitional benefits" means noncash benefits the enrollee is eligible to receive after eligibility for cash assistance no longer exists because of increased earnings.

(6) "Family independence program" means a demonstration project which remains within the AFDC system under Title IV of the federal Social Security Act and the Food Stamp Act.

(7) "Family independence program services" includes job readiness programs, job development, employment, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training on management of finances and use of credit.

(8) "FIP cash assistance" means the IV-A payment for the grant, additional requirements, and incentive and/or the cash equivalent for food stamps.

(9) "FIP noncash benefits" means benefits, such as medical or child care.

(10) "Full-time employment" means working one hundred fifty or more hours per month.

(11) "Good cause for late reporting" means any circumstance beyond the control of the enrollee. Good cause shall be determined by the department.

(12) "Half-time employment" means working seventy-five or more hours, but less than one hundred fifty hours, per month.

~~((12) "Incapacity" for FIP means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss which is supported by competent medical testimony and is of such a debilitating nature as to reduce substantially or eliminate the person's ability to support or care for his or her child or children.))~~

(13) "Incentive benefit payments" means those additional benefits payable to enrollees due to their participation in education, training, work programs, or employment.

(14) "Job" means a regularly performed lawful activity which generates a cash benefit for the enrollee.

(15) "Overpayment" means FIP cash assistance including food assistance, and/or medical benefits, received by the FIP assistance unit in excess of the amount for which the unit was eligible. An overpayment includes:

(a) "Intentional overpayment" means an overpayment resulting from a willful or knowing intent of the enrollee to receive or retain benefits to which the enrollee is not entitled;

(b) "Unintentional overpayment" means an overpayment that is not attributed to the applicant's/enrollee's willful intent to defraud the department.

(16) "Qualifying parent" means the parent in a two-parent household who earned the greater amount of income in the twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed.

(17) "Self-sufficiency plan" means a written agreement between the employment security department or the department and the enrollee that may include activities specifically undertaken for self-support, and other items outlined in the employability plan or social services plan.

(18) "Subsidized employment" means employment for which FIP has provided the employer the financial resources, in whole or in part, to compensate an enrollee for the performance of work.

#### AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-320 RESOURCES—EXEMPT. In addition to those exempted under aid to families with dependent children in WAC 388-28-005 through 388-28-474 and 388-28-575, the department shall exempt ~~((the following resources for FIP Title IV-A assistance:~~

~~(1) The cash surrender value of life insurance;~~  
~~(2) The cash surrender value of burial plots and pre-paid funeral agreements;~~

~~(3)) nonexempt real property as long as the enrollee is making a good faith effort to sell the property.~~

#### AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-500 INCOME—DETERMINATION OF NEED. (1) An applicant is not eligible for FIP cash assistance if nonexempt gross monthly income less disregards, as specified in AFDC, exceeds the payment standard and authorized additional requirements for AFDC in effect at the time of application:

(a) The department shall ~~((not))~~ apply the one hundred eighty-five percent gross income test in WAC 388-28-484(7) to the income of FIP applicants; and

(b) For the purpose of subsection (1) of this section, an applicant shall not have been a recipient of AFDC or an enrollee of FIP for ninety days prior to application.

(2) For FIP enrollees, the AFDC one hundred eighty-five percent gross income test and the AFDC payment standard test shall not apply.

(3) Unless the household qualifies for a hold-harmless payment, an enrollee shall not be eligible for IV-A FIP cash assistance if nonexempt monthly income less disregards exceeds the totals of:

(a) The payment standard for AFDC for the appropriate household size;

(b) Applicable incentives; and

(c) Authorized additional requirements.

(4) An enrollee shall not be eligible for FIP cash assistance when nonexempt income less deductions exceeds the benchmark plus applicable incentives and authorized additional requirements unless the household qualifies for a hold-harmless payment. For the purpose of subsection (4) of this section, the food assistance amount used in the benchmark shall be calculated at eighty percent of the thrifty food plan.

(5) The department shall determine the exempt or nonexempt status of all income.

#### AMENDATORY SECTION (Amending Order 2984, filed 5/31/90, effective 7/1/90)

WAC 388-77-515 INCOME—EXEMPT. In addition to income exempted under the AFDC program in chapter 388-28 WAC, the department shall exempt the following income from FIP:

(1) Higher education benefits;

~~((2) Earned income tax credit (EITC);~~

~~(3)) The earnings of a child under eighteen years of age;~~

~~((4)) (3) Retroactive FIP benefits;~~

~~((5)) (4) Income tax refunds; and~~

~~((6) Loans, if there is a written agreement to repay;~~

~~(7) Income in-kind; and~~

~~(8)) (5) Gifts as follows:~~

(a) Small nonrecurring gifts, not to exceed thirty dollars per recipient in any quarter;

(b) Gifts to cover the costs of tuition, books, or fees; or

(c) Gifts to cover medical expenses for procedures used to eliminate barriers to employment.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

## WAC 388-77-520 INCOME—DEDUCTIONS.

(1) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income.

(2) The department shall not allow the ten percent earned income deduction if earnings are reported after the eighteenth of the process month without good cause.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-555 EARNED INCOME REPORTING. (1) The department shall send employed enrollees a form to report their gross earnings and hours worked. This section shall not apply to an employed child.

(2) Approved applicants who are employed shall begin to report their earnings and hours worked the month following the month of opening.

(3) Newly employed enrollees shall report earnings and hours worked in writing beginning the month following the month the department becomes aware of the earnings.

(4) The department shall:

(a) Issue advance and adequate notice of ~~((suspension and))~~ termination to an enrollee who fails to submit a written report and verify earned income and hours worked by the tenth of the process month;

(b) ~~((Suspend))~~ Terminate FIP cash assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the process month;

~~(c) ((Terminate FIP assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the payment month. Assistance shall be terminated effective the end of the payment month, however, cash assistance shall not be provided for the payment month, and~~

~~(d) Reinstate assistance to the start of the payment month, suspend or terminate FIP assistance as appropriate when earned income and hours worked are reported and necessary verification is provided by the end of the payment month, and give advance and adequate notice of the action taken))~~ Disallow AFDC income disregards in the hold-harmless calculation if income is reported after the eighteenth of the process month without good cause.

(5) Earned income reporting shall apply to both the Title IV-A and food assistance portions of FIP in place of mandatory monthly reporting.

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-600 STANDARDS OF ASSISTANCE—HOLD HARMLESS. (1) The department shall ensure no applicant or enrollee of FIP receives less financial assistance than he or she would otherwise have been entitled to receive as a sum of the AFDC and food stamp programs under the rules in effect January 1, 1988, and as adjusted to reflect all increases in:

(a) The federal food stamp allotment and deductions; and

(b) The Washington state payment standard for AFDC.

(2) The department shall compare the amount the household would have received under the AFDC program (excluding the allowance for the child care) with the FIP IV-A payment. If the AFDC payment amount is greater, the department shall issue a supplement to bring the FIP IV-A payment up to the amount the household would have received on AFDC.

(3) Notwithstanding subsection (2) of this section, the department shall allow the AFDC child care deduction in the hold-harmless computation for the month of conversion to FIP and the month following if such deduction may be allowed for AFDC.

AMENDATORY SECTION (Amending Order 2757, filed 1/13/89)

WAC 388-77-610 STANDARDS OF ASSISTANCE—INCENTIVE STANDARDS. (1) The department shall provide enrollees who are teen parents in high school or enrollees who are employed with incentive benefits as follows:

(a) Five percent of the benchmark standard for pregnant or parenting teenage parents under twenty-two years of age who stay in:

(i) High school and progress toward graduation; and

(ii) Participate, when available, in parenting education approved by the office of the superintendent of public instruction or the department.

(b) Fifteen percent of the benchmark standard for enrollees working half time;

(c) Thirty-five percent of the benchmark standard for enrollees working full-time.

(2) As described under subsection (1) of this section, the department shall not provide employment incentives for:

(a) Earnings reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(b) Income that is exempt or disregarded.

(3) The department shall provide other FIP enrollees participating in education or training programs approved by ESD or the department with incentive benefits equaling five percent of the benchmark standard.

~~((3))~~ (4) The department shall allow self-employed enrollees with an approved self-employment plan fifteen percent or thirty-five percent of the benchmark standard based on:

(a) The enrollee's declaration of hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(b) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

~~((4))~~ (5) An enrollee's participation in job search skills development or job search activities shall not qualify the enrollee for an incentive under WAC 388-77-610.

((5)) (6) The department shall not allow more than one incentive per assistance unit. The department shall allow the incentive at the highest level for which the assistance unit qualifies.

((6)) (7) The department shall round incentive payments down to the nearest dollar.

((7)) (8) The department shall provide incentives for employment to correspond with the budgeting of income. Incentives for training shall be provided using prospective budgeting.

((8)) (9) For the purposes of the incentive computation, the department shall calculate the food assistance amount used in the benchmark at eighty percent of the thrifty food plan. The department shall round the product of the calculation of the eighty percent of the thrifty food plan down to the nearest dollar.

**AMENDATORY SECTION** (Amending Order 2630, filed 6/1/88)

WAC 388-77-615 STANDARDS OF ASSISTANCE—PAYMENT AMOUNTS. (1) To determine FIP Title IV—A cash assistance, the department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements(:

(a) ~~The department shall not pay grants less than one dollar, and~~

(b)) The department shall round the amount to be issued down to the nearest dollar.

(2) Payment amounts for enrollees, not in their own home, shall be as in WAC 388-29-125 through 388-29-280.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

388-77-230 FAMILY INDEPENDENCE PROGRAM—INCAPACITY CRITERIA.

388-77-530 INCOME—NONRECURRING LUMP SUM PAYMENTS.

**WSR 91-05-059**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**PERSONNEL BOARD**  
[Filed February 19, 1991, 9:13 a.m.]

Continuance of WSR 91-05-054.

Title of Rule: WAC 251-19-155 Workers' compensation—Return-to-work—Purpose; 251-19-156 Workers' compensation—Return to work—Opportunity; 251-19-157 Workers' compensation—Return to work—Program; 251-19-158 Workers' compensation—Return to work—Eligibility; 251-24-030 Training and development programs—Contents.

Purpose: To provide incentives for institutions of higher education to participate in return-to-work programs.

Statutory Authority for Adoption: RCW 28B.16.100.  
Statute Being Implemented: RCW 28B.16.100.

Summary: Rules set forth the purpose of a return-to-work program, specify the establishment of a policy at each institution of higher education and eligibility, and specify that supervisors will be trained on implementation of the policy.

Reasons Supporting Proposal: To comply with new legislation, chapter 204, Laws of 1990.

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

Name of Proponent: Higher Education Personnel Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule proposal resulted from a legislative finding that workplace safety in state employment is of paramount importance in maintaining a productive and committed state workforce. A purpose of this new law is to provide incentives for agencies and institutions of higher education to participate in industrial insurance safety programs and return-to-work programs by authorizing use of the industrial insurance premium refunds earned by agencies or institutions of higher education participating in industrial insurance retrospective rating programs.

Proposal Changes the Following Existing Rules: Proposal amends WAC 251-24-030 to specify that supervisors will be trained on implementation of the institution return-to-work policy.

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

Hearing Location: South Puget Sound Community College, Board Room, Olympia, Washington, on April 12, 1991, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by April 11, 1991.

Date of Intended Adoption: April 12, 1991.

February 19, 1991  
John A. Spitz  
Director

**WSR 91-05-060**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**PERSONNEL BOARD**  
[Filed February 19, 1991, 9:16 a.m.]

Continuance of WSR 91-05-055.

Title of Rule: WAC 251-12-085 Hearing examiners; 251-19-120 Appointment—Temporary; and 251-19-160 Appointment—Conversion of exempt position.

Purpose: WAC 251-12-085 addresses written and oral argument for exceptions hearings; WAC 251-19-

120 specifies parameters regarding temporary appointments; and WAC 251-19-160 specifies conversion of exempt positions to classified positions.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: RCW 28B.16.100.

Summary: WAC 251-12-085, housekeeping correction which was accidentally omitted from amended rule filed on June 8, 1990; WAC 251-19-120, housekeeping correction to accurately reflect amendments to WAC 251-01-415 which were adopted January 7, 1990; and WAC 251-19-160, housekeeping correction to accurately reflect amendments to WAC 251-04-040 which were adopted October 1, 1990.

Name of Agency Personnel Responsible for Drafting: Holly Galloway, 1202 Black Lake Boulevard, FT-11, Olympia, 586-8642; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, FT-11, Olympia, 753-3731.

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: Each of these housekeeping changes reflect previous board action on other rule amendments.

Proposal Changes the Following Existing Rules: Keeps all rules in alignment with one another by reflecting board action in amendments made earlier this year.

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

Hearing Location: South Puget Sound Community College, Board Room, Olympia, Washington, on April 12, 1991, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, by April 11, 1991.

Date of Intended Adoption: April 12, 1991.

February 19, 1991

John A. Spitz  
Director

**WSR 91-05-061**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
**(Library Commission)**

[Memorandum—February 15, 1991]

Thursday, March 7, 1991, the Washington State Library Commission will meet for a staff briefing in the Bristol House Restaurant, 2401 Bristol Court Southwest, Olympia, beginning at 12:00 noon.

Friday, March 8, 1991, the Washington State Library Commission will hold its regular business meeting in the meeting room, Timberland Regional Library Service Center, Olympia, Washington, beginning at 10:00 a.m.

**WSR 91-05-062**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
**(Board of Boiler Rules)**

[Memorandum—February 19, 1991]

As per chapter 42.30 RCW, Open Public Meeting Act, the regular meeting of the Board of Boiler Rules will be held at the following location instead of that previously published: March 19, 1991, Skyline Tower, 13th Floor Conference Room, 10900 N.E. 4th Street, Bellevue, WA 98004.

**WSR 91-05-063**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 91-18—Filed February 19, 1991, 3:04 p.m.]

Original Notice.

Title of Rule: WAC 173-19-360 San Juan County shoreline master program.

Purpose: Adoption of revised shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for San Juan County.

Reasons Supporting Proposal: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act and the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Peter Skowlund, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, (206) 438-8430; Implementation and Enforcement: D. Rodney Mack, Department of Ecology, Mailstop PV-11, Olympia, 98504, 459-6777.

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: Amendment of the county shoreline master program policies and regulations for residential development, addressing location, density, and design of residential uses and related shoreline activities, specifically changing structural setbacks and maximum lot coverage standards, subdivision common area and shared moorage requirements, public access requirements, unstable shoreline area considerations, establishing limitations on shoreline vegetation removal and replanting, and clarifying the provisions regarding residential permit exemptions and accessory uses, and houseboats.

Proposal Changes the Following Existing Rules: Amending chapter 173-19 WAC, Shoreline Management Act of 1971—State master program.



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

Hearing Location: Commissioners Meeting Room, Courthouse Annex, Friday Harbor, Washington, on March 28, 1991, at 2:00 p.m.

Submit Written Comments to: Master Program Coordinator, Washington State Department of Ecology, Shorelands and Coastal Zone Management Program, Mailstop PV-11, Olympia, Washington 98504, by April 5, 1991.

Date of Intended Adoption: June 4, 1991.

February 18, 1991  
 Fred Olson  
 Deputy Director

**AMENDATORY SECTION** (Amending Order 90-59, filed 2/5/91)

WAC 173-19-360 SAN JUAN COUNTY. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. Revision approved April 19, 1989. Revision approved March 14, 1990. Revision approved May 15, 1990. Revision approved June 19, 1990. Revision approved February 5, 1991. Revision approved June 4, 1991.

**WSR 91-05-064**  
**PERMANENT RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 90-06—Filed February 19, 1991, 3:14 p.m.]

Date of Adoption: Tuesday, February 19, 1991.

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.

Citation of Existing Rules Affected by this Order: Repealing chapter 173-403 WAC; and amending chapters 173-400, 173-405, 173-410, 173-415, and 173-490 WAC.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 90-17-126 on August 22, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 173-400-030(24), in the definition for "emissions unit," the term "stationary source" has been changed to "source" for the purpose of consistency with state and federal clean air requirements; WAC 173-400-030(37), in the definition for "major source," item "b" (which refers to additions to, enlargements, or modifications) has been deleted to avoid confusion with the definition for "major modification"; WAC 173-400-030(43), in the definition for "new source" commas have been deleted to clarify that the phrase "of any process or source which may increase emission or ambient air concentrations of any contaminant for which federal or state ambient or emission standards have been established" applies only to the term "or any alteration"; WAC 173-400-030(55), in the definition "potential to emit," the term "stationary source" has been changed to "source" for the purpose of consistency with state and federal clean air requirements; WAC 173-400-040 (6)(a), the

phrase "and PSD incremental" has been deleted from this provision to clarify the applicable standards for sulfur dioxide emissions; WAC 173-400-040 (8)(b), the requirement for "best available control technology" has been changed to "reasonably available control technology" to better reflect the intent of the provisions for fugitive dust emissions. Also, the reference for determining "significance" has been clarified as "40 CFR Part 51, Appendix S, as amended through July 1, 1990"; WAC 173-400-110 (1)(a), the term "source" has been changed to "new source" to clarify the intent of the new source review provisions; WAC 173-400-161(2), the original language has been restored. The provision reads as follows: "Federal action. A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan"; WAC 173-400-230(2), the phrase "or a regulatory order issued by ecology" has been deleted to clarify the intent of this regulatory provision; and WAC 173-405-040(9), the original language has been restored. The provision reads as follows: "The opacity provisions of this chapter shall apply until an application is received by ecology, petitioning for a revised limit as allowed by WAC 173-405-040(7). After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established."

Effective Date of Rule: Thirty-one days after filing.  
 February 19, 1991  
 Fred Olson  
 Deputy Director

Chapter 173-400 WAC  
**GENERAL REGULATIONS FOR AIR POLLUTION SOURCES**

WAC	
173-400-010	<u>Policy and purpose.</u>
173-400-020	<u>Applicability.</u>
173-400-030	<u>Definitions.</u>
173-400-040	<u>General standards for maximum emissions.</u>
173-400-050	<u>((Minimum)) Emission standards for combustion and incineration units.</u>
173-400-060	<u>((Minimum)) Emission standards for general process ((emissions)) units.</u>
173-400-070	<u>((Minimum)) Emission standards for certain source categories.</u>
173-400-075	<u>Emission standards for sources emitting hazardous air pollutants.</u>
173-400-100	<u>Registration.</u>
173-400-105	<u>Records, monitoring, and reporting.</u>
173-400-110	<u>New source review (NSR).</u>
173-400-115	<u>Standards of performance for new sources.</u>
173-400-120	<u>((Monitoring and special report)) Bubble rules.</u>
173-400-131	<u>Issuance of emission reduction credits.</u>
173-400-136	<u>Use of emission reduction credits.</u>

173-400-141	Prevention of significant deterioration (PSD).
173-400-151	Retrofit requirements for visibility protection.
173-400-161	Compliance schedules.
173-400-171	Public involvement.
173-400-180	Variance.
173-400-190	Requirements for nonattainment areas.
173-400-200	Creditable stack height and dispersion techniques.
173-400-205	Adjustment for atmospheric conditions.
173-400-210	Emission requirements of prior jurisdictions.
173-400-220	Requirements for board members.
173-400-230	Regulatory actions.
173-400-240	Criminal penalties.
173-400-250	Appeals.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-400-010 POLICY AND PURPOSE.

(1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and (~~progressive reduction where needed~~) for the proper development of the state's natural resources.

(2) It is the purpose of this chapter to establish (~~standards deemed to be~~) technically feasible and reasonably attainable standards and (~~revise such standards as new information and better technology are developed and become available~~) to establish rules generally applicable to the control and/or prevention of the emission of air contaminants.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-400-020 APPLICABILITY. (1) The provisions of this chapter shall apply state-wide.

(2) An (~~activated air pollution control~~) authority may enforce this chapter and may (~~in addition~~) also adopt standards or requirements (~~which are equivalent to or more stringent than~~). These standards or requirements (~~on the same subject matter established by this chapter. This regulation is applicable to all sources of air contaminants except~~) may not be less stringent than the current state air quality rules and may be more stringent than the current regulations. Unless properly delegated by ecology, authorities do not have jurisdiction over the following sources:

((+)) (a) Specific source categories over which the state, by separate regulation, has assumed or hereafter does assume jurisdiction.

((+)) (b) Automobiles, trucks, aircraft.

((+)) (c) Those sources under the jurisdiction of the energy facility site evaluation council.

((The requirements of chapter 173-403 WAC shall apply to all sources that are subject to the requirements of chapter 173-400 WAC.))

AMENDATORY SECTION (Amending Order 84-48, filed 3/6/85)

WAC 173-400-030 DEFINITIONS. The following definitions will apply unless a different meaning is clearly required by context (~~words and phrases 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 this chapter only as defined below~~):

(1) "Actual emissions" relating to a particular date means the average rate, in weight per unit time of emitted pollutant during the immediately preceding two-year period of normal operation. Ecology or the authority may allow or require the use of an alternative time period if it is more representative of normal operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or burned during the selected time period.

Ecology or the authority may presume that unit-specific allowable emissions, which incorporate limits on hours of operation or production rate, are equivalent to the actual emissions of the unit.

(2) "Administrator" shall refer to ecology or the authority unless specifically defined otherwise.

(3) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(4) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."

(5) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(6) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is limited in production rate or hours of operation, or both, by an applicable federally enforceable regulatory order) and the most stringent of (a), (b), or (c) of this subsection. Physical and process limitations must be considered in determining maximum rated capacity.

(a) Standards as set forth in 40 CFR Part 60 and Part 61, if applicable to the source; or

(b) The applicable state implementation plan emission limitation; or

(c) The emission rate specified by an applicable federally enforceable regulatory order.

(7) "Ambient air" means the surrounding outside air.

(8) "Ambient air quality standard" means an established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

(9) "Authority" means an air pollution control authority activated pursuant to chapter 70.94 RCW that has jurisdiction over the subject source. (This may be delegated by ecology.)

(10) "Best available control technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air pollutant. In no event shall application of the best available technology result in emissions of any air pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the reviewing authority determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to meet the requirement of BACT. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source will provide "all known available and reasonable methods of emission control" is interpreted to mean the same as best available control technology.

(11) "Best available retrofit technology (BART)" means any emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by source. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required. Such standards shall, to the degree possible, set forth the emission reductions achieved and provide for compliance by prescribing appropriate conditions in a regulatory order.

(12) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions

unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155 and WAC 173-400-120.

(13) "Capacity factor" means the ratio of the average load on ((a machine or)) equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

((2)) (14) "Class I area" means any federal, state, or Indian land which is classified Class I.

(15) "Combustion and incineration sources" means sources using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open burning.

((3)) (16) "Commenced construction" means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(17) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

((4) "Excess emissions" means emissions of an air pollutant in excess of an emission standard.

(5)) (18) "Director" means director of the Washington state department of ecology or duly authorized representative.

(19) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

(20) "Ecology" means the Washington state department of ecology.

(21) "Emission" means a release of air contaminants into the ambient air.

(22) "Emission reduction credit (ERC)" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in emissions.

(23) "Emission standard" means an allowable rate of emissions, level of opacity, or prescribing equipment or operating conditions as set forth in a regulation or regulatory order to assure continuous emission control.

(24) "Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation.

(25) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters or the calculated stack height described in WAC 173-400-200(2).

(26) "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

((6)) (27) "Fugitive dust" means a ((type of)) particulate emission made airborne by forces of wind, man's

activity, or both(~~(, such as)~~). Unpaved roads, construction sites, (~~(or)~~) and tilled land are examples of areas that originate fugitive dust. (~~(Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind erosion sources (those resulting from erosion of soil by wind).)~~) Fugitive dust is a type of fugitive emission.

~~((7))~~ (28) "Fugitive emissions" means emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(29) "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

~~((8))~~ (30) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

(31) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

~~((9))~~ (32) "In operation" means engaged in activity related to the primary design function of the source.

(33) "Integral vista" means a view perceived from within the Class I area of a specific landmark or panorama located outside the boundary of the Class I area.

(34) "Land manager" means the secretary of the federal department or head of the state department or Indian governing body with authority over the Class I area.

(35) "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(36) "Major modification" means any physical change or change in the method of operation as defined in WAC 173-400-141.

(37) "Major source" means: Any source which emits or has the potential to emit one hundred tons per year or more of any pollutant regulated by state or federal law.

(38) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor(~~(, usually to a less offensive odor)~~).

~~((10))~~ (39) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration (~~(of the chemical or physical properties of the material)~~).

~~((11))~~ (40) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61.

(41) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(42) "Net emissions increase" means any emissions increase as defined in WAC 173-400-141.

(43) "New source" means a source which commences construction after the effective date of this chapter. Any addition to, enlargement, modification, replacement, re-start after a period of five years of nonoperation, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emission standards have been established shall be construed as construction or installation or establishment of a new source.

(44) "New source performance standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60.

(45) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

(46) "Notice of construction" means a written application to permit construction of a new source or modification of an existing source.

(47) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(48) "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. Wood waste disposal in wigwam burners is not considered open burning.

~~((12))~~ (49) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(50) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(51) "Parts per million (ppm)" means parts of a contaminant per million parts of gas, by volume, exclusive of water or particulates.

(52) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(53) "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(54) "PM-10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified

in 40 CFR Part 60 or by a test method specified in the Washington state implementation plan.

(55) "Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(56) "Prevention of significant deterioration (PSD)" means the program set forth in WAC 173-400-141.

(57) "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

(58) "Reasonably attributable" means attributable by visual observation or any other technique the state deems appropriate.

(59) "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls.

RACT requirements for any source or source category may be adopted as an order or regulation after public involvement per WAC 173-400-171.

(60) "Regulatory order" means an order issued by ecology or an authority to an air contaminant source which approves a notice of construction and/or limits emissions and/or establishes other air pollution control requirements.

(61) "Significant emission" means a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year	Pounds/Day	Pounds/Hour
Carbon monoxide	100		
Nitrogen oxides	40		
Sulfur dioxide	40	800	80
Volatile organic compounds	40		
Particulate matter	25	500	50
PM-10	15		
Lead	.6		
Total reduced sulfur (as H <sub>2</sub> S)	10		
Total fluoride	3		

(62) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the Class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these

factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

(63) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, which are located on one or more contiguous or adjacent properties under the control of the same person(s) and those activities that are secondary to the production of a single product or functionally related group of products.

(64) "Source category" means all sources of the same type or classification.

(65) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(66) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

(67) "Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760mm (29.92 inches) of mercury.

(68) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(69) "Total reduced sulfur, (TRS)" means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 or an approved equivalent method and expressed as hydrogen sulfide.

(70) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

(71) "United States Environmental Protection Agency, (USEPA)" shall be referred to as EPA.

(72) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

(73) "Visibility impairment of Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

(74) "Volatile organic compound, (VOC)" means any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the USEPA administrator designates as having negligible photochemical reactivity. VOC may be measured by a reference method, an equivalent method, an alternative method or by procedures specified under 40 CFR Part 60. A reference method, an equivalent method, or an alternative method, however, may also measure nonreactive organic compounds. In such cases, an owner or operator may exclude the nonreactive organic compounds when determining compliance with a standard. This reactivity policy exempts the following compounds per the Federal Register: Methane, ethane, trichlorofluoromethane, dichlorodifluoromethane, chlorodifluoromethane, trifluoromethane, trichlorotrifluoroethane, dichlorotetrafluoroethane, chloropentafluoroethane, methylene chloride, and 1,1,1-trichloroethane (methyl chloroform).

**AMENDATORY SECTION** (Amending Order DE 83-13, filed 4/15/83)

WAC 173-400-040 GENERAL STANDARDS FOR MAXIMUM EMISSIONS. All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of ~~((this))~~ any chapter of Title 173 WAC. ~~((In cases))~~ Where current controls are determined to be less than ~~((reasonably available control technology (RACT)))~~, ecology or the ((department or cognizant local)) authority shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or sources for installation of RACT.

(1) Visible emissions. No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. ~~((As such,))~~ This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the ((department or cognizant local)) authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more sources are connected to a common stack, ~~((an adjusted time limit may be allowed at the discretion of the department or cognizant local authority))~~ ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(2) ~~((Preventing particulate matter from being deposited))~~ Fallout. No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the

owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) Fugitive emissions. The owner or operator of any emissions unit ~~((involving))~~ engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use ~~((reasonably))~~ best available control technology (BACT) to control emissions of the contaminants for which nonattainment has been designated. Significance will be determined by EPA interpretive ruling for PSD and offsets on file with ~~((the department))~~ ecology.

(4) 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 must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) Emissions ~~((of air contaminants))~~ detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source ~~((including any air contaminant whose emission is not otherwise prohibited by this chapter, if the air contaminant causes detriment))~~ if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(6) Sulfur dioxide.

No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except ~~((as follows))~~:

~~((a))~~ When the owner or operator of an emissions unit supplies emission data and can demonstrate to ecology or the ((department or cognizant local)) authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, ecology or the ((department or)) authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator ((to equip, operate, and maintain continuous ambient air monitoring stations)) at mutually approved locations ((approved by the department or authority and using equipment approved by the department or authority)). All sampling results will be made available upon request and a monthly summary will be submitted to ecology or the ((department or)) authority.

~~((b) When a source limits such emission by a combination of constant emission controls and dispersion techniques approved by the department or cognizant local authority, as permitted by WAC 173-403-140.))~~

(7) Concealment and masking. No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) Fugitive dust sources.

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to ~~((the nonattainment status of a designated nonattainment))~~ a Category I PM-10 area shall be required to use reasonably available control technology to control emissions. Significance will be determined by ~~((EPA interpretive ruling for PSD and offsets as on file with the department))~~ the definition found in 40 CFR Part 51, Appendix S, as amended through July 1, 1990.

#### AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-400-050 ~~((MINIMUM))~~ EMISSION STANDARDS FOR COMBUSTION AND INCINERATION UNITS. (1) Combustion and incineration emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or permit emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit ~~((utilizing the combustion of wood))~~ combusting wood derived fuels for the production of steam(~~(;)~~). No person shall allow or permit the emission of particulate matter in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by EPA method 5 or approved procedures contained in "Source Test Manual - Procedures For Compliance Testing," state of Washington, department of ecology, as of July 12, 1990, on file at ((the department)) ecology.

(2) For any incinerator, no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by applicable EPA methods or acceptable procedures contained in "Source Test Manual - Procedures for Compliance Testing," state of Washington, department of ecology, on file at ((the department)) ecology. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from ecology or the ((department or cognizant local)) authority.

(3) Measured concentrations for combustion and incineration sources shall be adjusted for volumes corrected to seven percent oxygen, except when ecology or the ((department or cognizant local)) authority ((may)) determines that an alternate oxygen correction factor is ((appropriate)) more representative of normal operations.

#### AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-400-060 ~~((MINIMUM))~~ EMISSION STANDARDS FOR GENERAL PROCESS ((EMIS-SIONS)) UNITS. General process units ~~((shall be))~~ are required to meet all applicable provisions of WAC 173-400-040 ~~((above))~~ and ~~((in addition))~~, no person shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR Appendix A which are adopted by reference and any other approved test procedures which are contained in ecology's "Source Test Manual - Procedures For Compliance Testing" as of July 12, 1990, will be used to determine compliance.

#### AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-400-070 ~~((MINIMUM))~~ EMISSION STANDARDS FOR CERTAIN SOURCE CATEGORIES. ~~((The department))~~ Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the ~~((minimum))~~ maximum allowable standards for emissions units within the categories listed. Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

(1) Wigwam burners.

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7).

(b) All wigwam burners shall use ~~((reasonably available control technology))~~ RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the ((department or cognizant local)) authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) ~~((The department))~~ Ecology may establish additional requirements for wigwam burners located ~~((; or proposed for location;))~~ in sensitive areas as defined by chapter ~~((18-06))~~ 173-440 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance ~~((with WAC 173-400-040(t)))~~ if they meet the requirements contained ~~((therein except during))~~ in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply ~~((best available control technology (t)))~~ BACT(t).



(iii) A requirement to reduce or eliminate emissions if ~~((the department))~~ ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. ~~((As such;))~~ This practice is to be scheduled for the same specific times each day and ecology or the ~~((department or cognizant local))~~ authority shall be notified ~~((as to))~~ of the schedule or any changes.

(b) All hog fuel boilers shall utilize ~~((reasonably available control technology. All emissions units))~~ RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It ~~((shall be))~~ is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Grain elevators.

Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and ~~((in addition))~~:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) Other wood waste burners.

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040.

(b) Such wood waste burners shall utilize ~~((reasonably available control technology. All emissions units))~~ RACT and shall be operated and maintained to minimize emissions.

(7) Sulfuric acid plants.

No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H<sub>2</sub>SO<sub>4</sub>, in excess of 0.15 pounds per ton of acid produced ~~((, the))~~. Sulfuric acid

production ~~((being))~~ shall be expressed as one hundred percent H<sub>2</sub>SO<sub>4</sub>.

AMENDATORY SECTION (Amending Order 84-48, filed 3/6/85)

WAC 173-400-075 EMISSION STANDARDS FOR SOURCES EMITTING HAZARDOUS AIR POLLUTANTS. (1) The emission standards for ~~((asbestos, benzene from fugitive emission sources, beryllium, beryllium rocket motor firing, mercury and vinyl chloride))~~ hazardous air pollutants promulgated by the United States Environmental Protection Agency (EPA) prior to ~~((October 1, 1984))~~ July 1, 1989, as contained in Title 40, Code of Federal Regulations, Part 61, are ~~((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 department or cognizant local authority))~~.

(2) ~~((The department or cognizant local authority, at any time after the effective date of this section;))~~ Ecology or the authority may conduct source tests and require access to records, books, files and other information specific to the control, recovery or release of ~~((asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride))~~ those pollutants registered under 40 CFR Part 61 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring and analytical methods for sources of hazardous air pollutants such as: Asbestos, benzene from fugitive emission sources, beryllium, mercury, or vinyl chloride shall conform with the requirements of Title 40, Code of Federal Regulations, Part 61, as promulgated prior to ~~((October 1, 1984))~~ July 1, 1989.

(4) This section shall not apply to any source operating pursuant to a waiver granted by ~~((the United States Environmental Protection Agency))~~ EPA or an exemption granted by the president of the United States during the effective life of such waiver or exemption.

~~((5))~~ Arsenic standards:

(a) ~~The owner or operator of any source which emits five tons or more of arsenic per year shall:~~

(i) ~~Use best available technology (BAT) to control fugitive emissions of arsenic, so that community exposure standards are not exceeded outside of the property controlled by the owner or operator of the source.~~

~~As used herein BAT means the best controls and work practices available considering economic, energy and environmental impacts. The level of control that represents BAT may be different for new and existing sources within a source category because of higher costs associated with retrofitting controls on existing sources, or differences in control technology for new vs. existing sources.~~

(ii) ~~Establish and operate monitoring facilities for arsenic at sites approved by the department or cognizant local authority. Such sites shall be representative of areas of potential maximum concentrations to which the public may be exposed.~~

(iii) Report as soon as possible but within thirty days, or in accordance with an approved work plan, to the department or cognizant local authority any exceedance of the following interim community exposure standards at any arsenic monitoring site:

Maximum 24-hour concentration = 2.0 micrograms arsenic (expressed as As) per cubic meter.

Maximum annual arithmetic mean = 0.3 micrograms arsenic (expressed as As) per cubic meter.

(iv) Maintain daily logs and records of the time and nature of activities that may release fugitive emissions of arsenic.

(v) Complete an evaluation of the cause of such exceedance within thirty days of the report of such exceedance.

(vi) Submit a work plan to the department for the identification and evaluation of fugitive arsenic emissions that is satisfactory to the department or cognizant local authority. The plan is required within thirty days after the effective date of this regulation. The work plan shall include but not be limited to an identification and evaluation of fugitive emission sources, including operating and maintenance procedures, siting of arsenic monitoring stations, a description of sampling equipment, analytical techniques, quality assurance, schedules of sampling, a program to record meteorological conditions at time of sampling, techniques used to evaluate and determine causes of exceedances, and quarterly reports of progress toward implementing the plan. For the arsenic manufacturing process as a whole, this shall include an evaluation of the feasibility of producing  $As_2O_3$  through a chemical leaching process rather than roasting. The work plan shall be implemented within one year. Subparagraphs (ii), (iii), (iv), and (v) shall not impose additional requirements on the source to the extent that such requirements are included in the work plan.

(b) The standards set forth in (a)(iii) of this subsection are intended as interim community exposure standards. As more information becomes available it is anticipated that these standards will be reviewed.

(c) During this interim period the department shall periodically review all monitoring records and plant logs to determine the need for and practicability of additional emission controls, monitoring stations or adjustment to the above standards. Whenever the cause of any exceedance can be attributed to a specific source, process, operation or work practice, the owner or operator thereof shall install or adopt corrective measures which constitute best available technology as soon as possible, to prevent a recurrence. The department or cognizant local authority shall determine if additional measures can be taken to control fugitive emissions of arsenic, and if so shall establish additional BAT requirements and a compliance program. Thereafter the department shall establish such final standards as appropriate to require, monitor and regulate the application of BAT for fugitive emissions of arsenic.

(d) Failure of a source to comply with any provision of subsection (5) of this section or any order issued by the department or cognizant local authority pursuant to WAC 173-400-075, shall constitute cause for enforcement action per WAC 173-403-170 or 173-403-180.

~~(e) Nothing in these regulations shall relieve the owner or operator of any source to which any part of these regulations may apply from complying with any other rule, regulation, order, statute, or ordinance to which said source may be subject.)~~

AMENDATORY SECTION (Amending Order 84-48, filed 3/6/85)

WAC 173-400-100 REGISTRATION. The owner or operator of each source within the following source categories shall register the source with ~~((the department unless such registration is required by the cognizant local))~~ ecology or an authority:

- (1) Agricultural drying and dehydrating operations;
  - (2) Asphalt plants;
  - (3) Beverage can surface coating operations;
  - (4) Bulk gasoline terminals;
  - (5) Cattle feedlots with facilities for one thousand or more cattle;
  - (6) Chemical plants;
  - (7) Ferrous foundries;
  - (8) Fertilizer plants;
  - (9) Flexible vinyl and urethane coating and printing operations;
  - (10) Grain handling, seed processing, pea and lentil processing facilities;
  - (11) Metallic mineral processing plants;
  - (12) Mineralogical processing plants;
  - (13) Nonferrous foundries;
  - (14) Other metallurgical processing plants;
  - (15) Petroleum refineries;
  - (16) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;
  - (17) Pressure sensitive tape and label surface coating operations;
  - (18) Rendering plants;
  - (19) Scrap metal operations;
  - (20) Synthetic organic chemical manufacturing industries;
  - (21) Sulfuric acid plants;
  - (22) Synthetic fiber production facilities;
  - (23) Veneer dryers;
  - (24) Wood waste incinerators including wigwam burners;
  - (25) Other incinerators designed for a capacity of one hundred pounds per hour or more;
  - (26) Stationary internal combustion engines rated at five hundred horse power or more;
  - (27) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;
  - (28) Any category of stationary sources to which a federal standard of performance (NSPS) applies;
  - (29) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);
  - (30) Any major source ~~((or major emissions unit))~~.
- Registration shall be on forms to be supplied by ~~((the department or local))~~ ecology or the authority within the time specified ~~((thereon))~~ on the form.
- A report of closure shall be filed ~~((with the department whenever))~~ within ninety days with ecology or an

authority if under their jurisdiction when operations producing emissions ~~((are))~~ permanently ~~((ceased))~~ cease at any source within the above categories.

AMENDATORY SECTION (Amending Order 87-12, filed 9/30/87)

WAC 173-400-105 RECORDS, MONITORING, AND REPORTING. ~~((+))~~ The owner or operator of a ~~((stationary))~~ source ~~((listed in a source category of WAC 173-400-100))~~ shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary ~~((by the director))~~ to determine whether the source is in compliance with applicable emission limitations and control measures.

~~((2))~~ The information recorded pursuant to subsection ~~(1)~~ of this section shall be reported to the department as directed:

~~(3)~~ When the director determines that recordkeeping and reporting of emission data from any stationary source not listed in WAC 173-400-100 is needed for the investigation or control of air pollution or otherwise necessary to effectuate the purposes of the Washington Clean Air Act (chapter 70.94 RCW), the director shall notify the owner or operator of the source. This notification shall constitute an order to maintain records and submit reports on emissions as set forth in subsections ~~(1)~~ and ~~(2)~~ of this section:)

(1) Emission inventory. The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and other contaminants, and shall be submitted (when required) no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

(2) Monitoring. Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

As a part of this program, the director of ecology or an authorized representative may require any source under the jurisdiction of ecology to conduct stack and/or ambient air monitoring and to report the results to ecology.

(3) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from ecology or an authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) Source testing. To demonstrate compliance, ecology may conduct or require that a test be conducted of the source using approved EPA methods from 40 C.F.R. 60 Appendix A which are adopted by reference, or approved procedures contained in "Source Test Manual -

Procedures for Compliance Testing," state of Washington, department of ecology, as of July 12, 1990, on file at ecology. The operator of a source may be required to provide the necessary platform and sampling ports for ecology personnel or others to perform a test of an emissions unit. Ecology shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) Report of startup, shutdown, breakdown or upset condition(s). 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(s) or operator(s) of the source(s) shall take the following actions as applicable:

(a) For a planned condition, such as a startup or shutdown, the condition shall be reported to ecology or the authority in advance of its occurrence.

(b) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to ecology or the authority as soon as possible.

Upon request by ecology or the authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-400-105(5) does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this chapter or an applicable chapter nor from the resulting liabilities for failure to comply.

(6) Continuous monitoring and recording. Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to ecology or the authority by the owner(s) or operator(s).

(b) Sulfuric acid plants.

Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.

Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of WAC 173-400-105 (6)(e) do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by WAC 173-400-105 (6)(d) shall be subject to approval by ecology.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to ecology or the authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5, promulgated October 6, 1975, and amended November 7, 1986, which is adopted by reference.

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, ecology determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (6) does not apply to any source which is:

(i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.

(ii) Not subject to an applicable emission standard.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of ecology or the authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(7) Change in raw materials or fuels. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by WAC 173-400-105(1) shall require the submittal of sufficient information to ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. Ecology or the authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

**AMENDATORY SECTION** (Amending Order DE 83-13, filed 4/15/83)

**WAC 173-400-110 NEW SOURCE REVIEW (NSR).** ~~((Construction shall not commence, on any new source that is required to register per WAC 173-400-100, until a notice of construction has been approved per WAC 173-403-050.))~~

(1) Applicability.

(a) A notice of construction must be approved by ecology or the authority prior to the construction, installation, or establishment of a new source or emissions unit which is required to register per WAC 173-400-100.

(b) Ecology or the authority may require a notice of construction prior to the construction, installation, or establishment of any other new source, other than a single family or duplex dwelling.

(c) The notice of construction and new source review shall apply only to the emission unit(s) affected and the contaminants involved.

(d) The owner(s) or operator(s) of any source that is required to register per WAC 173-400-100 shall notify ~~((the department or cognizant local))~~ ecology or the authority prior to replacement of air pollution control equipment or process equipment other than equivalent replacement for routine maintenance and repair. ~~((The department or))~~ Ecology or the authority may determine that a notice of construction is required.

(2) Additional information. Within thirty days of receipt of a notice of construction, ecology or the authority may require the submission of additional plans, specifications, and other information necessary for the review of the proposed new or modified source.

(3) Requirements for new sources. Ecology or the authority shall review notice(s) of construction, plans, specifications, and other associated information to determine that:

(a) The new source will be in accord with applicable federal and state rules and regulations, including NSPS and NESHAPS and the new source will use BACT for emissions control; and

(b) Requirements for nonattainment areas;

(i) If the new source is a major source or the proposed change is a major modification, it will comply with LAER for emissions of the contaminants for which nonattainment has been designated; and

(ii) If the new source is a major source or the proposed change is a major modification and is located in an area that is not in attainment for carbon monoxide or ozone and the source will emit carbon monoxide or VOCs, it is required that there be an analysis of alternative sites, sizes, and production processes and environmental control techniques for the proposed new source which demonstrates that benefits of the proposed new source significantly outweigh the environmental and social costs imposed as a result of its location, construction, and modification. This analysis is the responsibility of the applicant, who may use an environmental impact statement prepared under the State Environmental Policy Act (SEPA) or the National Environmental Policy Act (NEPA) as a source of information; and

(iii) The proposed new source will not violate the requirements for reasonable further progress established by the state implementation plan. If the new source is a major source or the proposed change is a major modification, the total new allowable emissions from all sources existing at the time of application for notice of construction plus proposed allowable emissions for the new source, of the contaminants for which nonattainment has

been designated, shall be no greater than the total allowable emissions from existing sources, except that: (A) Ecology or the authority may require that new total allowable emissions be reduced to less than existing total allowable emissions, as necessary to achieve air quality attainment goals stated in an approved plan of attainment, and (B) the emissions from the proposed new source may be approved without an offsetting reduction from existing sources if an adequate emissions growth allowance is included in an approved plan of attainment. The above requirements must be met by reducing emissions from existing source(s). Arrangements for such offsetting reduction(s) of actual emissions must be made by the owner(s) or operator(s) of the proposed new source. The proposed new source may be constructed only after the issuance of a regulatory order(s) to the proposed new source and to all the source(s) that provided the offset. The said orders shall include new allowable emissions limits for all the affected sources; and

(iv) If the new source is a major source or the proposed change is a major modification, the owner(s) or operator(s) shall demonstrate that all major sources owned or operated by such person (or persons under common control with such person) in the state which are subject to emission limitations are in compliance or on a schedule for compliance with applicable emission limitations and standards under the Federal Clean Air Act; and

(v) In a locality that does not meet national ambient air quality standards and has not been designated a nonattainment area, a proposed new major source or major modification must reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact. An ecology approved air quality model shall be used to demonstrate a net air quality benefit where the source would otherwise cause or contribute to a violation of any national ambient air quality standard.

(c) Requirements for attainment areas. If the proposed new source is located in an area that is in attainment for contaminants that would be emitted by the source and the source is located in an ozone attainment area if the source would emit VOCs;

(i) The allowable emissions from the proposed new source will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any national ambient air quality standard. This requirement will be considered to be met if the impact at any location within a nonattainment area or a locality exceeding the applicable standard does not exceed the following levels:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO	-	-	0.5 mg/m <sup>3</sup>	-	2 mg/m <sup>3</sup>
TSP	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	-	-
SO <sub>2</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	25 ug/m <sup>3</sup>	30 ug/m <sup>3</sup>
PM-10	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	-	-	-
NO <sub>2</sub>	1.0 ug/m <sup>3</sup>	-	-	-	-

(ii) The proposed new source will not cause a violation of any ambient air quality standard.

(iii) An offsetting emissions reduction that satisfies the requirements of WAC 173-400-110 (3)(b) may be used

to satisfy the requirements of WAC 173-400-110 (3)(c) and (d) if required.

(d) Visibility requirements. Any new major source or new major modification shall evaluate the visibility impairment per 40 CFR 52.21(e) for all Class I areas in Washington and neighboring states. The evaluation shall comply with the following:

(i) When the land manager has officially designated visibility to be an important attribute, the owner(s) or operator(s) of the new source shall demonstrate that the potential emissions in combination with emissions from all other sources permitted after January 1, 1982, shall not cause or contribute to a significant visibility impairment.

(ii) Ecology shall upon receipt of an application for a notice of construction notify the land managers of potentially affected areas. Notification shall be in writing and include a copy of all information relevant to the application including the information developed for this section. This information shall be transmitted to the land manager within thirty days of receipt of the application and at least sixty days prior to public hearing on the application for permit to construct.

(iii) All evaluations of visibility impairment required under this section shall use the models on file with ecology or equivalent models approved by ecology or EPA.

(iv) The results of the evaluation shall be sent to the land manager of the affected areas for review and recommendation. The review shall consider the degree of visibility impairment, duration, geographic extent, frequency, and time. The recommendation of the land managers concerning adverse impact on visibility shall be sent to ecology within thirty days of receipt of the evaluation results.

(v) Should ecology concur with the recommendation of the land manager, the notice of construction shall be approved or disapproved according to the recommendation. Ecology may find the review of a land manager inadequate and make its own determination. A finding of significant visibility impairment shall require a disapproval of the notice of construction, unless sufficient mitigating measures are developed.

(vi) Ecology or land managers may demonstrate that the new source would cause impairment of an integral vista officially designated at least six months before the new source submitted a complete application. The protection of an integral vista by controls on the source shall consider the time necessary for compliance, the energy and nonair quality environmental effects of compliance and the productive life of the source.

(vii) Ecology may require visibility monitoring at the site of the new source or potentially affected areas as a part of the applicable regulatory order. The monitoring period may be before or after construction or both.

(4) Preliminary determination. Within thirty days after receipt of all information required, ecology or the authority shall:

(a) Make preliminary determinations on the matters set forth in subsection (3)(b), (c), and (d) of this section if applicable; and

(b) Initiate compliance with the provisions of WAC 173-400-171 relating to public notice and public comment, as applicable.

(5) Final determination. If, after review of all information received including public comment, ecology or the authority finds that all the conditions in subsection (3) of this section are satisfied, whichever is applicable, the authority will issue a regulatory order to approve the notice of construction for the proposed new source or modification.

(6) Appeal of approval. A notice of construction approval can be appealed to the state pollution control hearings board per RCW 70.94.025.

(7) Portable sources. For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction, providing that the owner(s) or operator(s) notifies ecology or the authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable ecology or the authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (one year or less) and ecology or the authority may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.

(8) Commencement of construction. The owner(s) or operator(s) of the new source shall not commence construction until the applicable notice of construction has been approved.

AMENDATORY SECTION (Amending Order 84-48, filed 3/6/85)

WAC 173-400-115 STANDARDS OF PERFORMANCE FOR NEW SOURCES. Title 40, Code of Federal Regulations, Part 60 (standards of performance for new sources), as promulgated prior to ((October 1, 1984)) July 1, 1989, is adopted by ((this)) reference ((adopted and incorporated herein with the exception of)) except for sections 60.5 (determination of construction or modification) and 60.6 (review of plans). ((For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department or cognizant local authority:))

(1) Sections 60.5 and 60.6 of Title 40, Code of Federal Regulations, are not incorporated herein because they provide for preconstruction review of new sources only on request. ((By virtue of WAC 173-403-050;)) Such review under the state program is mandatory and an order of approval is required ((before the)) prior to construction, installation or establishment of a new source ((may commence)).

(2) As of ((October 1, 1984)) July 1, 1989, the federal regulations adopted by reference hereby set standards

of performance affecting facilities for the following described subparts of 40 CFR Part 60:

- Subpart D Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts
- Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts
- Subpart Db Industrial-commercial-institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts
- Subpart E Incinerators
- Subpart F Portland cement plants
- Subpart G Nitric acid plants
- Subpart H Sulfuric acid plants
- Subpart I Asphalt concrete plants
- Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products
- Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons
- Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons
- Subpart Kb Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984
- Subpart L Secondary lead smelters
- Subpart M Brass and bronze ingot production plants
- Subpart N Iron and steel plants
- Subpart O Sewage treatment plants
- ~~Subpart P Primary copper smelters~~
- ~~Subpart Q Primary zinc smelters~~
- ~~Subpart R Primary lead smelters~~
- Subpart S Primary aluminum reduction plants
- Subpart T Phosphate fertilizer industry: Wet process phosphoric acid plants
- Subpart U Phosphate fertilizer industry: Superphosphoric acid plants
- Subpart V Phosphate fertilizer industry: Diammonium phosphate plants
- Subpart W Phosphate fertilizer industry: Triple superphosphate plants
- Subpart X Phosphate fertilizer industry: Granular triple superphosphate storage facilities

Subpart Y	Coal preparation plants
Subpart Z	Ferroalloy production facilities
Subpart AA	Steel plants: Electric arc furnaces
Subpart BB	Kraft pulp mills
Subpart CC	Glass manufacturing plants
Subpart DD	Grain elevators
Subpart EE	Industrial surface coating: Metal furniture
Subpart GG	Stationary gas turbines
Subpart HH	Lime manufacturing plants
Subpart KK	Lead acid batteries
Subpart LL	Metallic mineral processing plants
Subpart MM	Automobile and light duty truck surface coating operations
Subpart NN	Phosphate rock plants
Subpart PP	Ammonium sulfate manufacture
Subpart QQ	Publication rotogravure printing
Subpart RR	Pressure sensitive tape and label surface coating operations
Subpart SS	Industrial surface coating: Large appliances
Subpart TT	Industrial surface coating: Metal coils
Subpart UU	Asphalt processing and asphalt roofing manufacture
Subpart VV	SOCMI equipment leaks (VOC)
Subpart WW	Beverage can surface coating operations
Subpart XX	Bulk gasoline terminals
Subpart AAA	New residential wood heaters
Subpart FFF	Flexible vinyl and urethane coating and printing
Subpart GGG	Petroleum refineries - compressors and fugitive emission sources
Subpart HHH	Synthetic fiber production facilities
Subpart JJJ	Petroleum dry cleaners
Subpart PPP	Wool fiberglass insulation manufacturing plants

Compliance with the standards for affected facilities within these source categories shall be determined by performance tests and visual observations of opacity as set forth in the regulations adopted by reference ((hereby)).

Note. For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the energy facility site evaluation council (EFSEC) in Title 463 WAC.

#### AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-400-120 ((MONITORING AND SPECIAL REPORT)) BUBBLE RULES. ((+)) Monitoring. The department shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants:

As a part of this program, the director or his authorized representative may require any source under the jurisdiction of the department to conduct stack and/or ambient air monitoring and to report the results to the department.

(2) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the director or authorized personnel from a cognizant local authority shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(3) Source testing. In order to demonstrate compliance with this chapter, the department, may require that a test be made of the source 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 may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of an emissions unit. The department shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(4) Report of startup, shutdown, breakdown or upset condition. 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:

(a) For a planned condition, such as a startup or shutdown, the condition shall be reported to the department or cognizant local authority in advance of its occurrence.

(b) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department or cognizant local authority as soon as possible.

Upon request of the department or cognizant local authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

Compliance with the requirements of WAC 173-400-120(4) does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this chapter nor from the resulting liabilities for failure to comply.

(5) Continuous monitoring and recording. Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified:

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input, or

(B) Only gaseous fuel is burned, or

(C) Only oil or a mixture of oil and gas is burned and opacity and particulate regulations can be met without using particulate collection equipment; and, the source has never, through any administrative or judicial procedure, been found in violation of any visible emission standard.

(ii) Sulfur dioxide, except where:



~~(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input, or~~

~~(B) Sulfur dioxide control equipment has not been installed.~~

~~(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.~~

~~(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the department or cognizant local authority by the owner or operator.~~

~~(b) Sulfuric acid plants.~~

~~Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.~~

~~(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries.~~

~~Opacity where fresh feed capacity is more than twenty thousand barrels per day.~~

~~(d) Wood residue fuel-fired steam generators.~~

~~(i) Opacity, except where:~~

~~Steam generator capacity is less than one hundred million BTU per hour heat input.~~

~~(ii) Continuous monitoring equipment. The requirements of WAC 173-400-120 (5)(c) do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by WAC 173-400-120 (5)(d) shall be subject to approval by the department.~~

~~(c) Owners and operators of those sources required to install continuous monitoring equipment under this chapter shall demonstrate to the department or cognizant local authority compliance with the equipment and performance specifications and observe the reporting requirements contained in Title 40, Code of Federal Regulations, Part 51, Appendix P, Sections 3, 4 and 5, promulgated on October 6, 1975, which is by this reference adopted and incorporated herein.~~

~~(f) All sources subject to this chapter shall procure and install equipment and commence monitoring and recording activities no later than eighteen months after adoption of this chapter by the department. Any extension to this time requirement shall be negotiated through the variance procedure of WAC 173-400-150.~~

~~(g) Special considerations. If for reason of physical plant limitations or extreme economic situations, the department determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.~~

~~(h) Exemptions. This subsection (5) does not apply to any source which is:~~

~~(i) Subject to a new source performance standard. These sources will be governed by WAC 173-400-115.~~

~~(ii) Not subject to an applicable emission standard.~~

~~(iii) Scheduled for retirement within five years after inclusion of monitoring equipment requirements in this chapter, provided that adequate evidence and guarantees are provided that clearly show that the source will cease operations prior to that date.~~

~~(i) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the source owner or operator shows to the satisfaction of the department or cognizant local authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.~~

~~(6) Emission inventory. The owner or operator of any air contaminant source shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology or cognizant local authority. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, volatile organic compounds, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage of the total emitted each quarter. An estimate shall be made of the one hour and twenty-four hour emissions while operating at maximum capacity. The report shall include the average sulfur content of any fuel or raw material used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.~~

~~(7) Change in raw materials or fuels. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by WAC 173-400-120(6) shall require the submittal of sufficient information to the department or authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The department or cognizant local authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.))~~

(1) Applicability. The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) Conditions. A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of ecology or the authority.

(a) The contaminants exchanged must be of the same type, that is, particulates for particulates, sulfur dioxide for sulfur dioxide, etc.

(b) The bubble will not interfere with the attainment and maintenance of air quality standards.

(c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.

(d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous (NESHAPS) contaminants shall not be increased.

(e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.

(f) A bubble may not be authorized only for opacity limits. However, if the emission limit for particulates for a given emissions unit is increased as part of a bubble, the opacity limit for the given emissions unit may be increased subject to the following limitations:

(i) The new opacity limit shall be specific for the given emissions unit;

(ii) The new opacity limit shall be consistent with the new particulates limit;

(iii) An opacity greater than sixty percent shall never be authorized;

(iv) If the given emissions unit emits or has the potential to emit 100 tons per year or more of particulate matter, the opacity shall be monitored continuously.

(g) The emission limits of the bubble are equivalent to existing limits in enforceability.

(h) Concurrently with or prior to the authorization of a bubble, each affected source shall receive or have received a regulatory order that establishes total allowable emissions from the source of the contaminant being bubbled, expressed as weight of the contaminant per unit time. The new total allowable emissions shall be considered RACT.

(i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public perception of opacity and public perception of odorous contaminants.

(j) Specific situations may require additional demonstration as requested by ecology or the authority.

(3) Jurisdiction. Whenever a bubble application involves emissions units, some of which are under the jurisdiction of ecology and some of which are under the jurisdiction of an authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the authority of original jurisdiction.

(4) Additional information. Within thirty days, after the receipt of a bubble application and all supporting data and documentation, ecology or the authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, ecology or the authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions expressed in weight of pollutant per unit time for each emissions unit involved in the application. The order or

equivalent document must include all requirements necessary to assure that conditions in subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit the operation of the affected equipment.

## NEW SECTION

**WAC 173-400-131 ISSUANCE OF EMISSION REDUCTION CREDITS.** (1) Applicability. The owner(s) or operator(s) of any source(s) may apply to ecology or the authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.

(2) Time of application. The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.

(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of ecology or the authority.

(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.

(c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved, but in no case shall the ERC be for less than one ton per year.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under WAC 173-400-110 (3)(e), nor as part of a bubble transaction under WAC 173-400-120, nor to satisfy NSPS, BACT, or LAER.

(e) Concurrently with or prior to the authorization of an ERC, the applicant shall receive (have received) a regulatory order that establishes total allowable emissions from the source of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time. The new allowable emissions shall be considered RACT.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) Additional information. Within thirty days after the receipt of an ERC application and all supporting data and documentation, ecology or the authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, ecology or the authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this

section have been satisfied or not. If the ERC application has not been approved or denied within thirty days, the ERC will be automatically approved. If the application is approved, ecology or the authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the proposed new allowable emission rate(s) claimed in the ERC application, expressed as weight of pollutant per unit time. The regulatory order or equivalent document must include all requirements that are necessary to provide such assurance. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit the startup of the affected equipment; and,

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminant(s) involved, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.

### NEW SECTION

WAC 173-400-136 USE OF EMISSION REDUCTION CREDITS. (1) Permissible use. An ERC may be used to satisfy the requirements for authorization of a bubble under WAC 173-400-120, as a part of a determination of "net emissions increase," as an offsetting reduction to satisfy the requirements for new source review per WAC 173-400-110 (3)(e), to satisfy requirements for PSD review per WAC 173-400-110 (4)(c), or to satisfy requirements for visibility review per WAC 173-400-110 (4)(e).

(2) Surrender of ERC certificate. When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the issuing authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) Conditions of use. An ERC may be used only for the contaminant(s) for which it was issued. Ecology or the authority may impose additional conditions of use to account for temporal and spatial differences between the emissions unit(s) that generated the ERC and the emissions unit(s) that use the ERC.

(4) Sale of an ERC. An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the issuing authority. After receiving the certificate, the issuing authority shall reissue the certificate to the new owner.

(5) Time of use. An unused ERC and any unused portion thereof shall expire ten years after date of original issue.

(6) Discount due to change in SIP. If reductions in emissions beyond those identified in the state implementation plan are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by ecology or the authority after public involvement per WAC 173-400-171. Any such discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

### NEW SECTION

WAC 173-400-141 PREVENTION OF SIGNIFICANT DETERIORATION (PSD). Section 40 CFR 52.21, Subparts (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (t), (v), and (w), Prevention of Significant Deterioration of Air Quality, as in effect on July 1, 1989, are incorporated by reference with the following additions and modifications:

(1) Construction of "administrator." In 40 CFR 52.21 (b)(17), federally enforceable, (f)(1)(v), (f)(3), and (f)(4)(i), exclusions from increment consumption, (g), redesignation, (l) and (2), air quality models, (p)(2), federal land manager, and (t), disputed permits or redesignations, the word "administrator" shall be construed in its original meaning. In 40 CFR 52.21 (b)(3)(iii) administrator shall mean both the administrator of EPA and the director of ecology.

(2) Contemporaneous. Subpart 40 CFR 52.21 (b)(3)(ii) is changed to read: "An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs at the same time or within ten years prior to the change. If a decrease occurred more than one year prior to the change it can only be credited if the decrease has been documented by an emission reduction credit."

(3) Public participation. Subpart 40 CFR 51.166(q) public participation, as in effect July 1, 1989, is hereby incorporated by reference, with the following modifications:

(a) In 40 CFR 51.166 (q)(2)(iv), the word "administrator" shall be construed in its original meaning.

(b) In 40 CFR 51.166 (q)(2)(iv), the phrase "specified time period" shall mean thirty days.

(4) Section 40 CFR 51.166 Subpart (p)(1) Sources Impacting Federal Class I areas - additional requirements - Notice to EPA, as in effect on July 1, 1989, is herein incorporated by reference.

(5) Secondary emissions. Subpart 40 CFR 52.21 (b)(18) is changed to read:

Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships or trains coming to or from the new or modified stationary source; and

(b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(6) List of Class I areas. The following areas are the Class I areas in Washington state as of January 1, 1989:

Mount Rainier National Park  
North Cascade National Park  
Olympic National Park  
Alpine Lakes Wilderness Area  
Glacier Peak Wilderness Area

Goat Rocks Wilderness Area  
 Mount Adams Wilderness Area  
 Pasayten Wilderness Area.

#### NEW SECTION

WAC 173-400-151 **RETROFIT REQUIREMENTS FOR VISIBILITY PROTECTION.** (1) Determination of best available retrofit technology (BART). Ecology shall identify and analyze each source which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I area in Washington and any adjacent state and to determine BART for the contaminant of concern and those additional air pollution control technologies that are to be required to reduce impairment from the source.

(2) Initially defined BART. The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART for each contaminant contributing to visibility impairment that is emitted at more than 250 tons per year. Each source for which BART is required must install and operate BART as expeditiously as possible, but in no case later than five years after the conditions are included in a regulatory order.

(3) Future definitions of BART. The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART as new technology becomes available for a contaminant if:

(a) The source emits more than 250 tons per year of the contaminant; and,

(b) The controls representing BART have not previously been required in this section.

(4) Appeal. Any source owner or operator required by this section to install, operate, and maintain BART, may apply to the EPA administrator for an exception from that requirement pursuant to 40 CFR 51.303.

#### NEW SECTION

WAC 173-400-161 **COMPLIANCE SCHEDULES.** (1) Issuance. Whenever a source is found to be in violation of an emission standard or other provision of this chapter, ecology or the authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement (WAC 173-400-171) must be met.

(2) Federal action. A source shall be considered to be in compliance with this chapter if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the state implementation plan.

(3) Penalties for delayed compliance. Sources on a compliance schedule but not meeting emissions standards may be subject to penalties as provided in the Federal Clean Air Act.

#### NEW SECTION

##### WAC 173-400-171 **PUBLIC INVOLVEMENT.**

(1) Applicability. Ecology or the authority shall provide public notice prior to the approval or denial of any of the following types of applications or other actions:

(a) Notice of construction for any new or modified source or emissions unit, if a net significant emissions increase for any pollutant regulated by state or federal law would result; or

(b) Any application or other proposed action for which a public hearing is required by PSD rules; or

(c) Any order to determine RACT; or

(d) An order to establish a compliance schedule or a variance; or

(e) The establishment or disestablishment of a nonattainment area, or the changing of the boundaries thereof; or

(f) An order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or

(g) An order to authorize a bubble; or

(h) Any application or other proposed action made pursuant to this chapter in which there is a substantial public interest according to the discretion of ecology or the authority.

(2) Public notice. Public notice shall be made only after all information required by ecology or the authority has been submitted and after applicable preliminary determinations, if any, have been made. The cost of providing public notice shall be borne by the applicant or other initiator of the action. Public notice shall include:

(a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect(s) on air quality.

(b) Publication in a newspaper of general circulation in the area of the proposed project of notice:

(i) Giving a brief description of the proposal;

(ii) Advising of the location of the documents made available for public inspection;

(iii) Advising of a thirty-day period for submitting written comment to ecology or the authority;

(iv) Advising that a public hearing may be held if ecology or the authority determines within a thirty-day period that significant public interest exists.

(c) A copy of the notice will be sent to the EPA regional administrator.

(3) Public comment. No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held the public comment period shall extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(4) Public hearings. The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. Ecology or the authority may, in its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time(s) and place(s) as ecology or the authority deems reasonable.

(5) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, such procedures may be used in lieu of the provisions of this section.

(6) Public information. Copies of notices of construction, orders, and modifications thereof which are issued hereunder shall be available for public inspection on request at ecology or the authority.

#### NEW SECTION

WAC 173-400-180 VARIANCE. Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to ecology for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) Jurisdiction. Sources in any area over which a local air pollution control authority has jurisdiction shall make application to that authority rather than ecology. Ecology or the authority may grant such variance, but only after public involvement per WAC 173-400-171.

(2) Full faith and credit. Variances granted in compliance with state and federal laws by an authority for sources under their jurisdiction will be accepted as variances to this regulation.

(3) EPA concurrence. No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

#### NEW SECTION

WAC 173-400-190 REQUIREMENTS FOR NONATTAINMENT AREAS. The development of specific requirements for nonattainment areas shall include consultation with local government in the area and shall include public involvement per WAC 173-400-171.

#### NEW SECTION

WAC 173-400-200 CREDITABLE STACK HEIGHT AND DISPERSION TECHNIQUES. (1) Applicability. These provisions shall apply to all sources except:

(a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) Open burning for agricultural or silvicultural purposes as covered under the smoke management plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual stack height.

(2) Prohibitions. No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.

(a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:

(i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or

(ii)  $H_g = H + 1.5L$

where:  $H_g$  = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

(b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).

(B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

(3) Exception. EPA, ecology, or an authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this

rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to PSD review (WAC 173-400-141 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

#### NEW SECTION

WAC 173-400-205 ADJUSTMENT FOR ATMOSPHERIC CONDITIONS. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant is prohibited, except as directed according to air pollution episode regulations.

#### NEW SECTION

WAC 173-400-210 EMISSION REQUIREMENTS OF PRIOR JURISDICTIONS. Any emissions unit that was under the jurisdiction of an authority and now is under the jurisdiction of ecology, shall meet all emission requirements that were applicable prior to

transfer of jurisdiction if those standards are more stringent than the standards of this chapter or the specific chapter relating to that source.

#### NEW SECTION

WAC 173-400-220 REQUIREMENTS FOR BOARD MEMBERS. (1) Public interest. A majority of the members of any ecology or authority board shall represent the public interest. A majority of the members of such boards, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts. An elected public official and the board shall be presumed to represent the public interest. In the event that a member derives a significant portion of his/her income from persons subject to enforcement orders, he/she shall delegate sole responsibility for administration of any part of the program which involves these persons to an assistant.

(2) Disclosure. Each member of any ecology or authority board shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member shall remove themselves from participation as a board member in any action or voting on such matter.

(3) Define significant income. For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income."

#### NEW SECTION

WAC 173-400-230 REGULATORY ACTIONS. Ecology may take any of the following regulatory actions to enforce this chapter to meet the provisions of RCW 43.21B.300 which is incorporated by reference.

(1) Notice of violation. Whenever ecology has reason to believe that any provision of this chapter has been violated, it may cause written notice (either by certified mail with return receipt requested or by personal service) to be served on the alleged violator or violators. The notice shall specify the provision of this chapter alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time.

(2) Civil penalty. Any person who violates any of the provisions of this chapter shall be subject to a penalty in the form of a fine in an amount not to exceed one thousand dollars per day for each violation. Each such violation shall be separate and distinct and, for a continuing violation, each day's continuance shall be a separate and distinct violation. The penalty shall be imposed by a notice in writing from personnel of ecology or an authority, describing the violation with reasonable detail. Further, the person is subject to a fine of up to five thousand dollars to be levied by the director if requested by the board of a local authority or if the director determines that the

penalty is needed for effective enforcement of this chapter. The maximum daily fine imposed for violation of standards by a specific emissions unit is five thousand dollars. Upon written application submitted to ecology within fifteen days after notice has been received the director may remit or mitigate the penalty upon such terms as the director deems proper and when deemed in the best interest to carry out the purpose of this chapter. The mitigation shall not affect or reduce the penalty imposed by the local board. The maximum daily fine that may be imposed upon any emissions unit for violation of any opacity standard is four hundred dollars.

(3) Assurance of discontinuance. Personnel of ecology or an authority may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) Restraining orders, injunctions. Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the director, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) Emergency episodes. Ecology may issue such orders as authorized by chapter 173-435 WAC via chapter 70.94 RCW, whenever an air pollution episode forecast is declared.

(6) Compliance orders. Ecology may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated.

#### NEW SECTION

WAC 173-400-240 CRIMINAL PENALTIES. Persons in violation of Title 173 WAC may be subject to the provisions of RCW 70.94.430.

#### NEW SECTION

WAC 173-400-250 APPEALS. Decisions and orders of ecology or an authority may be appealed to the pollution control hearings board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. PSD permits issued by ecology are appealable only to ecology pursuant to 40 CFR Part 124.

#### NEW SECTION

WAC 173-400-260 CONFLICT OF INTEREST. All board members and officials acting or voting on decisions affecting air pollution sources, must comply with the Federal Clean Air Act, as it pertains to conflict of

interest, and 40 CFR 103(d) which is incorporated by reference.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-403-010 POLICY AND PURPOSE.
- WAC 173-403-020 APPLICABILITY.
- WAC 173-403-030 DEFINITIONS.
- WAC 173-403-050 NEW SOURCE REVIEW (NSR).
- WAC 173-403-060 BUBBLE RULES.
- WAC 173-403-070 ISSUANCE OF EMISSION REDUCTION CREDITS.
- WAC 173-403-075 USE OF EMISSION REDUCTION CREDITS.
- WAC 173-403-080 PREVENTION OF SIGNIFICANT DETERIORATION (PSD).
- WAC 173-403-090 RETROFIT REQUIREMENTS FOR VISIBILITY PROTECTION.
- WAC 173-403-100 COMPLIANCE SCHEDULES.
- WAC 173-403-110 PUBLIC INVOLVEMENT.
- WAC 173-403-120 VARIANCE.
- WAC 173-403-130 REQUIREMENTS FOR NONATTAINMENT AREAS.
- WAC 173-403-141 CREDITABLE STACK HEIGHT AND DISPERSION TECHNIQUES.
- WAC 173-403-145 ADJUSTMENT FOR ATMOSPHERIC CONDITIONS.
- WAC 173-403-150 MAINTENANCE OF PAY.
- WAC 173-403-160 REQUIREMENTS FOR BOARDS AND DIRECTOR.
- WAC 173-403-170 REGULATORY ACTIONS.
- WAC 173-403-180 CRIMINAL PENALTIES.
- WAC 173-403-190 APPEALS.

#### AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-012 STATEMENT OF PURPOSE. These rules are enacted under the provisions of the Washington Clean Air Act as amended (RCW 70.94.395) to:

(1) Assume state jurisdiction over emissions from kraft pulping mills (~~(in order)~~) to provide for the systematic (~~(reduction and)~~) control of air pollution in ((the kraft pulping)) this industry and for the proper development of the state's natural resources; and

(2) Establish ((standards deemed to be)) technically feasible and reasonably attainable standards and revise such standards as new information and better technology are developed and become available.

#### AMENDATORY SECTION (Amending Order 84-50, filed 3/6/85)

WAC 173-405-021 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(~~(; general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to kraft pulping mills as defined below:))~~):

(1) "Kraft mill" means any manufacturing facility which uses an alkaline solution containing sodium hydroxide and/or sodium sulfide, and any other chemical pulping facility, except those covered by chapter 173-410 WAC, to produce pulp and/or paper products from wood fibers. For the purposes of this regulation "kraft mill" is equivalent to "source."

(2) (~~("New source" means a source which commences construction after September 24, 1976. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.~~))

(~~3))~~) "Noncondensibles" means gases and vapors from the digestion and evaporation processes of a mill that are not condensed with the equipment used in those processes.

(~~(4))~~) (3) "Recovery furnace stack" means the stack from which the products of combustion from the recovery furnace are emitted to the ambient air.

(~~(5)~~) "Total reduced sulfur, (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present, expressed as hydrogen sulfide.)

#### AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-405-033 STANDARDS OF PERFORMANCE. (~~(For kraft mills which commenced construction after September 24, 1976, Title 40, Code of Federal Regulations Part 60, subparts A, and BB and appendix A, B, C and D as promulgated prior to December 1, 1982, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department of ecology:))~~ The provisions of WAC 173-400-115 "Standards of performance for new sources" shall apply to all sources to which this chapter is applicable.

#### AMENDATORY SECTION (Amending Order DE 83-22, filed 8/26/83)

WAC 173-405-035 EMISSION STANDARDS FOR SOURCES EMITTING HAZARDOUS AIR POLLUTANTS. (~~(1) The national emissions standards for hazardous air pollutants (NESHAPS) are by this reference adopted and incorporated herein.~~)

(2) The department, at any time after the effective date of this section, may conduct 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.) The provisions of WAC 173-400-075 "Emission standards for sources emitting hazardous air pollutants" shall apply to all sources to which this chapter is applicable.

#### AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-405-040 EMISSION STANDARDS. In addition to the general applicability of chapters 173-400 and 173-490 WAC to all emission sources; no kraft pulp mill shall cause or permit air contaminant emissions in excess of the limits ((described in this section, as modified by chapter 173-403 WAC if applicable. Further, all kraft pulp mills are required to use reasonably available control technology which may be determined for some mills to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each source and issue a regulatory order to the mill for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule)) listed below. Specific emission standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.

(1) Recovery furnaces.

(a) The particulate emissions from each recovery furnace stack shall not exceed 0.23 grams of particulate per dry cubic meter at standard conditions (0.10 grains/dscf) corrected to eight percent oxygen averaged over three one hour tests.

(b) The TRS emissions from each recovery furnace stack constructed before January 1, 1970, and for recovery furnaces that have direct contact evaporators, shall not exceed 17.5 ppm corrected to eight percent oxygen for a daily average.

(c) The TRS emissions from each recovery furnace constructed after January 1, 1970, which does not have a contact evaporator, shall not exceed 5.0 ppm corrected to eight percent oxygen for a daily average.

(2) Smelt dissolver tank vent. The particulate emissions from smelt dissolver tank vents shall not exceed 0.15 grams per kilogram (0.30 pounds per ton) of solids fired at the associated recovery furnace.

(3) Lime kilns.

(a) The particulate emission from each lime kiln stack shall not exceed 0.30 grams of particulate per dry cubic meter (0.13 grains/dscf) at standard conditions corrected to ten percent oxygen.

(b) The TRS emissions from any lime kiln stack shall not exceed eighty ppm expressed as hydrogen sulfide for more than two consecutive hours in any one day.

(c) The average daily emission of TRS from any lime kiln stack shall not exceed fifty ppm. After January 1, 1985, TRS emissions from each lime kiln stack shall not exceed twenty ppm corrected to ten percent oxygen for a daily average.

(4) Other TRS emissions units. Noncondensibles from digesters, multiple-effect evaporators and condensate stripper system shall at all times be treated to reduce the emissions of TRS equal to the reduction achieved by thermal oxidation in a lime kiln. ~~((After January 1, 1982,))~~ A backup treatment system or equivalent approved by ~~((the department))~~ ecology must be installed to assure continual treatment.

(5) Other particulate emissions units. The emission of particulates from emissions units other than kraft recovery furnaces, lime kilns, or smelt dissolving tank vents, shall not exceed the following maximums:

(a) 0.46 grams per dry cubic meter at standard conditions (0.2 grains/dscf) corrected to seven percent oxygen, for units which combust wood and wood residue to produce steam and which commenced construction prior to January 1, 1983.

(b) 0.12 grams per dry cubic meter at standard conditions (0.05 grains/dscf) corrected to seven percent oxygen, for units which combust fuel other than wood and wood residue to produce steam, and which commenced construction after January 1, 1983.

(c) 0.23 grams per dry cubic meter at standard conditions (0.1 grains/dscf) corrected to seven percent oxygen in the case of combustion units, for units not classified under (a) or (b) of this subsection.

(6) ~~((Fugitive emissions. Each kraft mill shall take reasonable precautions to prevent fugitive emissions:))~~

~~((7) Masking. No kraft mill 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 emission of an air contaminant which would otherwise violate any provisions of this chapter:))~~

~~((8) Fallout. No kraft mill shall cause or permit the emission of particulate matter from any emissions unit which becomes deposited beyond the property under direct control of the owner or operator of the kraft mill 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 kraft mill shall cause or permit the emission of an air contaminant or water droplets including an air contaminant whose emission is 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:))~~

~~((10))~~ Opacity. No person shall cause or allow the emission of a plume from any kraft recovery furnace, smelt dissolver tank, or lime kiln, which has an average opacity greater than thirty-five percent for more than six consecutive minutes in any sixty minute period, except as described in WAC 173-405-040~~((11))~~ (7).

No person shall cause or allow the emission of a plume, from any emissions unit other than a kraft recovery furnace, smelt dissolver tank, or lime kiln, which has an average opacity greater than twenty percent for more than six consecutive minutes in any sixty minute period, except that these provisions do not apply when the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit soot blowing and grate cleaning necessary to the operation of the boiler facility. ~~((As such,))~~ This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ~~((the department))~~ ecology shall be advised of the schedule.

There shall be no more than one violation notice issued in any sixty minute period.

These provisions ~~(of WAC 173-405-040(6))~~ shall not apply when the presence of uncombined water is the only reason for the opacity of the plume to exceed the applicable maximum.

~~((11))~~ (7) Each mill may petition for, and ~~((the department))~~ ecology may establish by regulatory order, ~~((other))~~ alternate opacity limits for a specific kraft recovery furnace or lime kiln, providing:

(a) The mill can demonstrate compliance; with all other applicable emission limits ~~((can be demonstrated));~~ and

(b) Best practicable operation and maintenance procedures, as approved by ~~((the department))~~ ecology, are continuously employed.

~~((12))~~ (8) Any person electing to apply for exceptions per the provisions of WAC 173-405-040~~((11))~~ (7) shall submit a program acceptable to ~~((the department of))~~ ecology. The program shall include the following information: The amount and concentration of suspended particulate material emitted during best practicable operating procedures, opacity recorded at such emission level, the type of equipment and procedures which will be used to demonstrate compliance and the time required for installation of the equipment.

~~((13))~~ (9) The opacity provisions of this chapter shall apply until an application is received by ~~((the department))~~ ecology, petitioning for a revised limit as allowed by WAC 173-405-040~~((11))~~ (7). After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established.

~~((14))~~ Odors. No kraft pulping mill shall cause or permit the emission of odors in such quantities or of such duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with the use or enjoyment of property.

~~(15))~~ (10) Operation and maintenance. At all times, including periods of abnormal operation and upset conditions, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to ~~((the department))~~ ecology which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

~~((16))~~ (11) SO<sub>2</sub>.

(a) The emission of sulfur dioxide from any recovery furnace or lime kiln shall not exceed five hundred ppm for an hourly average, corrected to eight percent oxygen for a recovery furnace or to ten percent oxygen for a lime kiln.

(b) The emission of sulfur dioxide from any emissions unit other than a recovery furnace or lime kiln shall not exceed one thousand ppm for an hourly average, corrected to seven percent oxygen for combustion units.

~~((17))~~ (12) Source testing. ~~((In order))~~ To demonstrate compliance with this chapter, ((the department 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 may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of an emissions unit. The department shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time)) the provisions of WAC 173-400-105 shall apply to all sources to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 87-50, filed 12/16/87)

WAC 173-405-045 CREDITABLE STACK HEIGHT AND DISPERSION TECHNIQUES. ~~The ((conditions)) provisions of WAC ((173-403-141 and 173-403-145))~~ 173-400-200 shall apply to all sources ((covered by)) to which this chapter is applicable.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-405-061 MORE RESTRICTIVE EMISSION STANDARDS. ~~((The department))~~ Ecology may establish more restrictive emission standards for new mills or for mills expanding existing facilities pursuant to WAC ~~((173-403-050))~~ 173-400-110.

AMENDATORY SECTION (Amending Order DE 80-15, filed 8/20/80)

WAC 173-405-072 MONITORING REQUIREMENTS. Each ~~((kraft))~~ mill shall conduct routine monitoring of emissions in accordance with a program

that has been approved by ~~((the department))~~ ecology. Results of the monitoring shall be reported within ~~((thirty))~~ fifteen days of the end of each calendar month and shall include data as follows:

(1) Particulate~~((:))~~: The results of particulate measurements made on each source during the month.

(2) TRS~~((:))~~:

(a) The average TRS concentration expressed in units of the standard for each recovery furnace and lime kiln stack.

(b) The date, time and concentration of TRS for each TRS emissions violation and the total numbers of hours that exceed the standard.

(3) Opacity or other continuous monitor~~((:))~~:

(a) The date and time of opacity in excess of the standard.

(b) If equipment for continuous monitoring of opacity is not available, continuous monitoring of operating parameters may be required by a regulatory order as an alternate. If an alternate is approved, the date and time of each occurrence in excess of the regulatory order must be reported.

(4) Production~~((:))~~: The average daily production of air-dried unbleached pulp.

(5) Other data~~((:))~~: Each kraft mill shall furnish, upon request of ~~((the department))~~ ecology, such other pertinent data ~~((as the department may require))~~ required to evaluate the mill's emissions or emission control program.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-405-077 REPORT OF STARTUP, SHUTDOWN, BREAKDOWN OR UPSET CONDITIONS. ~~((If a startup, shutdown, breakdown or upset condition occurs which could result in an emission 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 its delegated authority, in advance of its occurrence.~~

~~(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.~~

~~Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the change of recurrence.~~

Compliance with the requirements of WAC 173-405-077, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-405 WAC nor from the resulting liabilities for failure to comply.) The provisions of WAC 173-400-105(5) shall apply to all sources to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

~~WAC 173-405-078 EMISSION INVENTORY. ((The owner or operator of any kraft pulp mill shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage 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-five tons per year of sulfur dioxide.)) The provisions of WAC 173-400-105(1) shall apply to all sources to which this chapter is applicable.~~

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

~~WAC 173-405-086 NEW SOURCE REVIEW (NSR). ((Construction shall not commence on any new source until a notice of construction has been approved by the department pursuant to WAC 173-403-050. The owner or operator of any source shall notify the department prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department may determine that a notice of construction is required.)) The provisions of WAC 173-400-110 shall apply to all new sources and emissions units to which this chapter is applicable.~~

AMENDATORY SECTION (Amending Order 87-50, filed 12/16/87)

~~WAC 173-405-087 PREVENTION OF SIGNIFICANT DETERIORATION (PSD). The ((conditions)) provisions of WAC ((173-403-080)) 173-400-141 shall apply to all new ((and modified)) major sources ((covered by this chapter)) and major modifications to which this chapter is applicable.~~

AMENDATORY SECTION (Amending Order DE 76-35, filed 12/28/76)

~~WAC 173-405-091 SPECIAL STUDIES. ((The department)) Ecology may require such additional special studies relevant to process emissions and establish completion dates as it determines necessary.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-405-041 EMISSION REQUIREMENTS OF PRIOR JURISDICTIONS.

AMENDATORY SECTION (Amending Order DE 80-16, filed 8/20/80)

~~WAC 173-410-012 STATEMENT OF PURPOSE. These rules are enacted under the provisions of the Washington Clean Air Act as amended (RCW 70-94.395) to:~~

- ~~(1) Assume state jurisdiction over emissions from sulfite pulping mills ((in order)) to provide for the systematic ((reduction and)) control of air pollution in ((the sulfite pulping)) this industry and for the proper development of the state's natural resources; and~~
- ~~(2) Establish ((standards deemed to be)) technically feasible and reasonably attainable standards and revise such standards as new information and better technology are developed and become available.~~

AMENDATORY SECTION (Amending Order 84-50, filed 3/6/85)

~~WAC 173-410-021 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((= general terms common with other chapters as defined in chapter 173-403 WAC, and terms specific to sulfite pulping mills as defined below:)):~~

- ~~(1) "Acid plant" means the facility in which the cooking liquor is either manufactured or fortified when not associated with a recovery system.~~
- ~~(2) "Average daily emission" means total weight of an air contaminant emitted in each month, divided by the number of days of production that month.~~
- ~~(3) "Average daily production" means air dried tons of unbleached pulp produced in a month, divided by the number of days of production in that month.~~
- ~~(4) "Blow system" includes the storage chest, tank or pit to which the digester pulp is discharged following the cook.~~

~~(5) ((="New source" means a source which commences construction after January 1972. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.~~

~~((6)) "Recovery system" means the process by which all or part of the cooking chemicals may be recovered, and cooking liquor regenerated from spent cooking liquor, including evaporation, combustion, dissolving, fortification, storage facilities, and emission control equipment associated with the recovery cycle.~~

~~((7)) (6) "Sulfite pulping mill" means any manufacturing facility which uses a cooking liquor consisting of sulfurous acid, a sulfite or bisulfite salt alone or in any combination, with or without additional mechanical refining or delignification to produce pulp, pulp products~~

or cellulose from wood fibers. For the purposes of this regulation "sulfite pulping mill" is equivalent to "source."

~~((8) "Total reduced sulfur (TRS)" means hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and other organic sulfides present, expressed as hydrogen sulfide.))~~

**AMENDATORY SECTION** (Amending Order DE 83-22, filed 8/26/83)

WAC 173-410-035 EMISSION STANDARDS FOR SOURCES EMITTING HAZARDOUS AIR POLLUTANTS. ~~((1) The national emissions standards for hazardous air pollutants (NESHAPS) are by this reference adopted and incorporated herein.~~

~~(2) The department, at any time after the effective date of this section, may conduct 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.))~~ The provisions of WAC 173-400-075 "Emission standards for sources emitting hazardous air pollutants" shall apply to all sources to which this chapter is applicable.

**AMENDATORY SECTION** (Amending Order DE 83-13, filed 4/15/83)

WAC 173-410-040 EMISSION STANDARDS. In addition to the general applicability of chapters 173-400 and 173-490 WAC to all emission sources; no sulfite pulping mill shall cause or permit air contaminant emissions in excess of the limits listed below. ((All sulfite pulping mills are required to meet the emission standards of this chapter, as modified by chapter 173-403 WAC if applicable. Further, all point sources are required to use reasonably available control technology which may be determined for some sources or source categories to be more stringent than the emission limits of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the operator of the source defining RACT. The order will contain a schedule for installation, with intermediate benchmark dates, and a final completion date and shall constitute a compliance schedule.)) Specific emission standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.

(1) Sulfur dioxide.

(a) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill which

practices incineration of the spent sulfite liquor, shall not exceed ten grams of sulfur dioxide per kilogram (twenty pounds per ton) of air dried, unbleached pulp produced.

(b) The total average daily emissions from a sulfite pulping mill, or a portion of a sulfite pulping mill that does not incinerate the spent sulfite liquor, shall not exceed two grams of sulfur dioxide per kilogram (four pounds per ton) of air dried, unbleached pulp produced.

(c) The blow system emissions shall not exceed 0.1 grams of sulfur dioxide per minute, on a fifteen minute average, per kilogram (0.2 pounds per ton) of air dried, unbleached pulp discharged from the digester.

(d) Emissions from the recovery system and acid plant shall not exceed 800 ppm of sulfur dioxide for any hourly average.

(e) Emissions from recovery systems constructed after January 24, 1972, shall not exceed 300 ppm of sulfur dioxide for any hourly average.

(f) Emissions from any emissions unit, other than a recovery system, a blow system or an acid plant, shall not exceed 1000 ppm of sulfur dioxide, corrected to seven percent oxygen in the case of combustion unit, for any hourly average.

(2) Particulate.

(a) Emissions of particulate from recovery systems constructed before January 24, 1972, shall not exceed 0.23 grams per dry cubic meter of exhaust at standard conditions (0.10 grains/dscf) corrected to eight percent oxygen.

(b) Emissions of particulate matter from recovery systems constructed after January 24, 1972, shall not exceed 0.14 grams per dry cubic meter of exhaust at standard conditions (0.06 grains/dscf) corrected to eight percent oxygen.

(c) The emission of particulates from emissions units other than acid plants or recovery systems shall not exceed the following maximums:

(i) 0.46 grams per dry cubic meter at standard conditions (0.2 grains/dscf) corrected to seven percent oxygen, for units which combust wood and wood residue to produce steam and which commenced construction prior to January 1, 1983.

(ii) 0.12 grams per dry cubic meter at standard conditions (0.05 grains/dscf) corrected to seven percent oxygen, for units which combust fuel other than wood and wood residue to produce steam, and which commenced construction after January 1, 1983.

(iii) 0.23 grams per dry cubic meter at standard conditions (0.1 grains/dscf) corrected to seven percent oxygen in the case of combustion units, for units not classified under ~~((subsections))~~ (c) (i) or (ii) of this ~~((section))~~ subsection.

(3) ~~((Each sulfite mill shall take reasonable precautions to prevent fugitive emissions from becoming airborne and if located in a nonattainment area shall be required to use reasonably available control technology (RACT) to control fugitive emissions of nonattainment contaminants.~~

(4) Masking. No sulfite mill 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 emission

of an air contaminant which would otherwise violate any provisions of this chapter.

(5) ~~Fallout. No sulfite mill shall cause or permit the emission of particulate matter to be deposited beyond the property under direct control of the owner or operator of the sulfite mill in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material was deposited.~~

(6) ~~Other contaminants. No sulfite mill shall cause or permit the emission of an air contaminant or water droplets, including an air contaminant whose emission is 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 enjoyment of life or property.~~

(7)) ~~Opacity. No person shall cause or allow the emission of a plume from a recovery system or acid plant which has an average opacity greater than thirty-five percent, for more than six consecutive minutes in any sixty minute period, except as ((described in WAC 173-410-040(9))) allowed per RCW 70.94.331 (2)(c).~~

~~((No person shall cause or allow the emissions of a plume, from any emissions unit other than a recovery system or an acid plant, which has an average opacity greater than twenty percent for more than six consecutive minutes in any sixty-minute period, except that these provisions do not apply when the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit soot blowing and grate cleaning necessary to the operation of the boiler facility. As such, this practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the department be advised of the schedule. There shall be no more than one violation for any sixty-minute period.~~

(8) ~~The provisions of WAC 173-410-040(7) shall not apply when the presence of uncombined water is the only reason for the opacity of the plume to exceed the applicable maximum.~~

(9) ~~Each mill may petition for, and the department may establish by regulatory order, other opacity limits for a specific recovery system or acid plant providing:~~

(a) ~~Compliance with all other applicable emission limits can be demonstrated; and~~

(b) ~~Best practicable operation and maintenance procedures, as approved by the department, are continuously employed.~~

(10) ~~Any person electing to apply for exceptions per the provisions of WAC 173-410-040(9) shall submit a program acceptable to the department. The program shall include the following information: The amount and concentration of suspended particulate material emitted during best practicable operating procedures, opacity recorded at such emission level, the type of equipment and procedures which will be used to demonstrate compliance and the time required for installation of the equipment.~~

(11) ~~The opacity provisions of this chapter shall apply until an application is received by the department petitioning for a revised limit as allowed by WAC 173-410-040(9).~~

~~After a petition is received, enforcement of the opacity provisions will be stayed until the application is rejected or a new limit is established.~~

(12) ~~Odors. No sulfite pulping mill shall cause or permit the emission of odors 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 interfere with enjoyment of life and property.~~

(13)) (4) ~~Operation and maintenance. At all times, including periods of abnormal operations and upset conditions, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to ((the department)) ecology which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.~~

((14)) (5) ~~No recovery system shall emit total reduced sulfur (TRS) gases in excess of 17.5 ppm for a daily average.~~

((15)) (6) ~~More restrictive limits. ((Notwithstanding the specific emission limits set forth in this chapter, the department may, after notice and hearing, establish more restrictive emission limits if the department has)) Ecology may set more restrictive emissions limits than the specific limits set in this chapter (after public involvement and hearing), if there is reason to believe that the emission(s) from ((the)) a source is a cause of public nuisance or a cause of violation of ambient air quality standards. The source shall, within ninety days from notification of ((such occurrence)) the more restrictive limits, achieve operation that will prevent further recurrence of the nuisance or violation.~~

((16)) (7) ~~Source testing. ((In order)) To demonstrate compliance with this chapter, ((the department may require that a test be made of the source 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 may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the source. The department shall be allowed to obtain a sample from any source. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time)) the provisions of WAC 173-400-105 shall apply to all sources to which this chapter is applicable.~~

AMENDATORY SECTION (Amending Order 87-50, filed 12/16/87)

WAC 173-410-045 CREDITABLE STACK HEIGHT AND DISPERSION TECHNIQUES. The ((conditions)) provisions of WAC ((173-403-141 and

~~173-403-145))~~ 173-400-200 shall apply to all sources ~~((covered by))~~ to which this chapter is applicable.

AMENDATORY SECTION (Amending Order DE 80-16, filed 8/20/80)

WAC 173-410-062 MONITORING REQUIREMENTS. ~~((+))~~ Each mill shall conduct routine monitoring of emissions in accordance with a program that has been approved by ~~((the department))~~ ecology. Results of monitoring shall be reported within ~~((thirty))~~ fifteen days of the end of each calendar month and shall include data as follows:

~~((a))~~ (1) For the recovery system and acid plant:

~~((+))~~ (a) The average daily emissions of sulfur dioxide expressed as grams SO<sub>2</sub> per kilogram of air dried, unbleached pulp produced and the kilograms of SO<sub>2</sub> per day.

~~((+))~~ (b) Daily average concentration of sulfur dioxide.

~~((+))~~ (c) The date, time and concentration for each sulfur dioxide emission violation and the total number of hours that exceed the standard.

~~((+))~~ (d) The results of particulate tests conducted during the month.

~~((b))~~ (2) For the blow system~~((;))~~:

(a) The grams of sulfur dioxide per minute, on a fifteen minute average, per kilogram of air dried, unbleached pulp discharged from the digester.

~~((e))~~ (b) The average daily production of air dried, unbleached pulp.

~~((2))~~ (3) Each mill shall furnish, upon request of ~~((the department))~~ ecology, such other pertinent data ~~((as the department may require))~~ required to evaluate the mill's emission control program.

~~((3))~~ (4) All measurements shall be made in accordance with ~~((techniques approved by the department))~~ WAC 173-400-105.

~~((4))~~ (5) Each mill shall be required to establish a program approved by ~~((the department))~~ ecology for continuous opacity monitoring to demonstrate compliance with WAC 173-410-040~~((7))~~(3) and to report the results to ~~((the department))~~ ecology in a format and on a schedule set by regulatory order. If equipment for continuous monitoring of opacity is not available, continuous monitoring of operating parameters may be required as an alternate until continuous opacity monitoring equipment is available.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-410-067 REPORT OF STARTUP, SHUTDOWN, BREAKDOWN OR UPSET CONDITIONS. ~~((If a startup, shutdown, breakdown or upset condition occurs which could result in an emission 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 its delegated authority, in advance of its occurrence:~~

(2) For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible:

~~Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence:~~

~~Compliance with the requirements of WAC 173-410-067, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-410 WAC nor from the resulting liabilities for failure to comply.)~~ The provisions of WAC 173-400-105(5) shall apply to all sources to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-410-071 EMISSION INVENTORY. ~~((The owner or operator of any sulfite pulping mill shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, volatile organic compounds, TRS, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage 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 which will result in emissions of more than twenty-five tons per year of sulfur dioxide.))~~ The provisions of WAC 173-400-105(1) shall apply to all sources to which this chapter is applicable.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-410-086 NEW SOURCE REVIEW (NSR). ~~((Construction shall not commence on any new source until a notice of construction has been approved by the department pursuant to WAC 173-403-050. The owner or operator of any source shall notify the department prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department may determine that a notice of construction is required.))~~ The provisions of WAC 173-400-110 shall apply to all new sources and emissions units to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 87-50, filed 12/16/87)

WAC 173-410-087 PREVENTION OF SIGNIFICANT DETERIORATION (PSD). ~~((conditions))~~ The provisions of WAC ((173-403-080)) 173-400-141 shall



apply to all new ~~((and modified))~~ major sources ~~((covered by))~~ and major modifications to which this chapter is applicable.

#### NEW SECTION

WAC 173-410-100 SPECIAL STUDIES. Ecology may require such additional special studies relevant to process emissions and establish completion dates as it finds necessary.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-410-042 EMISSION REQUIREMENTS OF PRIOR JURISDICTIONS.

#### Chapter 173-415 WAC PRIMARY ALUMINUM PLANTS

#### WAC

173-415-010	Statement of purpose.
173-415-020	Definitions.
173-415-030	Emission standards.
173-415-040	Standards of performance.
173-415-045	Creditable stack height and dispersion techniques.
173-415-050	New source review <u>(NSR)</u> .
173-415-051	Prevention of significant deterioration (PSD).
173-415-060	Monitoring and reporting.
173-415-070	Report of startup, shutdown, breakdown or upset conditions.
173-415-080	Emission inventory.

#### AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-010 STATEMENT OF PURPOSE. These rules are enacted under the provisions of ~~((the 1969 amendments to))~~ the Washington Clean Air Act as amended (RCW 70.94.395) to:

(1) Assume state jurisdiction over emissions from primary aluminum reduction plants ~~((in order))~~ to provide for the systematic ~~((reduction and))~~ control of air pollution in ~~((the primary aluminum reduction))~~ this industry and for the proper development of the state's natural resources; and

(2) Establish ~~((standards deemed to be))~~ technically feasible and reasonably attainable standards and revise such standards as new information and better technology are developed and become available.

#### AMENDATORY SECTION (Amending Order 84-50, filed 3/6/85)

WAC 173-415-020 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~~((; general terms common with other chapters as defined in chapter 173-403~~

~~WAC, and terms specific to primary aluminum mills as defined below:)):~~

(1) "Fluorides" means compounds of the element fluorine.

(2) "Forage" means grasses, pasture and other vegetation that is normally consumed or is intended to be consumed by livestock.

(3) ~~(( "New source" means a source which commences construction after June 17, 1970. Addition to, enlargement, modification, replacement, or any alteration of any process or source which may increase emissions or ambient air concentrations of any contaminant for which federal or state ambient or emissions standards have been established shall be construed as construction or installation or establishment of a new source. In addition every major modification (as defined in WAC 173-403-030) shall be construed as construction or installation or establishment of a new source.~~

~~((4))~~ "Primary aluminum plant" or "primary aluminum reduction plant" or "primary aluminum mill" means a plant which produces aluminum metal from aluminum oxide (alumina). For the purposes of this regulation "primary aluminum plant" is equivalent to "source."

~~((5))~~ (4) "Potline primary emission control system" means the equipment and procedures designed to collect and remove contaminants from the exhaust gases which are captured at the pot.

#### AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-415-030 EMISSION STANDARDS. ~~((+))~~ In addition to the general applicability of chapters 173-400 and 173-490 WAC to all emission sources; all primary aluminum plants are required to meet the emission standards of this chapter~~((; as modified by chapter 173-403 WAC if applicable. Further, all primary aluminum plants are required to use reasonably available control technology which may be determined for some primary aluminum plants to be more stringent than the emission limitations of this chapter. In cases where current controls are determined to be less than reasonably available control technology (RACT), the department shall, on a case-by-case basis, define RACT for each plant and issue a regulatory order to the primary aluminum plant for installation of RACT. The order will contain a schedule for installation, with intermediate benchmark dates and a final completion date and shall constitute a compliance schedule)).~~ Specific emissions standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.

~~((2))~~ (1) Fluoride.

(a) The emission of gaseous ~~((fluorides))~~ and particulate fluorides for all emissions units within a primary aluminum plant shall be restricted so that the plant's emissions will not cause ambient air and forage standards for fluorides established by chapter ~~((18-48))~~ 173-481 WAC ~~((are not))~~ to be exceeded outside the property controlled by the aluminum plant owner(s) or operator(s).

(b) ~~((By January 1, 1984, the))~~ Each potline primary emission control system ~~((for each potline))~~ shall be designed so that the control of fluoride emissions will be equivalent to a total fluoride collection efficiency of: (i) Eighty percent for vertical stud soderberg and side worked prebake pots, (ii) eighty-five percent for horizontal stud soderberg pots, and (iii) ninety-five percent for center worked prebake pots ((and)). A primary emission control system with a design removal efficiency of at least ninety-five percent of the fluoride collected is required. ~~((A potline near the end of its useful life and scheduled for replacement or shutdown in a reasonable time period may not be required to retrofit provided ambient fluoride standards are being met.~~

~~(3))~~ (2) Particulate. The total emission of particulate matter to the atmosphere from the reduction process (potlines) shall be reduced to the lowest level consistent with reasonably available control technology (RACT) for primary aluminum plants((-but in no case shall)). The emission of solid particulate shall not exceed 7.5 grams per kilogram (fifteen pounds per ton) of aluminum produced on a daily basis. ~~((Compliance shall be determined by measurement methods contained in the Source Test Manual - Procedures for Compliance Testing on file with the department of ecology.~~

~~(4))~~ (3) Visible emissions. Visible emissions from any emissions unit in a primary aluminum plant shall not exceed an average twenty percent opacity for more than six consecutive minutes in any sixty minute period. This provision shall not apply:

(a) When the presence of uncombined water is the only reason for the opacity of the plume to exceed twenty percent; or

(b) When an alternate opacity limit has been established under RCW 70.94.331(2)(c).

~~((5))~~ Fallout. No primary aluminum plant shall cause or permit the emission of particulate matter to be deposited beyond the property under direct control of the owner or operator of the plant in such quantity 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.

~~(6)~~ Other contaminants. No primary aluminum plant shall cause or permit the emission of any air contaminant or water droplets, including any air contaminant whose emission is not otherwise regulated by this chapter, as is or is likely to be injurious to human health, plant or animal life, or property or which unreasonably interferes with enjoyment of life or property.

~~(7))~~ (4) Fugitive emissions. Each primary aluminum plant shall use ~~((reasonably available control technology))~~ RACT to prevent fugitive emissions.

~~((8))~~ (5) Sulfur dioxide.

(a) Total emissions of sulfur dioxide from all emissions units shall not exceed thirty grams of sulfur dioxide per kilogram of aluminum produced on a monthly average (sixty pounds per ton). Those primary aluminum plants which were in excess of the above sulfur dioxide limit on January 1, 1978, will be allowed to emit at the January 1, 1978, level of emissions provided

that the owners or operators did demonstrate to ((the department)) ecology by July 1, 1981, by use of modeling and ambient measurements, that the emissions will not cause the ambient standard to be exceeded, and that the limits are placed in a regulatory order(s).

(b) In no case shall any plant cause or permit the emission of a gas containing sulfur dioxide in excess of one thousand parts per million corrected to dry standard conditions for an hourly average. ~~((A lower limit may be established by an order defining RACT for a specific emissions unit or process.~~

(9) Odors. Any owner or operator of a primary aluminum plant who shall cause or allow the generation of any odor from any emissions unit which may unreasonably interfere with any person's use and enjoyment of his property must use recognized good practice and procedure to reduce these odors to a reasonable minimum.

~~(10))~~ (6) Operation and maintenance. At all times, including periods of abnormal operation and upset, owners and operators shall, to the extent practicable, maintain an affected facility, and operate and maintain air pollution control equipment associated with such facility in a manner consistent with good air pollution control practice. A plant may elect to establish a program, subject to the approval of ~~((the department))~~ ecology, for monitoring each potroom in order to demonstrate good operation and maintenance.

~~((11))~~ (7) Source testing. ~~((In order))~~ To demonstrate compliance with this chapter, ((the department may require that a test be made of the plant 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 the plant may be required to provide the necessary platform and sampling ports for the department personnel to perform a test of the emissions unit. The department shall be allowed to obtain a sample from any emissions unit. The operator of the plant shall be given an opportunity to observe the sampling and to obtain a sample at the same time)) the provisions of WAC 173-400-105 shall apply to all sources to which this chapter is applicable.

#### AMENDATORY SECTION (Amending Order DE 82-21, filed 7/27/82)

WAC 173-415-040 STANDARDS OF PERFORMANCE. ~~((For primary aluminum plants which commenced construction after September 24, 1976, Title 40, the Code of Federal Regulations, Part 60, subparts A and S and appendix A, B, C and D (standards of performance for new stationary sources) as promulgated prior to July 1, 1982, is by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the department of ecology.))~~ The provisions of WAC 173-400-115 "Standards of performance for new sources" shall apply to all sources to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 87-50, filed 12/16/87)

WAC 173-415-045 CREDITABLE STACK HEIGHT AND DISPERSION TECHNIQUES. The ~~((conditions))~~ provisions of WAC ~~((173-403-141 and 173-403-145))~~ 173-400-200 shall apply to all sources ~~((covered by))~~ to which this chapter is applicable.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-415-050 NEW SOURCE REVIEW (NSR). ~~((Construction shall not commence on any new source until a notice of construction has been approved by the department pursuant to WAC 173-403-050. This owner or operator of any source shall notify the department prior to replacement of air pollution control equipment or process equipment other than replacement for routine maintenance and repair. The department may determine that a notice of construction is required.))~~ The provisions of WAC 173-400-110 shall apply to all new sources and emissions units to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 87-50, filed 12/16/87)

WAC 173-415-051 PREVENTION OF SIGNIFICANT DETERIORATION (PSD). The ~~((conditions))~~ provisions of WAC ~~((173-403-080))~~ 173-400-141 shall apply to all new ~~((and modified sources covered by))~~ major sources and major modifications to which this chapter is applicable.

AMENDATORY SECTION (Amending Order DE 80-17, filed 8/14/80)

WAC 173-415-060 MONITORING AND REPORTING. (1) Each primary aluminum plant shall conduct routine monitoring of emissions, ambient air, and forage in accordance with a program that has been approved by ~~((the department))~~ ecology. Results of monitoring shall be reported within thirty days of the end of each calendar month and shall include data as follows:

(a) Ambient air: Twenty-four hour concentrations of gaseous fluoride in the ambient air expressed in micrograms of hydrogen fluoride per cubic meter of ambient air?

(b) Forage: Concentrations of fluoride in forage expressed in parts per million of fluoride on a dried weight basis.

(c) Particulate emissions: Results of all emission sampling conducted during the month for particulates, expressed in grains per standard dry cubic foot, in pounds per day, and in pounds per ton of aluminum produced. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. Particulate data shall be reported as total particulates and percentage of fluoride ion contained therein.

Compliance with WAC 173-415-030~~((3))~~ (2) shall be determined by measurements of emissions from the

potline primary control system plus measurements of emissions from the roof monitor.

(d) Fluoride emissions: Results of all sampling conducted during the month for fluoride emissions. All results shall be expressed as hydrogen fluoride in parts per million on a volume basis and pounds per day of hydrogen fluoride.

(e) Other emission and ambient air data as specified in the approved monitoring program.

(2) Other data: For ecology to evaluate a plant's emissions or emission control program, each primary aluminum plant shall furnish ~~((, upon request of the department, such))~~ other data ~~((as the department may require to evaluate the plant's emissions or emission control program))~~ requested by ecology.

(3) Change in raw materials or fuel: Any change or series of changes in raw material or fuel which results in a cumulative increase in emissions of sulfur dioxide of five hundred tons per year or more over that stated in the 1979 inventory required by WAC 173-415-080 shall require the submittal of sufficient information to ~~((the department to determine))~~ ecology so that the effect ~~((of the increase))~~ upon ambient concentrations of sulfur dioxide can be determined. ~~((The department))~~ Ecology may issue regulatory orders requiring controls to reduce the effect of such increases.

AMENDATORY SECTION (Amending Order DE 83-13, filed 4/15/83)

WAC 173-415-070 REPORT OF STARTUP, SHUTDOWN, BREAKDOWN OR UPSET CONDITIONS. ~~((If a startup, shutdown, breakdown or upset condition occurs which could result in an emission 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 its delegated authority, in advance of its occurrence.~~

(2) ~~For an unplanned condition, such as a breakdown or upset, the condition shall be reported to the department, or its delegated authority as soon as possible.~~

~~Upon request of the department or its delegated authority, the owner or operator of the source shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.~~

~~Compliance with the requirements of WAC 173-415-070, does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of chapter 173-415 WAC nor from the resulting liabilities for failure to comply.))~~ The provisions of WAC 173-400-105(5) shall apply to all sources to which this chapter is applicable.

AMENDATORY SECTION (Amending Order 88-39, filed 1/3/89)

WAC 173-415-080 EMISSION INVENTORY. ~~((The owner or operator of any primary aluminum plant~~

~~shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the department of ecology. The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, fluorides, volatile organic compounds, and other contaminants, and shall be submitted when required no later than one hundred five days after the end of the calendar year. The inventory shall include total emissions for the year in tons per year and an estimate of the percentage 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 or raw material used which will result in emissions of more than twenty-five tons per year of sulfur dioxide.)~~ The provisions of WAC 173-400-105(1) shall apply to all sources to which this chapter is applicable.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-415-041 EMISSION REQUIREMENTS OF PRIOR JURISDICTIONS.

AMENDATORY SECTION (Amending Order DE 80-18, filed 8/20/80)

WAC 173-490-010 POLICY AND PURPOSE. ~~((The purpose of this chapter is to establish control requirements for sources emitting volatile organic compounds:))~~ (1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.

(2) It is the purpose of this chapter to establish technically feasible and reasonably attainable standards for sources emitting volatile organic compounds (VOCs) and revise such standards as new information and better technology are developed and become available.

AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-020 DEFINITIONS. The ~~((specific))~~ definitions of terms contained in chapter 173-400 WAC are by this reference incorporated into this chapter ~~((, and all words and phrases there defined shall, when used in this chapter, carry the meanings set forth in chapter 173-400 WAC)).~~ Unless a different meaning is ~~((indicated))~~ clearly required by context, the following words and phrases, as used in this chapter, shall have the following meanings:

(1) "Bottom loading" means the filling of a tank through a ~~((submerged fit))~~ line entering the bottom of the tank.

(2) "Bulk gasoline plant" means a gasoline storage and transfer facility that receives more than ninety percent of its annual gasoline throughput by transport tank, and reloads gasoline into transport tanks.

(3) "Class II hardboard paneling finish" means finishes which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.

(4) "Closed refinery system" means a system that will process or dispose of those VOCs collected from another system. The mass quantity of collected VOCs emitted to the ambient air from the closed refinery system shall ~~((by comparison))~~ not exceed that required for a disposal system.

(5) "Condensate" means hydrocarbon liquid separated from ~~((natural))~~ a gas stream which condenses due to changes in the temperature or pressure and remains liquid at standard conditions.

(6) "Condenser" means a device for cooling a gas stream to a temperature where specific ~~((volatile organic compounds))~~ VOCs become liquid and are removed.

(7) "Control system" means one or more control devices, including condensers, that are designed and operated to reduce the quantity of VOCs emitted to the atmosphere.

(8) "Crude oil" means a naturally occurring mixture which consists of hydrocarbons and sulfur, nitrogen or oxygen derivatives of hydrocarbons which is a liquid at standard conditions.

(9) "Cutback asphalt" means an asphalt that has been blended with petroleum distillates to reduce the viscosity for ease of handling and lower application temperature. An inverted emulsified asphalt shall be considered a cutback asphalt when the continuous phase of the emulsion is a cutback asphalt.

~~((10))~~ ~~(("Demonstrate" means a presentation of the necessary data and calculations to support the required conclusion. The material is recorded for each event and made a part of air quality records or reports required by the state.~~

~~((11))~~ "Disposal system" means a process or device that reduces the mass quantity of the VOC that would have been emitted to the ambient air by at least ninety percent prior to their actual emission.

~~((12))~~ (11) "Dry cleaning facility" means a facility engaged in the cleaning of fabrics in an essentially ~~((nonaqueous))~~ nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The facility includes, but is not limited to, any washer, dryer, filter and purification system(s), waste disposal system(s), holding tank(s), pump(s) and attendant piping and valve(s).

~~((13))~~ (12) "External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the ~~((petroleum))~~ liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

~~((14))~~ (13) "Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

~~((15))~~ "Gas service" means equipment that processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase.

~~((16))~~ (14) "Gasoline" means a petroleum distillate ~~((having))~~ which is a liquid at standard conditions and has a true vapor pressure greater than 200 mm of Hg (4 psia) at 20°C, ~~((that is a liquid at standard conditions of 760 mm of Hg and 20°C))~~, and is used as a fuel for internal combustion engines.

~~((17))~~ (15) "Gasoline dispensing facility" means any site dispensing gasoline into motor vehicle fuel tanks from stationary storage tanks.

~~((18))~~ (16) "Gasoline loading terminal" means a gasoline transfer facility that receives more than ten percent of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.

~~((19))~~ (17) "Hardboard" means a panel manufactured primarily from interfelted lignocellulosic fibers which are consolidated under heat and pressure in a hot press.

~~((20))~~ ~~("Hardboard")~~ (18) "Hardwood plywood" means plywood whose surface layer is a veneer of hardwood.

~~((21))~~ (19) "Lease custody transfer" means the transfer of produced crude oil or condensate, after processing or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

~~((22))~~ (20) "Liquid-mounted seal" means a primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof ~~((around the circumference of the tank))~~.

~~((23))~~ (21) "Liquid service" means equipment that processes, transfers or contains a ~~((volatile organic compound or mixture of volatile organic compounds))~~ VOC or VOCs in the liquid phase.

~~((24))~~ (22) "Low organic solvent coating" refers to coatings which contain less organic solvent than the conventional coatings used by the industry. Low organic solvent coatings include water-borne, higher solids, electrodeposition and powder coatings.

(23) "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

~~((25))~~ (24) "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.

~~((26))~~ (25) "Petroleum liquids" means crude oil, condensate, and any finished or intermediate products manufactured or extracted in a petroleum refinery ~~((excluding No. 2 through 6 fuel oils (ASTM D396-69), No. 2GT through 4 GT gas turbine fuel oils (ASTM D2880-71) or No. 2D and 4D diesel fuel oils (ASTM D975-68)))~~.

~~((27))~~ (26) "Petroleum refinery" means a facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or

other products by distilling crude oils or redistilling, cracking, extracting or reforming unfinished petroleum derivatives. Not included are facilities re-refining used motor oils or waste chemicals, processing finished petroleum products, separating blended products, or air blowing asphalt.

(27) "Prime coat" means the first of two or more films of coating applied in an operation.

(28) "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.

(29) "Proper attachment fittings" means hardware for the attachment of gasoline transfer or vapor collection lines that meet or exceed industrial standards or specifications and the standards of other agencies or institutions responsible for safety and health.

(30) "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

~~((31))~~ ~~("Reactor")~~ means a vessel that may be jacketed for temperature control in which to conduct chemical reactions.

~~((32))~~ "Refinery unit" means a set of components that are a part of a basic process operation, such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

~~((33))~~ (32) "Roll printing" means the application of words, designs, and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

~~((34))~~ (33) "Rotogravure printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique which involves ~~((an intaglio))~~ intaglio or recessed image areas in the form of cells.

~~((35))~~ ~~("Separation operation")~~ means a process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms include extraction, centrifugation, filtration, and crystallization.

~~((36))~~ (34) "Single coat" means only one film of coating is applied to the metal substrate.

(35) "Submerged fill line" means a pipe, tube, fitting or other hardware for loading liquids into a tank with either a discharge opening flush with the tank bottom; or with a discharge opening ~~((entirely))~~ below the lowest normal operating drawoff level or that level determined by a liquid depth two and one half times the fill line diameter when measured in the main portion of the tank, but not in sumps or similar protrusions.

~~((37))~~ (36) "Submerged loading" means the filling of a tank with a submerged fill line descending nearly to the bottom.

~~((38))~~ (37) "Suitable closure or cover" means a door, hatch, cover, lid, pipe cap, pipe blind, valve or similar device that prevents the accidental spilling or emitting of VOC. Pressure relief valves, aspirator vents or other devices specifically required for safety and fire protection are not included.

~~((39))~~ (38) "Thin particleboard" means a manufactured board one-quarter inch or less in thickness made of individual wood particles which have been coated with a binder and ~~((former))~~ formed into flat sheets by pressure.

~~((40))~~ (39) "Tileboard" means ~~((panelling))~~ paneling that has a colored waterproof surface coating.

(40) "Topcoat" means the final film or series of films of coating applied in a two-coat (or more) operation.

(41) "Transport tank" means a container ~~((having a usable liquid volume greater than one thousand liters (260 gallons)))~~ used for shipping gasoline on land ~~((, including but not limited to, tank trucks, tank trailers, railroad tank cars, and metallic or nonmetallic tanks or cells conveyed on any vehicle))~~.

(42) "True vapor pressure" means the equilibrium partial pressure of a petroleum liquid as determined with methods described in American Petroleum Institute Bulletin 2517, 1980.

(43) "Unit turnaround" means the procedure of shutting down, repairing, inspecting, and restarting a unit.

(44) "Valves not externally regulated" means valves that have no external controls, such as in-line check valves.

~~((44))~~ (45) "Vapor collection system" means a closed system to conduct vapors displaced from a tank being filled into the tank being emptied, a vapor holding tank, or a vapor control system.

~~((45))~~ (46) "Vapor control system" means a system designed and operated to reduce or limit the emission of VOCs, or to recover the VOCs to prevent their emission into the ambient air.

~~((46))~~ (47) "Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof.

~~((47))~~ (48) "Volatile organic compound (VOC)" means ~~((a hydrocarbon or derivative of hydrocarbon that has a vapor pressure greater than 0.1 mm of Hg (millimeters of mercury) at a temperature of 20°C. Excluded compounds are methane, ethane, trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), methylene chloride and 1, 1, 1-trichloroethane (methyl chloroform)))~~ any organic compound which participates in atmospheric photochemical reactions; that is, any organic compound other than those which the administrator designates as having negligible photochemical reactivity. VOC may be measured by a reference method, an equivalent method, an alternative method or by procedures specified under 40 CFR Part 60. A reference method, an equivalent method, or an alternative method, however, may also measure nonreactive organic compounds. In such cases, an owner or operator may exclude the nonreactive organic compounds when determining compliance with a standard.

~~((48))~~ (49) "Waxy, heavy pour crude oil" means a crude oil with a pour point of 50°F or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

#### AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-025 GENERAL APPLICABILITY. In addition to the general applicability of chapter 173-400 WAC to all emission sources, specific emission standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.

(1) This chapter shall apply to the specified emission sources of ~~((volatile organic compounds))~~ VOCs located in or operating within designated ozone nonattainment areas of the state of Washington.

(2) ~~((Sources of volatile organic compound emissions may be exempted, by the director, from any or all requirements to control or reduce the emission of volatile organic compounds if the source will be permanently shutdown by January 1, 1983 and the owner or operator of the source complies with a phase-out schedule approved by the director. The phase-out schedule shall contain specific actions and dates necessary to the orderly termination of the source's activities. The operation of the emission source after January 1, 1983 shall be permitted only when done in full compliance with all other applicable requirements of this chapter.~~

~~(3))~~ This chapter does not apply to those sources under the jurisdiction of the energy facility site evaluation council (EFSEC).

~~((4))~~ (3) A source of ~~((volatile organic compound))~~ VOC emissions not belonging to any of the categories listed in WAC 173-490-030 nor specifically identified in any section, but which is located on the same or adjacent property and owned or operated by the same person as a regulated emission source, shall not be required to comply with the regulations of this chapter.

~~((5))~~ (4) Sources of ~~((volatile organic compound))~~ VOC emissions may be exempted, by the director, from any or all requirements to control or reduce the emissions of ~~((volatile organic compounds))~~ VOCs when:

(a) The source is a development operation and the equipment is used exclusively for research, laboratory analysis or determination of product quality and commercial acceptance, provided emissions of ~~((volatile organic compounds))~~ VOCs from such operations do not exceed 300 kg (660 lbs) per month; or

(b) The source has emissions of VOCs which do not exceed 18 kg (40 lbs) per month and registration is not required under WAC 173-490-030; or

(c) The source is a spray booth which is used solely for maintenance and utility activities and whose emissions do not exceed 18 kg (40 lbs) per month.

(5) Sources of VOCs may be granted exemptions from emissions standards for a period not to exceed thirty days if the source is a newly permitted source which is to replace a similar permitted source and the new source is intended to utilize the existing emission control system. This provision is intended to apply to a

break-in period prior to the shutdown and removal of the existing source.

**AMENDATORY SECTION** (Amending Order DE 80-18, filed 8/20/80)

WAC 173-490-030 REGISTRATION AND REPORTING. (1) The owner or operator of a stationary emission source of ~~((volatile organic compounds))~~ VOCs in the following source categories and located in a designated ozone nonattainment area shall register the source with ~~((the department))~~ ecology unless registration is required by an ~~((air pollution control))~~ authority ~~((with jurisdiction over the source or the source is under the jurisdiction of))~~ or the energy facility site evaluation council (EFSEC).

- (a) Petroleum refineries.
- (b) Petroleum liquid storage tanks.
- (c) Gasoline loading terminals.
- (d) Bulk gasoline plants.
- (e) Gasoline dispensing facilities.
- (f) Surface coaters.
- (g) Open top vapor degreasers.
- (h) Conveyorized degreasers.
- (i) Gasoline transport tanks.
- (j) Vapor collection systems.
- (k) Perchloroethylene dry cleaning systems.
- (l) Graphic arts systems.
- (m) Surface coaters of miscellaneous metal parts and products.
- (n) Synthesized pharmaceutical manufacturing facilities.
- (o) Flatwood panel manufacturers and surface finishing facilities.

(2) ~~((The owner or operator of a registered stationary emission source of volatile organic compounds shall furnish, upon request of the director, such data as the director may require to calculate the emissions of the source and evaluate the emission control program. The data shall be supplied in a form and according to instructions received from the director or local air pollution control authority. When required, the data shall be submitted not later than sixty days following the request.~~

~~((3))~~ A new emission source of ~~((volatile organic compounds))~~ VOCs that must comply with any requirements in WAC 173-490-040, 173-490-200, 173-490-201, 173-490-202, 173-490-203, 173-490-204, 173-490-205, 173-490-206 and 173-490-207, shall comply with the requirements of WAC 173-400-100 and shall register with ~~((the department or))~~ ecology or an authority prior to operation of the new source, and shall submit sufficient information to demonstrate that the new source is capable of complying with the requirements in this chapter. An opportunity shall be provided for an inspection of the new source by ecology or local authority inspectors prior to its operation.

**AMENDATORY SECTION** (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-040 REQUIREMENTS. ~~((Sources shall))~~ To demonstrate compliance with this chapter

~~((using the sampling procedures on file with and approved by the director)), refer to WAC 173-400-105.~~

(1) Petroleum refineries.

~~((a))~~ This chapter shall apply to all petroleum refineries with a crude oil or feed stock capacity greater than one million ~~((five))~~ four hundred thirty thousand liters (9,000 bbl) per day.

~~((b)) A petroleum refinery with a crude oil or feed stock capacity of eight million three hundred twenty-eight thousand liters (50,000 bbl) per day or less and which is owned or controlled by a refiner with a total combined crude oil or feed stock capacity of twenty-three million liters (137,500 bbl) per day or less shall be classified as a small refinery.~~

~~((c))~~ (a) Vacuum producing system.

(i) Noncondensable VOC from vacuum producing systems shall be piped to an appropriate firebox, incinerator or to a closed refinery system.

(ii) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

~~((d))~~ (b) Wastewater separator.

(i) ~~((Wastewater separators with demonstrated VOC emissions less than twenty-five tons annually shall be exempt from the requirements of WAC 173-490-040 (1)(d) (ii) and (iii).~~

(ii) Wastewater separator forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed, totally enclosing the compartmented liquid contents, or a floating pontoon or a double deck-type cover equipped with closure seals between the cover edge and compartment wall.

~~((iii))~~ (ii) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

~~((e))~~ (c) Process unit turnaround.

(i) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery system, combusted by a flare, or vented to a disposal system.

(ii) The pressure in a process unit following depressurization for turnaround shall be less than five psig before venting to the ambient air.

(iii) Venting or depressurization to the ambient air of a process unit for turnaround at a pressure greater than five psig shall be allowed if the owner demonstrates the actual emission of VOC to the ambient air is less than permitted by WAC 173-490-040 (1)~~((e))~~ (c)(ii).

~~((f))~~ (d) Maintenance and operation of emission control equipment. Equipment for the reduction, collection or disposal of VOC shall be maintained and operated in a manner ~~((commensurate))~~ consistent with the level of maintenance and housekeeping of the overall plant.

(2) Petroleum liquid storage tanks.

(a) All fixed-roof tanks ~~((except as noted in subparagraph (d) of this subsection))~~ storing volatile organic petroleum liquids with a true vapor pressure as stored greater than 78 mm of Hg (1.5 psi) ~~((, but less than 570 mm of Hg (11.1 psi)))~~ at actual monthly average storage temperatures and having a capacity greater than one



hundred fifty thousand liters (40,000 gallons) shall comply with one of the following:

(i) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources – Storage Vessels for Petroleum Liquids (40 CFR 60, subpart K)(~~(:)~~); or

(ii) Be retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the federal standards referred to in WAC 173-490-040 (2)(a)(i) or its equivalent(~~(:)~~); or

(iii) Be fitted with a floating roof or internal floating cover meeting the manufacturer's (~~(equipment)~~) specifications in effect when (~~(it was)~~) installed.

(b) All seals used in WAC 173-490-040 (2)(a)(ii) and (iii) are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.

(c) All openings not related to safety are to be sealed with suitable closures.

(d) Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in WAC 173-490-040 (4)(b) shall be exempt from the requirements of WAC 173-490-040(2).

(3) Gasoline loading terminals.

(a) This chapter shall apply to all gasoline loading terminals with an average annual daily gasoline throughput greater than seventy-five thousand liters (20,000 gallons).

(b) Loading facilities. Facilities for the purpose of loading gasoline into any transport tank shall be equipped with a vapor recovery system (VRS) as described in WAC 173-490-040 (3)(c) and comply with the following conditions:

(i) The loading facility shall employ submerged (~~(loading)~~) or bottom loading for all transport tanks.

(ii) The VRS shall be connected to the transport tank being loaded and (~~(operating)~~) shall operate during the entire loading of every transport tank loaded at the facility.

(iii) The loading of all transport tanks shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released to the ambient air. Emissions from pressure relief valves shall not be included in the controlled emissions when the back pressure in the VRS collection lines is lower than the relief pressure setting of the transport tank's relief valves.

(iv) All loading lines and vapor lines shall be equipped to close automatically upon disconnect. The point of closure shall be on the tank side of any hose or intermediate connecting line.

(c) Vapor recovery system (VRS). The VRS shall be designed and built according to accepted industrial practices and meet the following conditions:

(i) The VRS shall prevent at least ninety percent by weight of the gasoline vapors displaced during loading of each transport tank from entering the ambient air and in no case shall the gasoline vapors emitted to the ambient air exceed eighty milligrams per liter of gasoline loaded.

(ii) The VRS shall be equipped with a signal device to alert personnel when the system is not operating or unintentionally shuts down.

(iii) The back pressure in the VRS collection lines shall not exceed the transport tank's pressure relief settings.

(d) Alternative loading facility. The loading of transport tanks by other means and using other vapor control systems shall require the facility owner to demonstrate that the emission of gasoline vapors to the ambient air is less than eighty milligrams per liter of gasoline loaded.

(4) Bulk gasoline plants.

(a) This chapter shall apply to all bulk gasoline plants with an annual average daily gasoline throughput greater than fifteen thousand liters (4,000 gallons).

(b) Storage tanks. All storage tanks with a capacity greater than two thousand one hundred liters (550 gallons) and used for the storage of gasoline shall comply with the following conditions:

(i) Each storage tank shall be equipped with a submerged fill line.

(ii) Each storage tank shall be equipped for vapor balancing of gasoline vapors with transport tanks during gasoline transfer operations.

(iii) The vapor line fittings on the storage tank side of break points with the transport tank vapor connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

(iv) The pressure relief valves on storage tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(c) Transport tanks. All transport tanks, except those meeting the conditions in WAC 173-490-040 (4)(d), transferring gasoline with storage tanks in a bulk gasoline plant shall comply with the following conditions:

(i) The transport tank shall be equipped with the proper attachment fittings to make vapor tight connections for vapor balancing with storage tanks.

(ii) The vapor line fittings on the transport tank side of break points with the storage tank connection pipe or hose shall be equipped to close automatically upon planned or unintentional disconnect.

(iii) The pressure relief valves on transport tanks shall be set at the highest possible pressure consistent with local and state codes for fire and safety.

(d) Transport tanks used for gasoline and meeting all of the following conditions shall be exempt from the requirement to be equipped with any attachment fitting for vapor balance lines:

(i) The transport tank is used exclusively for the delivery of gasoline into storage tanks of a facility exempt from the vapor balance requirements of WAC 173-490-040(5); and

(ii) The transport tank has a total capacity less than fifteen thousand liters (4,000 gallons) and is of a compartmented design and construction requiring the installation of four or more separate vapor balance fittings.

(e) Gasoline transfer operations. No owner or operator of a bulk gasoline plant or transport tank shall allow the transfer of gasoline between a transport tank and a storage tank except under the following conditions:

(i) All tanks shall be submerged filled or bottom loaded.

(ii) The loading of all tanks, except those exempted under WAC 173-490-040 (4)(d) shall be performed such that ninety percent by weight of the gasoline vapors displaced during filling are prevented from being released into the ambient air. Emissions from pressure relief valves shall not be included in the controlled emissions.

(f) Equipment or system failures. Failures or leaks in the vapor balance system shall be limited by the following conditions:

(i) During the months of April, May, June, July, August ~~((and)),~~ September and October, failures of the vapor balance system to comply with this chapter shall require ~~((the discontinuation of))~~ that gasoline transfer operations stop for the failed part of the system. Other transfer points that can ~~((continue to))~~ operate in compliance may be used.

(ii) ~~((The))~~ Loading or unloading of the transport tank connected to the failed part of the vapor balance system may be completed.

(iii) Breakdowns and upset conditions during all months of the year shall also comply with the ~~((additional))~~ provisions of WAC ~~((173-400-120(4)))~~ 173-400-105(5).

(g) The owner or operator of a bulk gasoline plant or transport tank shall take all reasonable necessary measures to prevent the spilling, discarding in sewers, storing in open containers or handling of gasoline in a manner on the plant site that will result in evaporation to the ambient air.

(5) Gasoline dispensing facilities (Stage I).

(a) This chapter shall apply to all gasoline dispensing facilities with a total annual gasoline output greater than seven hundred fifty-seven thousand liters (200,000 gallons) or sixty-three thousand one hundred liters (16,670 gallons) per month and total gasoline storage capacity greater than thirty-eight thousand liters (10,000 gallons).

(b) All gasoline storage tanks of the facilities defined in WAC 173-490-040 (5)(a) shall be equipped with submerged or bottom fill lines and fittings for vapor balancing gasoline vapors with the delivery transport tank. ~~((Storage tanks required to comply are:~~

~~(i) All tanks with a capacity greater than seven thousand five hundred liters (2,000 gallons) installed before January 1, 1979, except as provided for in WAC 173-490-040 (5)(c).~~

~~(ii) All tanks with a capacity greater than one thousand liters (260 gallons) installed on or after January 1, 1979.)~~

(c) Gasoline storage tanks with offset fill lines shall be exempt from the requirement of WAC 173-490-040 (5)(b) if installed prior to January 1, 1979.

(d) The vapor balance system (for the purpose of measuring compliance with the emission control efficiency) shall consist of the transport tank, gasoline vapor transfer lines, storage tank and all tank vents. The vapor balance system shall prevent at least ninety percent of the displaced gasoline vapors from entering the ambient air. A vapor balance system that is designed, built and

operated according to accepted industrial practices will satisfy this requirement.

(e) The owner or operator of a gasoline dispensing facility shall not permit the loading of gasoline into a storage tank equipped with vapor balance fittings unless the vapor balance system is attached to the transport tank and operated satisfactorily.

(6) Surface coaters.

The operation of a coater and dryer, that may serve one or more process lines, shall comply with the following emission limits if the potential uncontrolled emissions of VOC from the coater, flashoff areas, and dryer would be greater than 18 kg (40 pounds) in any given twenty-four hour period. The emission limits and uncontrolled emission quantity shall include the additional quantity of emissions from the dryer during the twelve hour period after application of the coating.

Process	Limitation Grams/Liter of Coating (Excluding Water)	lb/Gal.of Coating (Excluding Water)
Can Coating		
Sheet basecoat and overvarnish; two-piece can exterior	340	2.8
Two and three piece can interior body spray, two piece can exterior end	510	4.2
Side-seam spray	660	5.5
End sealing compound	440	3.7
Coil coating	310	2.6
Fabric coating	350	2.9
Vinyl coating	450	3.8
Paper coating	350	2.9
Auto and light duty truck coating		
Prime	230	1.9
Topcoat	340	2.8
Repair	580	4.8
Metal furniture coating	360	3.0
Magnet wire coating	200	1.7
Large appliance coating	340	2.8

(7) Open top vapor degreasers.

(a) All open top vapor degreasers shall ~~((comply with the following equipment specifications))~~:

(i) ~~((Be equipped with))~~ Have a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust. When a degreaser has a freeboard ratio equal to or greater than 0.75 and the opening is greater than one square meter (10 square feet) the cover shall be power operated.

(ii) Have one of the following:

(A) A freeboard ratio equal to or greater than 0.75~~((:))~~; or

(B) A freeboard chiller~~((:))~~; or

(C) A closed design such that the cover opens only when the part enters or exits the degreaser.

(iii) Be equipped with at least the following three safety switches:

(A) Condenser-flow switch and thermostat (shuts off sump heat if coolant is either not circulating or too warm)(-); and

(B) Spray safety switch (shuts off spray pump if the vapor level drops excessively)(-); and

(C) Vapor level control thermostat (shuts off sump heat when vapor level rises too high).

(iv) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Do not degrease porous or absorbent materials such as cloth, leather, wood or rope.

(B) The cover of the degreaser should be closed at all times except when processing workloads.

(C) When the cover is open the lip of the degreaser should not be exposed to steady drafts greater than 15.3 meters per minute (50 feet per minute).

(D) Rack parts so as to facilitate solvent drainage from the parts.

(E) Workloads should not occupy more than one-half of the vapor-air interface area.

(F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone should be less than 3.35 meters per minute (11 feet per minute).

(G) Degrease the workload in the vapor zone until condensation ceases.

(H) Spraying operations should be done within the vapor layer.

(I) Hold parts in the degreaser until visually dry.

(J) When equipped with a lip exhaust, the fan should be turned off when the cover is closed.

(K) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(L) Water shall not be visible in the solvent stream from the water separator.

(b) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses(-as). For example, leaks from ((dripping)) drain taps, cracked gaskets, and malfunctioning equipment((-Leaks)) must be repaired immediately.

(c) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leak-proof couplings.

(d) Still and sump bottoms shall be kept in closed containers.

(e) Waste solvent shall be stored in covered containers and returned to the supplier or ((a disposal firm handling)) to a firm which processes solvents for ((final)) disposal.

(8) Conveyorized degreasers.

(a) The owner or operator of conveyorized cold cleaners and conveyorized vapor degreasers shall comply with the following operating requirements:

(i) Exhaust ventilation shall not exceed twenty cubic meters per minute ((of)) per square meter (65 cfm per ft.<sup>2</sup>) of degreaser opening, unless necessary to meet OSHA requirements.

(ii) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

(A) Rack parts for best drainage.

(B) Maintain vertical speed of ((conveyorized)) conveyorized parts to less than 3.35 meters per minute (11 feet per minute).

(C) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.

(D) Water shall not be visible in the solvent stream from the water separator.

(iii) Vapor degreasers shall be equipped with at least the following three safety switches:

(A) Condenser flow switch and thermostat (shuts off sump heat if coolant is either not circulating or too warm)(-); and

(B) Spray safety switch (shuts off spray pump if the vapor level drops excessively)(-); and

(C) Vapor level control thermostat (shuts off sump heat when vapor level rises too high).

(b) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses(-as). For example, leaks from ((dripping)) drain taps, cracked gaskets, and malfunctioning equipment((-Leaks)) must be repaired immediately.

(c) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leak-proof couplings.

(d) Still and sump bottoms shall be kept in closed containers.

(e) Waste solvent shall be stored in covered containers and returned to the supplier or ((a disposal firm handling)) to a firm which processes solvents for ((final)) disposal.

(f) All conveyorized cold cleaners and conveyorized vapor degreasers with air/vapor interfaces of 2.0 m<sup>2</sup> or greater shall have ((one of the following major control devices installed and operating after April 1, 1982:

(i)) a carbon adsorption system, exhausting less than 25 ppm of solvent averaged over a complete adsorption cycle (based on exhaust ventilation of 15 ((m<sup>2</sup>/)) m<sup>3</sup> per min per m<sup>2</sup> of air/vapor area, when downtime covers are open), or

((ii) Refrigerated chiller with control effectiveness equal to or better than WAC 173-490-040 (8)(f)(i), or

(iii)) a system with control effectiveness equal to or better than ((WAC 173-490-040 (8)(f)(i))) a carbon adsorption system.

(9) Cutback asphalt paving.

(a) ((After June 1, 1981)) All paving applications of cutback asphalts are prohibited during the months of April, May, June, July, August ((and)), September and October, except as provided for in WAC 173-490-040 (9)(b).

(b) The following paving uses and applications of cutback asphalts are permitted during all months of the year.

(i) As a penetrating prime coat on aggregate bases prior to paving.

(ii) The manufacture of patching mixes used exclusively for pavement maintenance and needed to be stockpiled for times longer than one month.

(iii) All paving uses when the temperature during application is below 10°C (50°F). Any person using cutback asphalt for paving shall demonstrate that the ambient air temperature at 8 a.m. (PST) is below 50°F. The paving application of cutback asphalt when the ambient air temperature is 50°F or higher is in violation of this chapter.

(10) Cold cleaners.

(a) The owners or operators of all cold cleaners shall comply with the following equipment specifications:

(i) Be equipped with a cover that is readily opened and closed.

(ii) Be equipped with a ~~((drainrack))~~ drain rack that returns the drained solvent to the solvent bath.

(iii) Have a freeboard ratio of at least 0.5.

(iv) Have a visible fill line.

(b) An owner or operator of a cold cleaner shall be responsible for following the required operating parameters and work practices. The owner shall post and maintain in the work area of each cold cleaner a pictograph or instructions clearly explaining the following work practices:

(i) The solvent level shall not be above the fill line.

(ii) The spraying of parts to be cleaned shall be performed only within the confines of the cold cleaner.

(iii) The cover of the cold cleaner shall be closed when not in use or when parts are being soaked or cleaned by solvent agitation.

(iv) Solvent-cleaned parts shall be rotated to drain cavities or blind holes and then set to drain until dripping has stopped.

(v) Waste solvent shall be stored in covered containers and returned to the supplier or ~~((a disposal firm handling))~~ to a firm which processes solvents for ((final)) disposal.

(c) The owner or operator shall maintain cold cleaners in good working condition and free of solvent leaks.

(d) If the solvent has a vapor pressure greater than 2.0 kPa (0.3 psi) measured at 38°C (100°F), or if the solvent is agitated or heated, then the cover must be designed so that it can be easily operated with one hand.

(e) If the solvent has a vapor pressure greater than 4.3 kPa (0.6 psi) measured at 38°C (100°F), then the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(f) If the solvent has a vapor pressure greater than 4.3 kPa (0.6 psi) measured at 38°C (100°F), or if the solvent is heated above 50°C (120°F), ~~((then))~~ one of the following solvent vapor control systems must be used:

(i) The freeboard ratio must be equal to or greater than 0.70; or

(ii) Water must be kept over the solvent ~~((which))~~. The solvent must be more dense and insoluble in ((and heavier than)) water((which))

~~((iii) Other systems of equivalent control, such as a refrigerated chiller)).~~

#### AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-080 EXCEPTIONS AND ALTERNATIVE METHODS. ~~((Exceptions to volatile organic compound emission standards and requirements:))~~

(1) Other emission reduction methods may be ~~((employed))~~ used if the source operator demonstrates to ~~((the department))~~ ecology that they are at least as effective as the required methods ~~((:))~~; and

(2) The operation of a natural gas-fired incinerator and associated capture system installed for the purpose of complying with this chapter shall be required only during the months of April, May, June, July, August ~~((and)),~~ September and October, unless the operation of such devices is required for purposes of occupational health or safety, or for the control of toxic substances, malodors, or other regulated pollutants.

#### AMENDATORY SECTION (Amending Order DE 78-23, filed 5/8/79)

WAC 173-490-090 NEW SOURCE REVIEW. ~~((Any new source of VOC emissions with a potential emission rate of one hundred tons per year is required to meet the new source review provisions of WAC 173-400-110:))~~ The provisions of WAC 173-400-110 shall apply to all new sources and emissions units to which this chapter is applicable.

#### AMENDATORY SECTION (Amending Order DE 80-18, filed 8/20/80)

WAC 173-490-200 PETROLEUM REFINERY EQUIPMENT LEAKS. (1) Specific applicability. This section shall apply to all petroleum refineries as qualified in WAC 173-490-025.

(2) Provisions for specific processes.

(a) The owner(s) or operator(s) of a petroleum refinery shall:

(i) Develop and conduct a monitoring program consistent with the provisions in WAC 173-490-200(3), 173-490-200(4), 173-490-200(5), and 173-400-105;

(ii) ~~((Conduct a monitoring program consistent with the provisions in WAC 173-490-200(5);~~

~~((iii)))~~ Record all leaking components which have a VOC concentration greater than 10,000 ppm when tested according to the provisions in WAC 173-490-200 ~~((4))~~ (3) and place an identification tag on each component consistent with the provisions of WAC 173-490-200 ~~((5))~~ (4)(c);

~~((iv)))~~ (iii) Correct and retest the leaking component, as defined in WAC 173-490-200 (2)(a) ~~((iii))~~ (ii), as soon as practicable, but not later than fifteen days after the leak is recorded. If a leak continues after all reasonable corrective actions have been taken, then the component shall be repaired or replaced on the next scheduled turnaround.

~~((v)))~~ (iv) Identify all leaking components, as defined in WAC 173-490-200 (2)(a) ~~((iii))~~ (ii), that cannot be

corrected until the refinery unit is shut down for turnaround.

(b) The owner or operator of a petroleum refinery shall not install or operate a valve at the end of a pipe or line containing VOC unless the pipe or line is sealed with a second suitable closure. Exceptions to this requirement are the ends of a pipe or line connected to pressure relief valves, aspirator vents or other devices specifically required to be open for safety protection. The sealing device may be removed only when a sample is being taken or during maintenance operations.

(3) ~~((Schedule of control dates:~~

~~(a) The owner or operator of a petroleum refinery shall meet the increments of progress contained in the following schedules or an approved alternative schedule of control dates as stipulated in WAC 173-490-071.~~

~~(b) Submit to the director a monitoring program by July 1, 1981. This program shall contain, at a minimum, a list of the refinery units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used. In no case shall a monitoring contract relieve the owner or operator of a petroleum refinery of the responsibility for compliance with this chapter.~~

~~(c) The first quarter of monitoring shall be completed by December 15, 1981.~~

~~(4)) Testing procedures. ((Testing and calibration procedures to determine)) To demonstrate compliance with this chapter ((shall be consistent with the procedures on file with and approved by the director)), refer to WAC 173-400-105(5).~~

~~((5)) (4) Monitoring.~~

(a) The owner or operator of a petroleum refinery shall conduct a monitoring program consistent with the following provisions:

(i) Monitor yearly by the methods referenced in WAC 173-490-200~~((4))~~ (3) all pump seals, pipeline valves in liquid service and process drains;

(ii) Monitor quarterly by the methods referenced in WAC 173-490-200~~((4))~~ (3) all compressor seals, pipeline valves in gaseous service and pressure relief valves in gaseous service;

(iii) Monitor weekly by visual methods all pump seals;

(iv) Monitor immediately any pump seal from which liquids are observed ~~((dripping))~~ leaking;

(v) Monitor any relief valve within twenty-four hours after it has vented to the atmosphere; and

~~(vi) ((Monitor immediately after repair any component that was found leaking.)) After a leaking component is repaired, monitor for leaks prior to return to service.~~

(b) Pressure relief devices that are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, and valves that are not externally regulated are exempt from the monitoring requirements in WAC 173-490-200 ~~((5))~~ (4)(a).

(c) The owner or operator of a petroleum refinery, upon the detection of a leaking component, as defined in WAC 173-490-200 (2)(a)~~((iii))~~ (ii), shall affix a weatherproof and readily visible tag, bearing an identification number and the date the leak is located, to the

leaking component. This tag shall remain in place until the leak is corrected.

~~((6))~~ (5) Recordkeeping.

(a) The owner or operator of a petroleum refinery shall maintain a leaking component's monitoring log as specified in WAC 173-490-200 (2)(a)~~((iii))~~ (ii) that shall contain, at a minimum, the following data:

(i) The name of the process unit where the component is located.

(ii) The type of component (e.g., valve, seal).

(iii) The tag number of the component.

(iv) The date on which a leaking component is discovered.

(v) The date on which a leaking component is repaired.

(vi) The date and instrument reading of the recheck procedure after a leaking component is repaired.

(vii) A record of the calibration of the monitoring instrument.

(viii) Those leaks that cannot be repaired until turnaround.

(ix) The total number of components checked and the total number of components found leaking.

(b) Copies of the monitoring log shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report prepared.

(c) Copies of the monitoring log shall immediately be made available to ~~((the department))~~ ecology, upon verbal or written request, at any reasonable time.

~~((7))~~ (6) Reporting. The owner or operator of a petroleum refinery shall notify ~~((the director))~~ ecology in writing within forty-five days following each quarterly or annual inspection for component leaks when:

(a) The number of discovered leaks has increased by more than ten percent above the number recorded during the last inspection of the same components;

(b) The number of leaking components has increased for two consecutive quarterly or annual inspections;

(c) The number of leaks not corrected within fifteen days exceeds five percent of the leaks detected;

(d) The next scheduled process unit turnaround needed to repair an uncorrectable leak is more than twelve months away.

~~((8))~~ (7) Petition for alternative monitoring.

(a) After two complete liquid service inspections and five complete gaseous service inspections, the owner or operator of a petroleum refinery may petition the director for alternative monitoring procedures or a reduction in monitoring frequency.

(b) A petition for alternative monitoring procedures shall contain:

(i) The name and address of the company and the name and telephone number of the responsible person over whose signature the petition is submitted;

(ii) A detailed description of the problems encountered under WAC 173-490-200~~((5))~~ (4); and

(iii) A detailed description of the alternative monitoring procedures and how this alternative procedure will solve or reduce the problems encountered under WAC 173-490-200~~((5))~~ (4).

(c) A petition for a reduction in monitoring frequency shall contain:

(i) The information requested in WAC 173-490-200 ~~((8))~~ (7)(b)(i);

(ii) A detailed description of the proposed component-monitoring schedule;

(iii) A demonstration by the owner or operator that the facility is currently operating with a low level of component leaks and is committed to a maintenance program that will assure a frequency and severity of component leaks as good as that attainable under WAC 173-490-200(2).

(d) An approved petition for a reduction in monitoring frequency shall begin with the next quarterly inspection and shall be valid for a period of twelve quarters (three years). At the time of the last inspection in the twelve quarters, a new submittal of the information required in WAC 173-490-200 ~~((8))~~ (7)(c) shall be made if the reduced frequency of monitoring is to continue.

(e) ~~((The department))~~ Ecology may approve a part or all of a petition for alternative monitoring requested under WAC 173-490-200 ~~((8))~~ (7)(b) or (c). Approval or disapproval will be in writing and within forty-five calendar days of receipt of the petition by ~~((the department))~~ ecology. A failure to approve or disapprove a new petition or petition for renewal within the stated time limit shall be taken as an approval.

#### AMENDATORY SECTION (Amending Order DE 80-18, filed 8/20/80)

WAC 173-490-201 PETROLEUM LIQUID STORAGE IN EXTERNAL FLOATING ROOF TANKS. (1) Specific applicability.

(a) This section shall apply to all petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (40,000 gallons), and as qualified in WAC 173-490-025.

(b) This section does not apply to petroleum liquid storage vessels that:

- (i) Are used to store waxy, heavy pour crude oil; or
- (ii) Have capacities less than 1,600,000 liters (420,000 gallons) and are used to store produced crude oil and condensate prior to lease custody transfer; or
- (iii) Contain a petroleum liquid with a true vapor pressure of less than 10.5 kPa (1.5 psia); or
- (iv) Contain a petroleum liquid with a true vapor pressure less than 27.6 kPa (4.0 psia); are of welded construction; and presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by ~~((the director))~~ ecology; or

(v) Are of welded construction, equipped with a metallic-type shoe primary seal and have secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal).

(2) Provisions for specific processes.

(a) No owner(s) or operator(s) of a petroleum liquid storage vessel shall store a petroleum liquid in that vessel unless:

(i) The vessel has been fitted with:

(A) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or

(B) A closure or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required under WAC 173-490-201 (2)(a)(i)(A) and approved by ~~((the director))~~ ecology.

(ii) All seal closure devices meet the following requirements:

(A) There are no visible holes, tears, or other openings in the seal or seal fabric;

(B) The seal is intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and

(C) For vapor mounted primary seals, the accumulated area of gaps exceeding 0.32 cm (1/8 inch) in width between the secondary seal and the tank wall shall not exceed 21.2 cm<sup>2</sup> per meter of tank diameter (1.0 in.<sup>2</sup> per foot of tank diameter), as determined by the method in WAC 173-490-201 ~~((4))~~ (3).

(iii) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(A) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

(B) Equipped with projections into the tank which remain below the liquid surface at all times.

(iv) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;

(v) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting; and

(vi) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least ninety percent of the area of the opening.

(b) The owner(s) or operator(s) of a petroleum liquid storage vessel with an external floating roof subject to this chapter shall:

(i) Perform routine inspections annually in order to insure compliance with WAC 173-490-201 (2)(a) and the inspection shall include a visual inspection of the secondary seal gap;

(ii) Measure the secondary seal gap annually in accordance with WAC 173-490-201 ~~((4))~~ (3) when the floating roof is equipped with a vapor-mounted primary seal; and

(iii) Maintain records of the types of volatile petroleum liquids stored, the maximum true vapor pressure of the liquid as stored, and the results of the inspections performed in WAC 173-490-201 (2)(b)(i) and (ii).

(c) The owner(s) or operator(s) of a petroleum liquid storage vessel with an external floating roof exempted from this chapter by WAC 173-490-201 (1)(b)(iii), but containing a petroleum liquid with a true vapor pressure greater than 7.0 kPa (1.0 psi), shall maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all petroleum liquids with a true vapor pressure greater than 7.0 kPa.

(d) Copies of all records under WAC 173-490-201 (2)(b) and (c) shall be retained by the owner(s) or

operator(s) for a minimum of two years after the date on which the record was made.

(e) Copies of all records required under WAC 173-490-201 shall immediately be made available to the director, upon verbal or written request, at any reasonable time.

(3) ~~((Schedule of control dates.~~

~~(a) The owner or operator of a petroleum liquid storage vessel shall meet the increments of progress contained in the following schedule or an approved alternative schedule of control dates as stipulated in WAC 173-490-071:~~

~~(i) Submit final plans for the emission control system before March 1, 1981;~~

~~(ii) Award contracts for the emission control system before May 1, 1981;~~

~~(iii) Initiate on-site construction or installation of the emission control equipment before July 1, 1981;~~

~~(iv) Complete on-site construction or installation of the emission control equipment before November 1, 1981; and~~

~~(v) Achieve final compliance with subsection (2) of this section before January 1, 1982.~~

~~(b) The owner or operator of a source of VOC emissions subject to a schedule of control dates shall certify to the director within ten calendar days after the deadline for each increment of progress, whether the required increment of progress has been met:~~

~~(4)) Testing and monitoring.~~

~~(a) The owner or operator of a storage vessel covered under WAC 173-490-201 shall demonstrate compliance by the methods of this subsection or an alternative method approved by ((the director)) ecology.~~

~~(b) A person proposing to measure the seal fit of a storage vessel in order to comply with this section shall notify ((the director)) ecology of the intent to measure not less than five working days before the measurement so the director or a representative may ((at his option)) observe the measurement if desired.~~

~~(c) Compliance with WAC 173-490-201 (2)(a)(ii)(C) shall be determined by physically measuring the length and width of all gaps around the ((entire)) circumference of the secondary seal in each place where a 0.32 cm (1/8 in.) ((uniform)) diameter probe passes freely (without forcing or binding against the seal) between the seal and the tank wall and summing the area of the individual gaps.~~

#### AMENDATORY SECTION (Amending Order DE 80-18, filed 8/20/80)

#### WAC 173-490-202 LEAKS FROM GASOLINE TRANSPORT TANKS AND VAPOR COLLECTION SYSTEMS. (1) Specific applicability.

This section shall apply to all gasoline transport tanks equipped for gasoline vapor collection and all vapor collection systems at gasoline loading terminals, bulk gasoline plants and gasoline dispensing facilities as qualified in WAC 173-490-025 and 173-490-040.

(2) Provisions for specific processes.

(a) The owner(s) or operator(s) of a gasoline loading or unloading facility shall only allow the transfer of gasoline between the facility and a transport tank when a

current leak test certification for the transport tank is on file with the facility or a valid inspection sticker is displayed on the vehicle.

(b) The owner(s) or operator(s) of a transport tank shall not make any connection to the tank for the purpose of loading or unloading gasoline, except in the case of an emergency, unless the gasoline transport tank:

(i) Is tested annually according to the test procedure referenced in WAC 173-490-202 ~~((4))~~ (3)(c);

(ii) Sustains a pressure change of no more than 0.75 kilopascals (3 inches of water) in five minutes when pressurized to a gauge pressure of 4.5 kilopascals (18 inches of water) or evacuated to a gauge pressure of 1.5 kilopascals (6 inches of water) during the testing required in WAC 173-490-202 (2)(b)(i);

(iii) Is repaired by the owner(s) or operator(s) and retested within fifteen days of testing if it does not meet the criteria of WAC 173-490-202 (2)(b)(ii);

(c) The owner(s) or operator(s) of a transport tank shall:

(i) Have a current leak test certification for the transport tank on file with each gasoline loading or unloading facility ~~((at which))~~ where gasoline is transferred ~~((a current leak test certification for the transport tank));~~ or

(ii) Display a sticker near the department of transportation certification plate required by 49 CFR 178.340-10b which:

(A) Shows the date that the gasoline tank truck last passed the test required in WAC 173-490-202 (2)(b)(i) and (ii);

(B) Shows the identification number of the gasoline tank truck tank; and

(C) Expires not more than one year from the date of the leak tight test.

(d) The owner(s) or operator(s) of a vapor collection system shall:

(i) Operate the vapor collection system and the gasoline loading equipment during all loadings and unloadings of transport tanks equipped for emission control such that:

(A) A gauge reading of tank pressure will not exceed 4.5 kilopascals (18 inches of water) or vacuum 1.5 kilopascals (6 inches of water);

(B) The concentration of gasoline vapors is below the lower explosive limit (LEL, measured as propane) at all points a distance of 2.5 cm (1 inch) from potential leak sources when measured by the method in WAC 173-490-202 ~~((4))~~ (3); and

(C) There are no visible liquid leaks.

(ii) Repair and retest a vapor collection system that exceeds the limits of WAC 173-490-202 (2)(d)(i) within fifteen days.

(e) ~~((The department))~~ Ecology may, at any time, monitor a gasoline transport tank and vapor collection system during loading or unloading operations by the procedure in WAC 173-490-202 ~~((4))~~ (3)(d) to confirm continuing compliance with WAC 173-490-202 (2)(b) or (d).

(3) ~~((Schedule of control dates.~~

~~(a) The owner or operator of a gasoline transport tank shall meet the increments of progress contained in the~~



~~following schedule or an approved alternative schedule of control dates as stipulated in WAC 173-490-071;~~

~~(i) Submit plans to the department for operating and maintenance procedures to implement WAC 173-490-202 (2) and (4) before March 1, 1981;~~

~~(ii) Issue purchase orders or contracts for all needed test equipment before May 1, 1981;~~

~~(iii) Commence certification of vapor collection systems before January 1, 1982; and~~

~~(iv) Complete initial certification of all vapor collection systems before July 1, 1982.~~

~~(b) The owner or operator of a vapor collection system subject to this schedule of control dates shall certify to the department within ten calendar days after the deadline for each increment of progress, whether the required increment of progress has been met.~~

~~(4)) Testing and monitoring.~~

(a) The owner(s) or operator(s) of a gasoline transport tank or vapor collection system shall, at his own expense, demonstrate compliance with WAC 173-490-202 (2)(a) and (b), respectively. All tests shall be made by, or under the direction of, a person qualified to perform the tests ((and approved by the department)).

(b) The owner(s) or operator(s) of a gasoline transport tank shall notify ((the department)) ecology in writing of the date and location of a certification test at least ten calendar days before the anticipated test date.

~~((Testing procedures to determine)) To demonstrate compliance with ((WAC 173-490-202 shall be consistent with the procedures on file with and approved by the department)) this chapter, refer to WAC 173-400-105.~~

(d) Monitoring to confirm the continuing existence of leak tight conditions shall be consistent with the procedures on file with and approved by ((the department)) ecology.

~~((5)) (4) Recordkeeping.~~

(a) The owner(s) or operator(s) of a gasoline transport tank or vapor collection system shall maintain records of all certification tests and repairs for at least two years after the test or repair is completed.

(b) The records of certification tests required by WAC 173-490-202 ((5)) (4)(a) shall, as a minimum, contain:

(i) The transport tank identification number;

(ii) The initial test pressure and the time of the reading;

(iii) The final test pressure and the time of the reading;

(iv) The initial test vacuum and the time of the reading;

(v) The final test vacuum and the time of the reading;

(vi) At the top of each report page, the company name, date and location of the tests on that page; and

(vii) Name and title of the person conducting the test.

(c) The owner(s) or operator(s) of a gasoline transport tank shall annually certify that the transport tank passed the required tests.

(d) Copies of all records required under WAC 173-490-202 shall immediately be made available to ((the department)) ecology, upon written request, at any reasonable time.

AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-203 PERCHLOROETHYLENE DRY CLEANING SYSTEMS. (1) Specific applicability. This section shall apply to all dry cleaning systems using perchloroethylene cleaning solvent and as qualified in WAC 173-490-203 (1)(a) and (b) and 173-490-025.

(a) The following dry cleaning systems are exempt from the requirements of WAC 173-490-203 (2)(a)(i) and (ii):

(i) Coin-operated systems;

(ii) Systems located in a facility with inadequate space to accommodate an adsorber;

(iii) ((Systems with an average monthly loss less than twenty-five gallons (2 tons per year); and

(iv)) Systems with insufficient steam capacity to desorb adsorbers.

(b) An exemption for the conditions stated in WAC 173-490-203 (2)(a)(i) and (ii) may be granted by ((the director)) ecology when sufficient evidence is submitted by the owner(s) or operator(s) of the dry cleaning system to justify the exemption.

(c) A material balance will be used to determine VOC losses.

(2) Provisions for specific processes.

(a) The owner(s) or operator(s) of a perchloroethylene dry cleaning facility subject to this chapter shall:

(i) Vent the entire dryer exhaust through a properly functioning carbon ((absorption)) adsorption system or equally effective control device;

(ii) Emit no more than 100 ppmv when ((determined)) demonstrated in accordance with WAC 173-490-203 ((4)) (3)(c)(i), of ((volatile organic compounds)) VOCs from the dryer control device before dilution;

(iii) Immediately repair all components found to be leaking liquid ((volatile organic compounds)) VOCs;

(iv) Cook or treat all diatomaceous earth filters so that the residue contains 25 kg or less of ((volatile organic compounds)) VOCs per 100 kg of wet waste material;

(v) Reduce the ((volatile organic compounds)) VOCs from all solvent stills to 60 kg or less per 100 kg of wet waste material;

(vi) Drain all filtration cartridges, in the filter housing or other enclosed container, for at least twenty-four hours before discarding the cartridges; and

(vii) When possible, dry all drained cartridges without emitting ((volatile organic compounds)) VOCs to the atmosphere.

(3) ((Schedule of control dates.

(a) ~~The owner or operator of a perchloroethylene dry cleaning facility subject to WAC 173-490-203 (2)(a)(i) and (ii) shall meet the applicable increments of progress in the following schedule or a schedule approved under WAC 173-490-071.~~

~~(i) Award contracts, issue purchase orders, or otherwise order the emission control system and process equipment, before July 1, 1981;~~

~~(ii) Complete installation of the emission control and process equipment before July 1, 1982;~~

~~(iii) Achieve final compliance, determined in accordance with WAC 173-490-203(4) before July 1, 1982;~~

~~(iv) In the event that equipment cannot be delivered prior to May 1, 1982, and the owner or operator placed the order prior to July 1, 1981, the final compliance date shall be sixty days following delivery of the equipment.~~

~~(b) The owner or operator of a perchloroethylene dry cleaning facility subject to this chapter shall comply with the operational and maintenance provisions of WAC 173-490-203 (2)(a)(iii) through (vii) by July 1, 1981.~~

~~(4)) Testing and monitoring.~~

(a) Compliance with WAC 173-490-203 (2)(a)(i), (vi), and (vii) shall be determined by means of visual inspection.

(b) Compliance with WAC 173-490-203 (2)(a)(iii) shall be determined by means of visual inspection of the following components:

- (i) Hose connections, unions, couplings and valves;
- (ii) Machine door gaskets and seatings;
- (iii) Filter head gasket and seating;
- (iv) Pumps;
- (v) Base tanks and storage containers;
- (vi) Water separators;
- (vii) Filter sludge recovery;
- (viii) Distillation unit;
- (ix) Diverter valves;
- (x) Saturated lint from lint basket; and
- (xi) Cartridge filters.

(c) Compliance with WAC 173-490-203 (2)(a)(ii) shall be ~~((determined))~~ demonstrated by:

(i) A test consistent with the procedures on file with and approved by ~~((the department))~~ ecology; or

(ii) The proper installation, operation, and maintenance of equipment that has been demonstrated by the owner(s) or operator(s) to adequately meet the emission limits in WAC 173-490-203 (2)(a)(ii).

(d) Compliance with WAC 173-490-203 (2)(a)(iv) and (v) shall be ~~((determined))~~ demonstrated by tests consistent with the procedures on file with and approved by ~~((the department))~~ ecology.

#### AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

##### WAC 173-490-204 GRAPHIC ARTS SYSTEMS.

###### (1) Specific applicability.

(a) This section shall apply to all packaging rotogravure, publication rotogravure, specialty printing operations, and flexographic printing facilities that use more than 90 megagrams (100 tons) per year of ~~((volatile organic compounds))~~ VOCs as a component of ink, for the thinning of ink, cleaning of presses, press components and equipment; and are covered by WAC 173-490-025.

(b) Machines that have both coating units (apply a uniform layer of material across the entire width of a web) and printing units (forming words, designs, and pictures) shall be included under WAC 173-490-204 rather than WAC 173-490-040(6), Surface coaters.

###### (2) Provisions for specific processes.

(a) No owner(s) or operator(s) of a packaging rotogravure, publication rotogravure or flexographic printing subject to this regulation and employing solvent containing ink may operate, cause, allow or permit the operation of the facility unless:

(i) The volatile fraction of ink, as it is applied to the substrate, contains twenty-five percent by volume or less of organic solvent and seventy-five percent by volume or more of water;

(ii) The ink as it is applied to the substrate, less water, contains sixty percent by volume or more nonvolatile material; or

(iii) The owner(s) or operator(s) installs and operates ~~((:))~~ a system that captures at least ninety percent by weight and;

(A) A carbon adsorption system which reduces the volatile organic emissions from the capture system by at least ninety percent by weight;

(B) An incineration system which oxidizes at least ninety percent of the nonmethane ~~((volatile organic compounds))~~ VOCs (VOC measured as total combustible carbon) to carbon dioxide and water; or

(C) An alternative ~~((volatile organic compound))~~ VOC emission reduction system demonstrated to have at least a ninety percent reduction efficiency, measured across the control system, and has been approved by ~~((the department))~~ ecology.

(b) A collection system shall be used with the emission controls of WAC 173-490-204 (2)(a)(iii). The design and operation of the collection system shall be consistent with good engineering practice, and shall provide an overall reduction in the emission of ~~((volatile organic compounds))~~ VOCs of at least:

(i) Seventy-five percent where a publication rotogravure process is used; or

(ii) Sixty-five percent where a packaging rotogravure process is used; or

(iii) Sixty percent where a flexographic process is used.

(3) ~~((Schedule of control dates.~~

~~(a) The owner or operator of a packaging rotogravure, publication rotogravure or flexographic printing facility subject to this chapter shall meet the applicable increments of progress in the following schedules or an approved alternative schedule of control dates as stipulated in WAC 173-490-071:~~

~~(i) For process equipment changes and add-on control devices, including incineration with heat recovery:~~

~~(A) Submit final plans for the emission control system or process equipment, or both, before April 1, 1981;~~

~~(B) Award contracts or purchase orders for the emission control system or process equipment, or both, before June 1, 1981;~~

~~(C) Initiate on-site construction or installation of the emission control or process equipment, or both, before December 1, 1981;~~

~~(D) Complete on-site construction or installation of the emission control or process equipment, or both, before December 1, 1982; and~~

~~(E) Achieve final compliance, determined in accordance with WAC 173-490-204(4), before January 1, 1983.~~

(ii) For incineration equipment without heat recovery or process modifications not requiring purchase orders:

(A) Submit final plans for the emission control system or process modifications, or both, before March 1, 1981;

(B) Award contracts for process modifications or for incineration equipment, or both, before May 1, 1981;

(C) Initiate on-site construction or installation of process modifications or emission control equipment, or both, before July 1, 1981;

(D) Complete on-site construction or installation of process modifications or incineration equipment, or both, before November 1, 1981; and

(E) Achieve final compliance, determined in accordance with WAC 173-490-204(4) before January 1, 1982.

(iii) For low solvent technology:

(A) Submit a plan for an extended schedule of control dates meeting the conditions in WAC 173-490-071;

(B) Achieve a final reduction in emissions greater than that which would have been attained from the controls specified in WAC 173-490-204(2);

(C) Commit to the installation of the controls in WAC 173-490-204(2) and achieving final compliance by January 1, 1987 should progress toward low solvent technology not meet expectations;

(D) Provide for a major reduction in emissions by January 1, 1983 as an increment of progress as required in WAC 173-490-071.

(b) The owner or operator of a volatile organic compound source subject to a compliance schedule of WAC 173-490-204 shall certify to the department within five days after the deadline for each increment of progress whether the required increment of progress has been met.

(4)) Testing and monitoring.

(a) ((Testing procedures to determine)) To demonstrate compliance with this chapter ((shall be on file with and approved by the department)), refer to WAC 173-400-105.

(b) When add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(i) Exhaust gas temperature of all incinerators;

(ii) Temperature rise across a catalytic incinerator bed;

(iii) Breakthrough of VOC on a carbon adsorption unit; and

(iv) Any other continuous monitoring or recording device required by ((the department)) ecology.

(c) The owner or operator of a facility shall be responsible for all expenses of monitoring required by WAC 173-490-204 ((4)) (3)(b).

#### AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-205 SURFACE COATING OF MISCELLANEOUS METAL PARTS AND PRODUCTS. (1) Specific applicability. This section shall apply to surface coating of miscellaneous metal parts and products in the following industries ((having VOC

emissions greater than one hundred six kilograms (two hundred thirty-five pounds) per day)), if the potential uncontrolled emissions of VOC is greater than 10 tons per year and as qualified in WAC 173-490-205 (1)(b), (c), and (d), and 173-490-025.

(a) Miscellaneous metal parts and products shall include:

(i) Large farm machinery (harvesting, fertilizing and planting machines, tractors, combines, etc.);

(ii) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);

(iii) Small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);

(iv) Commercial machinery (office equipment, computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);

(v) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

(vi) Fabricated metal products (metal covered doors, frames, etc.); and

(vii) Any other industrial category which coats metal parts or products under the Standard Industrial Classification Code of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), ((and)) Major Group 39 (miscellaneous manufacturing industries), Major Group 40 (railroad transportation), and Major Group 41 (transit passenger transportation).

(b) This ((chapter)) section is not applicable to the surface coating of the following metal parts and products:

(i) Automobiles and light-duty trucks;

(ii) Metal cans;

(iii) Flat metal sheets and strips in the form of rolls or coils;

(iv) Magnet wire for use in electrical machinery;

(v) Metal furniture;

(vi) Large appliances;

(vii) Airplanes;

(viii) Automobile refinishing;

(ix) Customized top coating of automobiles and trucks, if production is less than thirty-five vehicles per day; and

(x) Exterior of marine vessels.

(c) This chapter applies to the application area, flashoff area, air and forced air drier, and oven used in the surface coating of the metal parts and products in WAC 173-490-205 (1)(a). This chapter also applies to prime coat, top coat, and single coat operations.

(d) The application of coatings whose formulations are controlled by federal specifications and the use of which is required by federal agencies shall be exempt from the emission limits in WAC 173-490-205 (2)(a).

(e) A case-by-case determination of the emission controls best representing RACT may be substituted for the requirements of WAC 173-490-205(2). Such a determination shall be approved by ((the department)) ecology.

(2) Provisions for specific processes.

(a) The owner or operator of a coating application system shall not emit a quantity of (~~volatile organic compounds~~) VOCs greater than those listed by specific coating, excluding water and as delivered to the application system:

- (i) Clear coatings 0.52 kg/liter (4.3 lb/gallon)
- (ii) Extreme performance coatings 0.42 kg/liter (3.5 lb/gallon)
- (iii) Air dried coatings 0.42 kg/liter (3.5 lb/gallon)
- (iv) All others 0.36 kg/liter (3.0 lb/gallon)
- (v) Powder coatings 0.05 kg/liter (0.4 lb/gallon)

(b) When more than one emission limitation listed in WAC 173-490-205 (2)(a) applies to a specific coating, the least stringent will apply.

(c) All VOC emissions from solvent washings shall be considered in the emission limitations in WAC 173-490-205 (2)(a), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

(d) The emission limits set forth in WAC 173-490-205 (2)(a) shall be achieved by:

- (i) The application of low solvent coating technology; or
- (ii) An incineration system that oxidizes at least ninety percent of the (~~volatile organic compounds~~) VOCs (VOC measured as total combustible carbon) to carbon dioxide and water; or
- (iii) An equivalent means of VOC reduction certified by the owner(s) or operator(s) and approved by (~~the department~~) ecology.

(e) A collection system shall be used together with the incinerator of WAC 173-490-205 (2)(d)(ii). The design and operation of the collection system shall be consistent with good engineering practice and provide for an overall VOC emission reduction necessary to comply with the emission limits of WAC 173-490-205 (2)(a). The required VOC emission reduction shall be calculated on a unit volume of uncured solids basis.

(3) (~~Schedule of control dates:~~

~~(a) The owner or operator of a source shall meet the following applicable increments of progress, unless a source has an approved alternative schedule of control dates as stipulated in WAC 173-490-071:~~

~~(i) Sources using low solvent content coatings shall:~~

~~(A) Submit final plans for the application of low solvent technology before April 1, 1981;~~

~~(B) Complete evaluation of product quality and commercial acceptance before October 1, 1981;~~

~~(C) Issue purchase orders or contracts for low solvent content coatings before December 1, 1981;~~

~~(D) Initiate process modifications before January 1, 1982; and~~

~~(E) Complete process modifications and begin use of low solvent content coatings before January 1, 1983.~~

~~(ii) Sources using process equipment changes or add-on control devices, including incineration with heat recovery, shall:~~

~~(A) Submit final plans for the emission control system, or process equipment, or both, before April 1, 1981;~~

~~(B) Award contracts or purchase orders for the emission control systems, or process equipment, or both, before June 1, 1981;~~

~~(C) Initiate on-site construction or installation of the emission control system, or process equipment, or both, before December 1, 1981;~~

~~(D) Complete on-site construction or installation of the emission control system or process equipment, or both, before December 1, 1982; and~~

~~(E) Achieve final compliance, determined in accordance with WAC 173-490-205(4) before January 1, 1983.~~

~~(iii) Sources using incineration without heat recovery or process modifications not requiring purchase orders shall:~~

~~(A) Submit final plans for the emission control system or process modification, or both, before March 1, 1981;~~

~~(B) Award contracts or purchase orders for the emission control system or process modification, or both, before May 1, 1981;~~

~~(C) Initiate on-site construction or installation of the emission control system or process modification, or both, before July 1, 1981;~~

~~(D) Complete on-site construction or installation of the emission control system or process modification, or both, before November 1, 1981; and~~

~~(E) Achieve final compliance, determined in accordance with WAC 173-490-205(4), before January 1, 1982.~~

~~(4)) Testing and monitoring.~~

(a) (~~The department~~) Ecology may require the owner(s) or operator(s) of a source to demonstrate at his/her own expense, compliance by the methods of WAC 173-490-205 (~~(4))~~ (3)(c).

(b) The owner(s) or operator(s) of a source shall notify (~~the department~~) ecology at least ten days before a proposed emission certification test so the director or a representative may (~~at his option~~) observe the test.

~~(c) ((Testing and calibration procedures to determine)) To demonstrate compliance with this chapter ((shall be consistent with the procedures on file with and approved by the department)), refer to WAC 173-400-105.~~

(d) (~~The department~~) Ecology may require monitoring of the following parameters:

(i) Exhaust gas temperature of all incinerators;

(ii) Temperature rise across a catalytic incinerator bed; and

(iii) Breakthrough of VOC on a carbon adsorption unit.

#### AMENDATORY SECTION (Amending Order DE 80-18, filed 8/20/80)

WAC 173-490-207 SURFACE COATING OF FLATWOOD PANELING. (1) Specific applicability.

(a) This section shall apply to all flatwood panel manufacturers and surface finishing facilities as qualified in WAC 173-490-207 (1)(b) and (c) and 173-490-025.

(b) These chapters shall apply to all operations and equipment that is used to apply, convey and dry (including flashoff areas) a surface pattern or coating on the following products:

(i) Printed interior panels made of hardwood plywood and thin (~~particle board~~) particleboard;

(ii) Natural finish hardwood plywood panels; or

(iii) Hardboard paneling with Class II finishes.

(c) These chapters do not apply to the manufacture of exterior siding, tileboard, or particleboard used as a furniture component.

(2) Provisions for specific processes.

(a) The owner(s) or operator(s) of a facility shall not emit (~~volatile organic compounds~~) VOCs from a coating application system in excess of:

(i) 2.9 kg per 100 square meters of coated finished product (6.0 lb/1,000 square feet) from printed interior panels, regardless of the number of coats applied;

(ii) ~~((5.8))~~ 5.9 kg per 100 square meters of coated finished product (12.0 lb/1,000 square feet) from natural finish hardwood plywood panels, regardless of the number of coats applied; and

(iii) ~~((4.8))~~ 4.9 kg per 100 square meters of coated finished product (10.0 lb/1,000 square feet) from Class II finishes on hardboard panels, regardless of the number of coats applied.

(b) The emission limits in WAC 173-490-207 (2)(a) shall be achieved by:

(i) The application of low solvent content coating technology; or

(ii) An incineration system which oxidizes at least ninety percent of the nonmethane (~~volatile organic compounds~~) VOCs entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or

(iii) An equivalent means of VOC removal. The equivalent means must be certified by the owner(s) or operator(s) and approved by ~~((the department))~~ ecology.

(c) A capture system shall be used in conjunction with the emission control systems in WAC 173-490-207 (2)(b)(ii) and (iii). The design and operation of the capture system must be consistent with good engineering practice and shall be required to provide for an overall emission reduction sufficient to meet the emission limitation in WAC 173-490-207 (2)(a).

(3) ~~((Schedule of control dates:~~

~~(a) The owner or operator of a source shall meet the following applicable increments of progress, unless a source has an approved alternative schedule of control dates as stipulated in WAC 173-490-071.~~

~~(i) Sources using low solvent content coatings shall:~~

~~(A) Submit final plans for the application of low solvent technology before April 1, 1981;~~

~~(B) Complete evaluation of product quality and commercial acceptance before October 1, 1981;~~

~~(C) Issue purchase orders or contracts for low solvent content coatings before December 1, 1981;~~

~~(D) Initiate process modifications before January 1, 1982; and~~

~~(E) Complete process modifications and begin use of low solvent content coatings before January 1, 1983.~~

~~(ii) Sources utilizing process equipment changes or add-on control devices, including incineration with heat recovery, to comply with the emission limitations in WAC 173-490-207 (2)(a) shall:~~

~~(A) Submit final plans for the emission control system, or process equipment, or both, before April 1, 1981;~~

~~(B) Award contracts or purchase orders for the emission control systems, or process equipment, or both, before June 1, 1981;~~

~~(C) Initiate on-site construction or installation of the emission control system, or process equipment, or both, before December 1, 1981;~~

~~(D) Complete on-site construction or installation of the emission control system or process equipment, or both, before December 1, 1982; and~~

~~(E) Achieve final compliance, determined in accordance with WAC 173-490-207(4) before January 1, 1983.~~

~~(iii) Sources utilizing incineration without heat recovery or process modifications not requiring purchase orders to comply with the emission limitation in WAC 173-490-207 (2)(a) shall:~~

~~(A) Submit final plans for the emission control system or process modification, or both, before March 1, 1981;~~

~~(B) Award contracts or purchase orders for the emission control system or process modification, or both, before May 1, 1981;~~

~~(C) Initiate on-site construction or installation of the emission control system or process modification, or both, before July 1, 1981;~~

~~(D) Complete on-site construction or installation of the emission control system or process modification, or both, before November 1, 1981; and~~

~~(E) Achieve final compliance, determined in accordance with WAC 173-490-207(4), before January 1, 1982.~~

~~(4)) Testing and monitoring.~~

~~(a) ((The department)) Ecology may require the owner or operator of a facility to demonstrate at his/her own expense compliance by the methods of WAC 173-490-207 ((4)) (3)(c).~~

~~(b) The owner(s) or operator(s) of a facility shall notify ((the department)) ecology at least ten days before a proposed emission certification test so the ((department)) director or a representative may ((at his option)) observe the test.~~

~~(c) ((Testing and calibration procedures to determine)) To demonstrate compliance with this chapter ((shall be consistent with the procedure on file with and approved by the department)), refer to WAC 173-400-105.~~

~~(d) ((The department)) Ecology may require monitoring of the following parameters:~~

~~(i) Exhaust gas temperature of all incinerators;~~

~~(ii) Temperature rise across a catalytic incinerator bed; and~~

~~(iii) Breakthrough of VOC on a carbon adsorption unit.~~

#### AMENDATORY SECTION (Amending Order DE 82-22, filed 7/27/82)

WAC 173-490-208 AEROSPACE ASSEMBLY AND COMPONENT COATING OPERATIONS. (1) Specific applicability. This section shall apply to all aerospace component coating facilities that emit an annual average of eighteen kilograms (forty pounds) or more of (~~volatile organic compounds~~) VOCs per operating day and as qualified in WAC 173-490-025.

(2) It shall be unlawful for any person to cause or allow:

(a) The application of any primer or topcoat to aerospace components which contains in excess of:

(i) 650 grams of VOC per liter of primer, less water, as applied.

(ii) 600 grams of VOC per liter of topcoat, less water, as applied.

(b) The application of any temporary protective coating to aerospace components that contains more than 250 grams of VOC per liter of material, less water, as applied.

(c) The use of ~~((volatile organic compounds))~~ VOCs of composite vapor pressure of 10.4 kPa (1.5 psia) or greater at a temperature of 21.1°C (70°F) for surface preparation or cleanup, excluding paint removal.

(d) The use of ~~((volatile organic compounds))~~ VOCs for the cleanup of spray equipment used in aerospace component coating operations unless 85 percent of the ~~((volatile organic compounds))~~ VOCs by weight, are collected and disposed ~~((such))~~ so that they are not emitted to the atmosphere.

(e) The use of a stripper which contains more than 400 grams of VOC per liter or has a composite vapor pressure of ~~((volatile organic compounds))~~ VOCs more than 1.3 kPa (0.19 psia) at 21.1°C (70°F).

(3) The emission limits of paragraph (2) shall be achieved by:

(a) The application of reasonably available low solvent coating technology;

(b) A vapor collection and disposal system; or

(c) An equivalent method of VOC reduction certified by the owner(s) or operator(s) and approved by ~~((the director))~~ ecology.

(4) The provisions of WAC 173-490-208 (2)(a) and (2)(b) shall not apply to the following materials:

(a) Coatings for masking in chemical etching operations,

(b) Adhesive bonding primer,

(c) Flight test coatings,

(d) Space vehicle coatings, or

(e) Fuel tank coatings.

(5) Upon the submission of an alternative coating evaluation, ~~((the director))~~ ecology may determine that a reasonably available low solvent coating does exist for a given application and may exempt the coating from requirements of WAC 173-490-208. All alternative coating evaluations shall contain, as a minimum:

(a) Types of products to be coated,

(b) Types of coatings evaluated,

(c) Results of performance tests,

(d) Status of research into development of low VOC coatings for the application,

(e) Feasibility of installing control equipment,

(f) Mitigating measures that could be implemented to reduce VOC emissions.

~~((6)) Any facility subject to this section shall submit a report to the department by January 1, 1983. This report shall include, as a minimum, a discussion of the advances in coating technology that have occurred since January 1, 1980, and a forecast of future technology improvements.~~

~~(7) Schedule of control dates:~~

~~(a) The owner or operator of a source shall meet the following applicable increments of progress:~~

~~(i) Submit final plans for the emission control system, process equipment or low solvent coatings substitution before September 1, 1982.~~

~~(ii) Award contracts or purchase orders for the emission control system, process equipment or low solvent coatings before January 1, 1983.~~

~~(iii) Initiate construction or process modifications before March 1, 1983.~~

~~(iv) Achieve final compliance before July 1, 1983.)~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-490-070 SCHEDULE OF CONTROL DATES.

WAC 173-490-071 ALTERNATIVE SCHEDULE OF CONTROL DATES.

WAC 173-490-120 COMPLIANCE SCHEDULES.

WAC 173-490-130 REGULATORY ACTIONS.

WAC 173-490-135 CRIMINAL PENALTIES.

WAC 173-490-140 APPEALS.

WAC 173-490-150 VARIANCE.

#### **WSR 91-05-065**

#### **PERMANENT RULES**

#### **DEPARTMENT OF AGRICULTURE**

#### **(Wheat Commission)**

[Order 2072—Filed February 19, 1991, 3:34 p.m.]

Date of Adoption: February 19, 1991.

Purpose: To adopt rules authorizing the Washington Wheat Commission to expend producer assessments for the purpose of promotion of wheat and processed wheat products as authorized by RCW 15.04.200 and chapter 15.66 RCW; and to amend current rules regarding scheduling of regular commission meetings and check signature authority to reflect current commission needs.

Citation of Existing Rules Affected by this Order: Amending chapter 16-528 WAC, Washington Wheat Commission.

Statutory Authority for Adoption: Chapter 15.04 RCW and RCW 15.66.140(2).

Pursuant to notice filed as WSR 91-01-099 on December 18, 1990.

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

February 19, 1991

Jack DeWitt

Chairman

#### NEW SECTION

WAC 16-528-105 DEFINITION OF TERMS. (1) "Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating

trade relations and promoting sales of wheat and processed wheat products.

(2) "Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

AMENDATORY SECTION (Amending Minute Order, filed 4/30/58)

WAC 16-528-110 MONTHLY MEETINGS OF THE COMMISSION. (~~It was moved that regular meetings be held every two months on the second Monday of the month, starting at 10 a.m., beginning in July. Motion carried unanimously.~~) The commission will hold a minimum of four scheduled meetings per year. Dates of each meeting will be determined during the preceding meeting.

AMENDATORY SECTION (Amending Minute Order, filed 11/19/58)

WAC 16-528-150 WARRANTS DRAWN ON COMMISSION ACCOUNT—SIGNATURES. (~~By a resolution—That~~) The chairman, vice-chairman, secretary-treasurer, administrator, and ((the manager)) one additional staff member, other than the person responsible for drafting checks, be designated and authorized to draw warrants against the accounts of the Washington wheat commission. Signatures of any two of the above to be required on each and every check ((and that one of the signatures be a commissioner. Motion carried unanimously)).

#### NEW SECTION

WAC 16-528-170 RULES FOR IMPLEMENTATION OF PROMOTIONAL HOSTING BY THE WASHINGTON WHEAT COMMISSION. The laws of section 1, chapter 26, Laws of 1985 (RCW 15.04-.200) provide that agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington wheat commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules.

(a) Commissioners;

(b) Administrator, director of marketing.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by

vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

(a) Name and position (if appropriate) of each person hosted;

(b) General purpose of the hosting;

(c) Date of hosting;

(d) Location of the hosting;

(e) To whom payment was or will be made;

(f) Signature of person seeking payment or reimbursement.

(4) The chairman of the commission, administrator, and/or treasurer are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations and promote sales of wheat and processed wheat products:

(a) Individuals from private business, associations, commissions;

(b) Foreign government officials;

(c) Federal and state officials: **PROVIDED**, That lodging, meals, and transportation will not be provided when such officials may obtain full reimbursement for these expenses from their government employer;

(d) The general public, at meetings and gatherings open to the general public;

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted, will cultivate trade relations and promote sales of wheat and processed wheat products;

(f) Spouses of the persons listed in (a), (b), (c), and (e) of this subsection when attendance of such spouse is customary and expected.

#### **WSR 91-05-066**

#### **PREPROPOSAL COMMENTS PUGET SOUND WATER QUALITY AUTHORITY**

[Filed February 19, 1991, 3:58 p.m.]

Subject of Possible Rule Making: The Puget Sound Water Quality Authority is revising chapter 400-12 WAC, local planning and management of nonpoint source pollution.

Persons may submit written comments, or may testify at one of the informational meetings. Written comments should be sent to the Puget Sound Water Quality Authority, Mailstop PV-15, Olympia, Washington 98504-0900. The informational meetings will be held March 26, 6:30-8:30 p.m. at the Skagit County Administration Building, Room B, Mount Vernon and March 28, 6:30-8:30 p.m., Lakeridge Plaza Building 1, Room 101, Olympia. Comments must be received by April 12, 1991.

Other Information or Comments by Agency at this Time, if any: The revised rule, chapter 400-12 WAC, should be available for public review this summer.



February 19, 1991  
 Marc Jerden  
 Legal Policy Analyst  
 and Rules Coordinator

**WSR 91-05-067**  
**RULES COORDINATOR**  
**PUGET SOUND WATER**  
**QUALITY AUTHORITY**  
 [Filed February 19, 1991, 4:02 p.m.]

The Puget Sound Water Quality Authority would like to designate Marc Jerden as their rules coordinator. Marc Jerden is the legal policy analyst, and may be reached by phone at 493-9158 or by writing Mailstop PV-15, Olympia, 98504-0900.

Nancy McKay  
 Executive Director

**WSR 91-05-068**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**  
 [Filed February 19, 1991 4:17 p.m.]

Original Notice.

Title of Rule: WAC 180-44-050 Regulatory provisions relating to RCW 28A.305.130(6) and 28A.600.010 School day as related to the teacher.

Purpose: To provide for a waiver provision to WAC 180-44-050, pertaining to the 30 minutes before and after school requirement for teachers.

Statutory Authority for Adoption: RCW 28A.600.010.

Summary: This waiver provision would allow school districts to reallocate the total time requirement into morning and afternoon blocks which are more appropriate to their needs.

Reasons Supporting Proposal: To allow school districts more flexibility in restructuring time when teachers would be allowed to meet with students, parents and colleagues.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Old Capitol Building, 753-2998; Implementation: Doyle Winter, Superintendent of Public Instruction, Old Capitol Building, 753-1880; and Enforcement: John Brickell, Superintendent of Public Instruction, Old Capitol Building, 753-6710.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: An increasing number of school districts in Washington state are seeking ways to allow for flexibility in scheduling time when they can be available to work with parents, students, and colleagues. Many school districts, for example, report that parents are more likely to be available in the morning hours than in the afternoon,

when school is out. The addition of a waiver option to WAC 180-44-050, allowing for flexibility in the reallocation of the thirty minutes "before and after school" requirement, would provide such an option not currently available to school districts.

Proposal Changes the Following Existing Rules: Adds waiver to existing rules.

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

Hearing Location: Thomas Jefferson High School Little Theater, 4248 South 288th Street, Federal Way, WA, on March 28, 1991, at 9:00 a.m.

Submit Written Comments to: Dr. Monica Schmidt, Executive Director, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by March 26, 1991.

Date of Intended Adoption: March 29, 1991.

February 19, 1991  
 Dr. Monica Schmidt  
 Executive Director

AMENDATORY SECTION (Amending SBE 44-4-24, filed 3/29/65, effective 4/29/65)

WAC 180-44-050 REGULATORY PROVISIONS RELATING TO RCW ((~~28A.04.120(6)~~ AND ~~28A.58.101~~) 28A.305.130(6) AND 28A.600.010—SCHOOL DAY AS RELATED TO THE TEACHER.

(1) Teachers and other certificated personnel are required to be at their respective schools for the benefit of pupils and patrons at least thirty minutes before the opening of school in the morning and at least thirty minutes after the closing of school in the afternoon.

(2) A district may apply for a waiver from the provisions of this section. The state board may grant a waiver if the district demonstrates the need for the waiver by meeting the procedural criteria of developing a local plan which identifies: The rationale and justification for the need for the waiver; an explicit statement as to how the "before and after" thirty minutes will be reallocated, and district assurance that the reallocated time will be used to enhance the educational program for all students; the goals and objectives, and anticipated outcomes associated with the proposed reallocation. Additionally, each district shall supply written assurance that appropriate supervision of students will not be curtailed. Each approval shall be valid for three school years.

**WSR 91-05-069**  
**PROPOSED RULES**  
**UNIVERSITY OF WASHINGTON**  
 [Filed February 20, 1991, 8:57 a.m.]

Original Notice.

Title of Rule: Chapter 478-124 WAC, General conduct code for the University of Washington.

Purpose: To codify the university's policy prohibiting the unlawful possession, use, distribution or manufacture of alcohol or controlled substances on the university campus or during university-sponsored activities, and to update citations to other sections of the Washington Administrative Code and to university publications.

Statutory Authority for Adoption: RCW 28B.20.130.

Summary: The proposed language prohibits the unlawful possession, use, distribution or manufacture of alcohol or controlled substances on the university campus or during university-sponsored activities.

Reasons Supporting Proposal: The proposed amendments codify existing university policy.

Name of Agency Personnel Responsible for Drafting and Implementation: Vice President for Student Affairs, 476 Schmitz, 543-4024; and Enforcement: Vice President for Student Affairs and University Police, 543-9331.

Name of Proponent: University of Washington, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed amendments to WAC 478-124-020 and 478-124-030 are intended to codify the university's policy prohibiting the unlawful possession, use, distribution or manufacture of alcohol or controlled substances on the University of Washington campus or during university-sponsored activities.

Proposal Changes the Following Existing Rules: Proposal adds one subsection to WAC 478-124-020 and amends WAC 478-124-030 to update citations to other sections of the Washington Administrative Code and university publications.

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

Hearing Location: 106B Husky Union Building, University of Washington, on April 8, 1991, at 12:00 noon.

Submit Written Comments to: Rules Coordination Office AI-10, University of Washington, Seattle, Washington 98195, by April 5, 1991.

Date of Intended Adoption: April 19, 1991.

April 15, 1991  
[February 19, 1991]

Melody Tereski  
Administrative Procedures Officer

AMENDATORY SECTION (Amending Order 72-7, filed 11/30/72)

WAC 478-124-020 CONDUCT ON CAMPUS CODE—PROHIBITED CONDUCT. (1) In order to safeguard the right of every citizen to criticize and to seek meaningful change, each individual has an obligation to respect the rights of all members of the university community.

(2) In order to assure those rights to all members of the university community and to maintain a peaceful atmosphere in which the university may continue to make its special contribution to society, the following types of conduct are hereby prohibited on or in property either owned, controlled or operated by the university which is used or set aside for university purposes, hereinafter referred to as the university campus:

(a) Conduct which intentionally and substantially obstructs or disrupts teaching or freedom of movement or other lawful activities on the university campus;

(b) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on the university campus;

(c) Malicious damage to or malicious misuse of university property, or the property of any person where such property is located on the university campus;

(d) Refusal to comply with any lawful order to leave the university campus or any portion thereof;

(e) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the university campus, except for authorized university purposes, unless prior written approval has been obtained from the vice president for student affairs, or any other person designated by the president of the university;

(f) Unlawful possession, use, distribution, or manufacture of alcohol or controlled substances (as defined in chapter 69.50 RCW) on the university campus or during university-sponsored activities;

(g) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steels it to the conduct prohibited herein.)

AMENDATORY SECTION (Amending Order 72-7, filed 11/30/72)

WAC 478-124-030 CONDUCT ON CAMPUS CODE—SANCTIONS. (1) Any person while on the university campus who willfully refuses the request of a uniformed campus police officer to desist from conduct prohibited by these rules may be required by such officer to leave such premises.

(2) Disciplinary action which may result in dismissal from the university will be initiated against faculty, staff, or students who violate these rules, in accordance with the applicable disciplinary codes or other appropriate due process procedures.

(3) Sanctions which may be imposed against faculty are set forth in the University of Washington Handbook, Volume II, Chapter 25, Sections 25-51 and ~~((25-74))~~ 25-71.

(4) Sanctions which may be imposed against students are set forth in WAC 478-120-040.

(5) Sanctions which may be imposed against the classified staff are set forth in ~~((the rules for the classified staff, WAC 251-12-010))~~ WAC 251-11-010 through 251-11-130.

(6) Sanctions which may be imposed against the professional staff are set forth in the University of Washington Professional Staff Personnel Program, University of Washington Operations Manual, D 42.1, Section 7(c).

(7) Violation of any of the above regulations may also constitute violation of the criminal laws or ordinances of the city of Seattle, the state of Washington, or the United States and may subject a violator to criminal sanctions in addition to any sanctions imposed by the university.

WSR 91-05-070  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed February 20, 1991, 10:45 a.m.]

Original Notice.

Title of Rule: Chapter 388-76 WAC, Adult family home minimum licensing requirements.

Purpose: The department has recently lost a license revocation appeal hearing because chapter 388-76 WAC does not clearly define what is meant in that chapter by complaints and inspections. Confusion also exists regarding the differing roles and procedures of the adult family home licensor and the adult protective services worker. Definitions and language are added in order to bring clarification to these regulations.

Statutory Authority for Adoption: RCW 74.08.044.

Statute Being Implemented: RCW 74.08.044.

Summary: Language is added to clarify what is meant by complaints and inspections in chapter 388-76 WAC. Language is also added to indicate that licensed sponsors are subject to the law as it pertains to adult protective services.

Reasons Supporting Proposal: This rule amendment is necessary to clarify meaning within adult family home regulations. Confusion with the regulations exists around what is meant by complaints and inspections.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lew Maudsley, Aging and Adult Services, 493-2546.

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

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

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 20, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2934, filed 1/16/90, effective 2/16/90)

WAC 388-76-030 DEFINITIONS. Those terms in chapter 70.128 RCW shall have the same meaning when used in this chapter except as otherwise provided herein.

(1) "Abuse" means an act of physical or mental mistreatment or injury, harming or threatening a person through action or inaction by another individual.

(a) "Exploitation" means the illegal or improper use of a vulnerable adult or the adult's resources for another person's profit or advantage.

(b) "Neglect" means a pattern of conduct resulting in deprivation of care necessary to maintain minimum physical and mental health.

(2) "Adult dependent person" means a person eighteen years of age or older found legally incompetent under chapter 11.88 RCW or found disabled to such a degree under this chapter that protection is needed.

(3) "Adult family home" means a regular family abode of a person providing personal care, room, and board to more than one, but not more than four, adults not related by blood or marriage to the person or persons providing the services; except, a maximum of six adults may be permitted if the department determines the home is of adequate size and the home and provider are capable of meeting standards and qualifications as provided for in law and this chapter.

(4) "Adult in need of personal care" means a person eighteen years of age or older who, because of developmental disability or physical or mental disability requires supervision and assistance in personal care services.

(5) "Ambulatory resident" means a resident physically and mentally capable of walking unaided or capable of independent mobility or transfer with the use of a cane, crutches, walker, wheelchair, artificial limb, or other assistive device. A resident is considered nonambulatory when bedridden, immobile, unable to walk or move without assistance from another person, or unable to independently transfer.

(6) "Applicant" means a person who completes an adult family home license application.

(7) "Bedroom" means a living space set apart by floor-to-ceiling walls on all sides with all openings provided with doors or windows.

(8) "Board" means the availability of three or more daily meals.

(9) "Capacity" means the maximum number of persons permitted under adult family home care at a given time.

(10) "Complaint" means a verbal or written expression of concern filed with the licensor or other department staff. These concerns relate to licensed adult family home sponsor's particular issues or incidents of noncompliance with the minimum licensing requirements as specified under chapter 70.120 RCW and this chapter.

(11) "Department" means the department of social and health services.

((++)) (12) "Developmentally disabled adult" means a person eighteen years of age or older who the department determines is developmentally disabled.

((+)) (13) "Good cause" means the conditions providing for the best interest of the resident.

((+)) (14) "Imminent danger" means serious physical harm to or death of a resident occurred or a serious threat to resident life, health, or safety exists.

((+)) (15) "Inspection" means an in home visit conducted by an adult family home licensor for the purpose of evaluating compliance with the licensing requirements of chapter 70.128 RCW and this chapter. The term "inspection," as used in this chapter, is distinguished from investigations conducted by adult protective service workers under chapter 388-15 WAC.

(16) "Nursing care" means the practice of nursing by a licensed practical nurse (LPN) or registered nurse (RN) as specified under chapter 18.88 or 18.78 RCW.

((+)) (17) "Other persons on the premises" means relief caregivers, supportive assistance staff person, family members, other relatives and friends of the sponsor with unmonitored access to the residents in care.

((+)) (18) "Personal care" means assistance with the following tasks:

- (a) Personal hygiene;
- (b) Dressing;
- (c) Bathing;
- (d) Eating;
- (e) Toileting;
- (f) Ambulation;
- (g) Transfer;
- (h) Positioning;
- (i) Self-medication;
- (j) Body-care;
- (k) Travel to medical services; and
- (l) Essential shopping.

These tasks are provided to the resident as needed according to the resident's physical condition. The department may define and include additional tasks.

((+)) (19) "Premises" means the residence, other buildings, and adjoining grounds.

((+)) (20) "Private pay resident" means a resident whose cost of care is paid entirely without the assistance of state funds.

((+)) (21) "Provider" is synonymous with "sponsor."

((+)) (22) "Relative" or "related" means a person related by birth, marriage, or adoption as follows:

- (a) Parent,
- (b) Grandparent,
- (c) Brother,
- (d) Sister,
- (e) Son,
- (f) Daughter,
- (g) Step parent,
- (h) Step brother,
- (i) Step sister,
- (j) Uncle,
- (k) Aunt, and/or
- (l) First cousin.

((+)) (23) "Relief caregiver" means a person designated by the sponsor and who meets the relief caregiver standards to care for residents in the sponsor's absence.

((+)) (24) "Resident" means any adult person unrelated to the sponsor receiving room, board, personal, and/or special care and supervision, as defined by the department, in an adult family home.

((+)) (25) "Service plan" means a written description of a resident's needs and capabilities, including who, when, and how often care services are provided and the expected outcomes.

((+)) (26) "Special care" means care beyond personal care and other services authorized through an exception to policy process. Special care services are provided to persons suffering chronic long-term health conditions.

((+)) (27) "Sponsor" means a person licensed under this chapter to operate an adult family home. The sponsor shall reside at the adult family home. Exceptions may be authorized by the department for good cause, as defined in the rule.

((+)) (28) "State-pay resident" means a resident receiving financial assistance from the state for paying adult family home cost of care.

~~((27))~~ (29) "Supervision" means a sponsor available to:

(a) Help the client with personal care tasks that cannot be scheduled, for example, toileting, ambulation, transfer, positioning, some medication assistance;

(b) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment; or

(c) Intervene on a resident's behalf if a crisis arises.

~~((28))~~ (30) "Supportive assistance" means assistance with caregiving tasks provided to residents and/or home care by co-sponsor, employed staff, or appropriate others at the same time the sponsor or relief caregiver is present in the adult care home.

~~((29))~~ (31) "Vulnerable adult" means a person sixty years of age or older and unable to care for or protect self because of a functional, mental, or physical disability.

**AMENDATORY SECTION** (Amending Order 2934, filed 1/16/90, effective 2/16/90)

WAC 388-76-040 APPLICATION FOR LICENSE. (1) Persons making application for a license under this chapter shall do so upon department-provided forms. The forms shall contain information the department reasonably requires. The application shall be made by and in the name of the person who shall be the adult family home sponsor.

(2) The department shall send the sponsor a license application form and written notice no later than one hundred twenty days before the license expiration date. The sponsor shall apply for license renewal no later than ninety days before the expiration date. Submittal of a renewal application and fee before the expiration date shall keep the license in effect until the department takes action. If the renewal application and applicable fee are not submitted before the expiration date, the department shall treat the home as an unlicensed facility. The department shall have the authority to investigate the accuracy of any information included in the application for a license.

(3) The applicant shall submit additional information the department considers necessary for proper administration of this chapter. The department shall make investigations of the applicant, relief caregivers, supportive assistance staff persons, and members of applicant's household.

(4) The department shall make a criminal history check of all applicants, relief caregivers, supportive assistance staff persons, and members of the applicant's household before an initial license is issued or a license is renewed. The department shall furnish, upon request from the sponsor, a copy of the completed State Patrol criminal history check for any person involved in the sponsor's adult family home operation.

(5) The department shall issue licenses provided under this chapter for a period of one year.

(6) A sponsor may accept a state-pay client into the adult family home only if the sponsor is licensed and has an adult family home contract with the department.

(7) If the department finds the home is not in compliance with licensing standards as set forth in chapter 70.128 RCW and this chapter, the department shall require the home to correct any violations of licensing standards in a time frame specified by the department. If corrections are not made within this time period, the department may take one or more of the following actions:

- (a) Refuse to issue a license;
- (b) Suspend, revoke, or refuse to renew a license; or
- (c) Suspend admissions to the adult family home.

(8) The department shall issue a license to an adult family home if:

(a) The department finds the applicant and the home are in compliance with chapter 70.128 RCW and the rules adopted under this chapter;

(b) The applicant has no prior violations of the rules pertaining to adult family home licensing in either the home the applicant is applying for or any other adult family home;

(c) The applicant has no prior violation of any other law regulating residential care facilities within the past five years resulting in revocation or nonrenewal of a license.

(9) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of the applicant's application for a license. The proceedings shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC by requesting a hearing, in writing, within ten days after receipt of the notice of denial.

**AMENDATORY SECTION** (Amending Order 2934, filed 1/16/90, effective 2/16/90)

WAC 388-76-087 INSPECTIONS. (1) The department shall inspect an adult family home regarding compliance with licensing standards set forth in chapter 70.128 RCW and this chapter at the time of initial licensure.

(2) The department shall inspect licensed homes regarding compliance with licensing standards set forth in chapter 70.128 RCW and this chapter every eighteen months. The department shall notify the sponsor, in writing, two weeks or more in advance of a regular inspection.

(3) When a licensing complaint is received regarding noncompliance with licensing standards set forth in chapter 70.128 RCW and this chapter, the department may inspect, without written notice, a licensed home. At the time of the licensing complaint inspection, the department shall furnish the sponsor with a written copy of the complaint. The name of the complainant shall remain confidential.

(4) During licensing inspections of an adult family home, the department shall have access and authority to examine areas and articles in the home used to provide resident care or support, including resident's records, accounts, equipment, and the physical premises. The department also has the authority to interview the sponsor, relief caregiver, supportive assistance staff person, residents, guardian and resident advocates of an adult family home.

(5) When conducting ~~(an)~~ a licensing inspection, the department shall prepare a written report summarizing all information obtained during the inspection. If the home is in violation of this chapter, the department shall provide the sponsor a copy of the licensing inspection report at the same time as a notice of violation is served. If the home is not in violation of this chapter, the department shall mail the sponsor a copy of the inspection report within ten days of the home inspection. The department shall make available to the public, during business hours, all department licensing inspection reports ~~((during business hours))~~ that pertain to compliance with chapter 70.128 RCW and this chapter.

(6) The licensing inspection report shall describe any of the sponsor's corrective measures which are completed and necessary to pass a reinspection and will include a time frame when the corrections shall be completed. If the department finds upon reinspection of the home the corrective measures are satisfactorily implemented, the department shall cease any actions taken against the home. This section shall not require the department to license or renew the adult family home's license where serious physical harm or death occurred to a resident due to the action or inaction of the sponsor.

(7) An applicant/sponsor reported to be a perpetrator of abuse, neglect, or exploitation shall be subject to chapters 26.44, 74.34 RCW, and the regulations contained in WAC 388-15-120. The department may immediately deny, revoke, or suspend the license of an applicant/sponsor found to be a perpetrator of abuse, neglect or exploitation. The department may take this action without providing the applicant/sponsor an opportunity for corrective action as outlined in this chapter.

(8) An adult family home shall have readily available for the public's review:

- (a) The adult family home's license to operate; or
- (b) Copies of licensing inspection reports the adult family home received from the department for the past three years.

**WSR 91-05-071**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 20, 1991, 10:46 a.m.]

Original Notice.

Title of Rule: WAC 388-49-410 Resources—Exempt.

Purpose: The purpose is to change the exemption status of all resources of a person disqualified for failure to comply with work requirements as described in WAC 388-49-360 from exempt to nonexempt.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: WAC 388-49-410 (1)(m) is revised to delete reference to "...a person disqualified for noncompliance with work registration requirements,..." and WAC 388-49-420 (5)(d) revised to add new subsection (d) to read, "persons disqualified for failure to comply with work requirements as described in WAC 388-49-360." The present subsection (d) will be relettered to (e).

Reasons Supporting Proposal: These rules are necessary to comply with Administrative Notice 90-64. The employment and training (E&T) requirements final rule published in federal register on August 15, 1990, provides that all resources of an individual disqualified for a work program violation are counted as available to that person's household (273.11(c)).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Income Assistance, 753-4918.

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

Rule is necessary because of federal law, Administrative Notice 90-64.

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 March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 20, 1991

Rosemary Carr

Acting Director

Administrative Services

**AMENDATORY SECTION** (Amending Order 2976, filed 5/3/90, effective 6/3/90)

WAC 388-49-410 RESOURCES—EXEMPT. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if:

(i) The household intends to return to the home; and

(ii) The house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (f);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(m) Resources held separately by a nonhousehold member (~~or a person disqualified for noncompliance with work registration requirements;~~) or an ineligible student;

(n) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws;

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(2) Exempt funds commingled in an account with nonexempt funds shall continue to be exempt for up to six months from the date they are commingled.

**AMENDATORY SECTION** (Amending Order 3100, filed 11/20/90, effective 12/21/90)

WAC 388-49-420 RESOURCES—NONEXEMPT. (1) The department shall consider the following resources nonexempt:

(a) Liquid resources;

(b) Real and personal property not exempted by WAC 388-49-410; and

(c) Money secured in the form of a lump sum.

(2) The value of a nonexempt resource, except for licensed vehicles as specified in WAC 388-49-430, shall be its equity value.

(3) The department shall exempt funds having been commingled in an account with nonexempt funds for more than six months.

(4) The department shall consider resources owned jointly by separate households available in their entirety to each household, unless:

(a) The resource is inaccessible to one of the households, and

- (b) Ownership is verified, if questionable.
- (5) The department shall consider resources of the following persons as available to the remaining household members:
- (a) Ineligible aliens; ((or))
  - (b) Persons disqualified for failure to meet Social Security number requirements; ((or))
  - (c) Persons disqualified for intentional program violation; ((or))
  - (d) Persons disqualified for failure to comply with work requirements as described under WAC 388-49-360; or
  - (e) Persons who fail to sign the application attesting to their citizenship or alien status.
- (6) The department shall consider resources, reduced by one thousand five hundred dollars, of an alien sponsor and spouse, if living together, available to the alien household for three years following the alien's admission to the United States for permanent residence.

**WSR 91-05-072**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 20, 1991, 10:47 a.m.]

**Original Notice.**

**Title of Rule:** WAC 388-49-480 Income—Ineligible household members.

**Purpose:** Conform with 7 CFR 273.11 adding new language.

**Statutory Authority for Adoption:** RCW 74.04.510.

**Statute Being Implemented:** RCW 74.04.510.

**Summary:** Changes reference at WAC 388-49-480(3) from "work registration requirements" to "work requirements as described in WAC 388-49-360."

**Reasons Supporting Proposal:** This rule amendment is necessary to change language at WAC 388-49-480(3), former reference, "work registration" becomes "work requirements as described in WAC 388-49-360."

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Charles Henderson, Income Assistance, 753-4912.

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

**Rule is necessary because of federal law,** 7 CFR 273.11.

**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 March 26, 1991, 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 March 26, 1991.

**Date of Intended Adoption:** April 9, 1991.

February 20, 1991  
 Rosemary Carr  
 Acting Director  
 Administrative Services

**AMENDATORY SECTION** (Amending Order 2770, filed 3/2/89)

**WAC 388-49-480 INCOME—INELIGIBLE HOUSEHOLD MEMBERS.** (1) The department shall determine eligibility and benefit level for households containing persons disqualified for intentional program violation as follows:

(a) The entire income of the disqualified persons shall be considered available to the remaining household members; and

(b) The entire household's allowable earned income, standard deduction, medical, dependent care, and excess shelter deduction shall be considered in their entirety; and

(c) The household's coupon allotment shall not be increased as a result of the exclusion of one or more persons.

(2) The department shall determine eligibility and benefit level for households containing persons ineligible because of alien status, disqualification for refusal to obtain or provide a Social Security number, or failure to sign the application attesting to their citizenship or alien status as follows:

(a) A pro rata share of the income of the ineligible persons shall be counted as income to the remaining household members;

(b) The twenty percent earned income deduction shall apply to the ineligible persons' earned income attributed to the household; and

(c) The portion of the household's allowable shelter and dependent care expense which is paid by or billed to the ineligible members shall be divided evenly among all members of the household, providing the ineligible members have income.

(3) The department shall not consider the income of (ineligible students or persons disqualified for failure to meet work ((registration)) requirements as ((available to the household with whom they reside)) described in WAC 388-49-360.

(4) The department shall exclude ineligible household members when determining the household's size for purposes of:

(a) Assigning a benefit level; and

(b) Comparing the household's monthly income to the income eligibility standards.

**WSR 91-05-073**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 20, 1991, 10:49 a.m.]

**Original Notice.**

**Title of Rule:** WAC 388-49-190 Household concept.

**Purpose:** Clarified when failure to comply with work requirements results in a food stamp household member's status changing to an ineligible household member.

**Statutory Authority for Adoption:** RCW 74.04.510.

**Statute Being Implemented:** RCW 74.04.510.

**Summary:** Failure to comply with work requirements outlined in WAC 388-49-360 will result in a food stamp household member's status changing to an ineligible household member.

**Reasons Supporting Proposal:** This rule amendment is necessary to conform with 7 CFR 273.7 (g)(2).

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Joan Wirth, Income Assistance, 753-5401.

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

**Rule is necessary because of federal law,** 7 CFR 273.7 (g)(2).

**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 March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 20, 1991

Rosemary Carr  
Acting Director  
Administrative Services

AMENDATORY SECTION (Amending Order 3033, filed 6/29/90, effective 8/1/90)

WAC 388-49-190 HOUSEHOLD CONCEPT. (1) The department shall consider the following as households:

- (a) A person living alone;
- (b) A person living with others and purchasing and preparing meals separate and apart from the others;
- (c) A group of persons who live together and purchase and prepare meals together;
- (d) A permanently disabled, elderly person unable to prepare meals provided the:
  - (i) Person's spouse shall be included in the household; and
  - (ii) Income of other individuals, except the person's spouse, living with the person does not exceed one hundred sixty-five percent of the poverty level.
- (e) A person who is the parent of a child seventeen years of age or younger, along with that person's child and spouse, if the person and the person's child are:
  - (i) Living with the person's parent or sibling, and
  - (ii) Purchasing and preparing meals separate from the parent or sibling.
- (f) A person who is a parent or sibling living with the person described in WAC 388-49-190 (1)(e) or (h);
- (g) A person living with the person's natural, adoptive, or stepchild, or the child living with parents when one parent is:
  - (i) Elderly or disabled, and
  - (ii) Purchasing and preparing meals separate from the child.
- (h) A person, living with a sibling, who is:
  - (i) Elderly or disabled, and
  - (ii) Purchasing and preparing meals separate from the sibling.
- (2) The department shall not grant separate household status to:
  - (a) A child seventeen years of age or younger, and under parental control of a member of the household;
  - (b) A parent living with the parent's natural, adoptive, or stepchild, or the child living with the parent unless the child and parent qualify as separate households as described under WAC 388-49-190 (1)(d), (e), (f), or (g);
  - (c) A spouse of a household member;
  - (d) Siblings unless they qualify as separate households as described under WAC 388-49-190 (1)(d), (e), (f), or (h);
  - (e) A boarder.
- (3) The department shall consider the following persons living with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:
  - (a) Roomers,
  - (b) Live-in attendants, or
  - (c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.
- (4) The department shall consider the following persons living with the household as ineligible household members:
  - (a) Persons disqualified for intentional program violation;
  - (b) Persons disqualified because of noncompliance with work (~~reg-~~istration) requirements as described under WAC 388-49-360;
  - (c) Persons who are ineligible aliens;
  - (d) Persons disqualified for failure to apply for or provide a Social Security number;
  - (e) Persons who are ineligible students; or

(f) Persons who fail to sign the application attesting to their citizenship or alien status.

**WSR 91-05-074**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 20, 1991, 10:50 a.m.]

Original Notice.

Title of Rule: WAC 388-49-020 Definitions.

Purpose: Add definition of "temporary disability" and clarify definition of "ineligible household member" and other definitions used in administering the food stamp program.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Adds definition of "temporary disability"; clarifies definition of "ineligible household member"; and clarifies, through editorial changes, a number of existing definitions.

Reasons Supporting Proposal: This rule amendment is necessary to conform with Food Stamp Program Policy Memo, Index No. 90-22 which requires a definition of "temporary disability"; clarify definition of "ineligible household member" to conform with 7 CFR 272.7 (g)(2); and make editorial changes for clarity.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Wirth, Income Assistance, 753-5410.

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

Rule is necessary because of federal law, Food Stamp Program Policy Memo No. 90-22.

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 March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 20, 1991

Rosemary Carr  
Acting Director  
Administrative Services

AMENDATORY SECTION (Amending Order 3015, filed 5/31/90, effective 7/1/90)

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

(2) "Administrative error overissuance" means any overissuance caused solely by:



(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

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

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

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

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

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

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

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d), who is a:

- (a) Person paying reasonable compensation to the household or lodging and meals; or
- (b) Foster child.

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

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

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

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

(16) "Department" means the department of social and health services.

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

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

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

- (a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;
- (b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;
- (c) Is a veteran:
  - (i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC)((:)); or
  - (ii) Considered in need of regular aid and attendance, or permanently housebound under ~~((such title:))~~ Title 38 of the USC.

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

(e) A surviving spouse or child of a veteran and entitled to compensation for service-connected death or pension benefits for a nonservice-

connected death under Title 38 of the USC and has a disability considered permanent under section 221(i) of the Social Security Act;

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

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

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

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

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

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

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

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

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

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

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

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

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

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

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

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

(e) Includes a destitute migrant or seasonal farmworker(~~(s)~~).

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

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

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

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

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard(~~(s)~~)" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

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

(34) "Head of household" means:

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

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

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

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

(A) Registered for work,

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

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

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

(36) "Homeless individual" means ~~((an individual))~~ a person lacking a fixed and regular nighttime residence or ~~((an individual))~~ a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution (~~(that provides)~~) providing temporary residence for (~~(individuals)~~) persons needing institutionalization;

(c) Temporary accommodation in the residence of another (~~(individual)~~) person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

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

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

(39) "Household disaster" means when food coupons, food purchased with food (~~(stamps)~~) coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

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

(41) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(42) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

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

(c) Failure to comply with work (~~(registration)~~) requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien;

(e) Status as an ineligible student; or

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

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

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

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

(a) Making a false or misleading statement;

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

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

Intentional program violation which ended (~~(prior to)~~) before August 8, 1983, consists of any action by (~~(an individual)~~) a person or (~~(individuals)~~) persons to knowingly, willfully, and with deceitful intent:

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

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

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

(d) Use coupons to buy expensive or conspicuous nonfood items;

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

(f) Trade or sell coupons or authorization cards.

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

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

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

(a) Income tax refunds,

(b) Rebates,

(c) Retroactive payments, and

(d) Insurance settlements.

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

(50) "Migrant farmworker" means (~~(an individual)~~) a person working in seasonal agricultural employment (~~(and)~~) who is required to be absent overnight from (~~(his or her)~~) the person's permanent (~~(place of)~~) residence.

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

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

(a) (~~(A)~~) Roomer;

(b) (~~(A)~~) Live-in attendant; or

(c) (~~(An individual)~~) Person who does not purchase and prepare meals with the food stamp household.

(53) "Nonstriker" means any person:

(a) Exempt from work registration the day prior to the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(72) "Seasonal farmworker" means ~~((an individual))~~ a person working in seasonal agricultural employment who is not required to be absent overnight from ~~((his or her))~~ the person's permanent ~~((place of))~~ residence ~~((overnight))~~.

(73) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

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

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

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

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

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

(78) "Spouse" means:

(a) Married under applicable state law; or

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

(79) "Striker" means any person:

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

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

(80) "Student" means any person:

(a) At least eighteen but less than sixty years of age,

(b) Physically and mentally fit for employment, and

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

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

(82) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

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

~~((83))~~ (84) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-29-100 (3)(b); or

(c) Married.

~~((84))~~ (85) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

~~((85))~~ (86) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

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

household's creditors or a person or organization providing a service to the household; or

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

~~((86))~~ (87) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

## WSR 91-05-075

### PROPOSED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

#### (Public Assistance)

[Filed February 20, 1991, 10:51 a.m.]

#### Original Notice.

Title of Rule: WAC 388-49-330 Student.

Purpose: To clarify student eligibility criteria when receiving money from a federal or state work study program.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: WAC 388-49-330 is amended to change student status eligibility criteria from "receiving money from a federal or state work study program during the regular school year" to "work and receive money from a federal or state work study program"; other changes are editorial for clarity.

Reasons Supporting Proposal: This rule is necessary to clarify that a student is eligible as a result of participation in a work study only if the student works and receives funds from the work study.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Income Assistance, 753-4918.

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

Rule is necessary because of federal law, WFS-200:FS-6-1-GEN.

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 March 26, 1991, 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 March 26, 1991.

Date of Intended Adoption: April 9, 1991.

February 20, 1991

Rosemary Carr

Acting Director

Administrative Services

**AMENDATORY SECTION** (Amending Order 2837, filed 8/2/89, effective 9/2/89)

WAC 388-49-330 STUDENT. (1) A student, as defined under WAC 388-49-020, shall meet one of the following criteria to receive food stamps:

- (a) Work and receive payment for a minimum of twenty hours per week. A self-employed student's minimum weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;
  - (b) Work and receive money from a federal or state work study program ((during the regular school year));
  - (c) Be responsible for the care of a dependent household member (~~under six~~) five years of age or younger;
  - (d) Be responsible for the care of a dependent household member at least six years of age, but under twelve years of age, and the department has determined adequate child care is not available;
  - (e) Receive benefits from the aid to families with dependent children program; or
  - (f) Attend an institution of higher education through a program under Job Training Partnership Act (JTPA).
- (2) Student status begins the first day of the school term.
- (3) Student status continues through normal periods of class attendance, vacation, and recess.
- (4) Student status is lost when a student:
- (a) Graduates;
  - (b) Is suspended;
  - (c) Is expelled;
  - (d) Drops out; or
  - (e) Does not intend to register for the next normal school term excluding summer school.

**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 91-05-076**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed February 20, 1991, 10:53 a.m.]

**Original Notice.**

**Title of Rule:** Pseudorabies in swine.

**Purpose:** To establish rules for the control and eradication of the disease Pseudorabies in swine in the state of Washington.

**Statutory Authority for Adoption:** RCW 16.36.040 and 16.36.096.

**Statute Being Implemented:** Chapter 16.36 RCW.

**Summary:** Provide rules on quarantine, herd plans, disinfection, indemnity, vaccination, reporting and identification needed to adequately address eradication of Pseudorabies in swine.

**Reasons Supporting Proposal:** The rules are necessary for Washington to progress through [through] the five stages of the state federal industry swine Pseudorabies eradication program. Washington presently is in Stage II and collecting data to qualify for State [Stage] III or IV.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Robert W. Mead, State Veterinarian, Department of Agriculture, 753-5040.

**Name of Proponent:** Department of Agriculture, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Provides criteria under which the Director of Agriculture may quarantine and cleanup infected Pseudorabies swine herds including the paying of indemnity when total depopulation is the plan of choice. Vaccination for the disease may only be used upon approval by the state veterinarian. Adoption will allow Washington to obtain Stage V or free status within several years.

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 Agriculture, Food Safety/Animal Health Division, 2627-B Parkmont Lane S.W., Olympia, WA 98502, on March 26, 1991, at 9:00 a.m.

**Submit Written Comments to:** Dr. Robert W. Mead, 406 General Administration Building, AX-41, Olympia, WA 98504, by March 26, 1991.

**Date of Intended Adoption:** March 29, 1991.

February 20, 1991  
 John Daly  
 Assistant Director

Chapter 16-80 WAC  
**PSEUDORABIES IN SWINE**

**NEW SECTION**

WAC 16-80-005 DEFINITIONS. For the purpose of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or his duly authorized representatives.

(2) "Department" means the Washington state department of agriculture.

(3) "Approved pseudorabies vaccine" means only those biological products that are approved by and produced under license of the United States Department of Agriculture for injection into swine for the purpose of enhancing their resistance to pseudorabies, are a specific gene deletion vaccine and are authorized for use in a specific herd by the state veterinarian.

(4) "Official identification" means a USDA issued backtag or a metal eartag bearing state identification and a unique number.

(5) "Pseudorabies infected herd" means a herd of swine in which the disease pseudorabies has been diagnosed positive in one or more animals by the National Veterinary Service Laboratory (NVSL) or a state laboratory which can conduct the serum neutralization test.

(6) "Expose" means to lay open an animal or group of animals to risk of infection by the pseudorabies virus.

**NEW SECTION**

WAC 16-80-007 SURVEILLANCE PROGRAM. All swine blood submitted to the federal-state animal health laboratory for brucellosis testing will be also tested for pseudorabies by the latex agglutination test. Samples which are positive on the latex agglutination test will be further tested by the enzyme linked immunosorbant assay (ELISA) and serum neutralization (SN) tests. The ELISA or SN tests must show positive results before classifying the sample as positive. An epidemiological investigation will be initiated for each positive sample and an attempt will be made to trace such a sample to the herd of origin. Area testing will be done on all swine herds within a five mile radius of any infected premises. Trace forward and trace backward testing will be done in all herds which may have bought animals from or sold animals to the infected herd within a twenty-four month period prior to discovery of the infection.

NEW SECTION

WAC 16-80-010 QUARANTINE. All swine herds that are infected with or exposed to pseudorabies shall be quarantined and officially tested for pseudorabies. If the owner of any such swine herd refuses to allow the department to test for the above disease, the swine herd and the premises on which they are quarantined shall remain quarantined until released under WAC 16-80-020 or RCW 16.36.030. No animal or products of such animals shall be removed from the premises while they are under quarantine except as provided in RCW 16.36.030.

NEW SECTION

WAC 16-80-015 SALE OF QUARANTINED ANIMALS. No person shall offer for sale any swine from a pseudorabies quarantined herd for other than immediate slaughter: PROVIDED, HOWEVER, That such swine shall only be moved from the pseudorabies quarantined herd when accompanied by an official federal form number VS1-27 filled out and signed by a federal or state veterinarian.

NEW SECTION

WAC 16-80-020 QUARANTINE AND RELEASE. Any herd of swine in which pseudorabies positive animals are found will be quarantined. The quarantine will be released when the entire quarantined herd has successfully completed PLAN A (test and removal), PLAN B (offspring segregation), or PLAN C (depopulation - repopulation) as described in "Swine Pseudorabies Eradication Guidelines," prepared and published by the pseudorabies committee, Livestock Conservation Institute. PLAN C will be the plan of choice if the state-wide herd infection rate is less than 0.1% of total number of state herds. The plan used will be determined by mutual agreement between the herd owner or their veterinarian if so designated by the owner and the state veterinarian.

NEW SECTION

WAC 16-80-025 DISINFECTING PREMISES. All barns, feed troughs, water tanks, feeding platforms, farrowing houses, and dry lots where a pseudorabies infected herd has been held must be thoroughly cleaned and disinfected within fifteen days after all infected swine have been removed. Recommended disinfectants are: Orthophenolphenate compounds, phenolic compounds, 2% Na hydroxide, TriNaPO4, chlorhexidine.

NEW SECTION

WAC 16-80-030 DISINFECTING VEHICLES. (1) When a vehicle is used to transport pseudorabies infected animals or pseudorabies exposed animals from a pseudorabies quarantined herd, the vehicle shall be cleaned and disinfected immediately following the unloading of the last animal of each such load. The destination of such infected or exposed swine shall be equipped with department approved facilities to clean and disinfect vehicles.

(2) Upon completion of the cleaning and disinfection of the vehicle, approval of the adequacy of the cleaning and disinfection shall be obtained in writing. This approval must be obtained from a state or federal animal health employee or from an authorized representative of the director of agriculture on a form approved by the director.

NEW SECTION

WAC 16-80-035 INDEMNITY FOR PSEUDORABIES INFECTED OR EXPOSED SWINE. As provided under RCW 16.36.096, the director of agriculture may order the slaughter or destruction of any swine affected with or exposed to pseudorabies. Subject to the availability of sufficient funds, the director may pay an indemnity for any swine ordered slaughtered or destroyed. When the indemnity is approved, the amount that will be paid is one hundred dollars for any sow past fifty days pregnant or with suckling piglets, fifty dollars for boars and open sows or sows less than fifty days pregnant, and fifty dollars for breeding gilts over two hundred fifty pounds live weight. An indemnity of up to fifty percent of appraised value of feeding stock will be paid when destroyed rather than slaughtered.

No indemnity will be paid if:

(1) The state-wide infection rate exceeds 0.1% of total swine herds in the state;

(2) The swine belong to the federal government or any of its agencies, this state or any political subdivisions thereof or any municipal corporations; or

(3) The swine were brought into this state within six months of being ordered slaughtered or destroyed.

NEW SECTION

WAC 16-80-040 VACCINATION. No pseudorabies vaccine may be used in the state of Washington except when the use of an approved pseudorabies vaccine is specifically authorized in writing by the state veterinarian for use in a pseudorabies infected herd under pseudorabies eradication PLAN A (test and removal). Only gene deleted vaccines with a corresponding specific laboratory test will be authorized.

NEW SECTION

WAC 16-80-045 IDENTIFICATION OF SWINE. Boars and sows moving through livestock auction yards or collection facilities in intrastate commerce must be tagged with official identification. All swine moving in interstate commerce must be identified in compliance with federal regulation CFR 71.19 a & b.

NEW SECTION

WAC 16-80-047 MANDATORY REPORTING OF SUSPECTED PSEUDORABIES. Pseudorabies is a reportable disease under WAC 16-70-010 and must be reported to the department immediately by persons licensed to practice veterinary medicine in the state of Washington as required by WAC 16-70-010. Additionally, laboratories and swine producers are hereby required to report to the director of agriculture or his authorized representative the discovery of the existence or suspected existence of pseudorabies infection among domestic swine within the state. This report shall be immediate (by telephone or FAX on the day discovered) to the office of the state veterinarian, telephone number (206) 753-5040, FAX (206) 753-3700.

NEW SECTION

WAC 16-80-050 CRIMINAL PENALTY—CIVIL INJUNCTION. Pursuant to RCW 16.36.110, a violation of or a failure to comply with any provisions of this chapter shall be a gross misdemeanor. Each day upon which a violation occurs shall constitute a separate violation.

**WSR 91-05-077****PROPOSED RULES****BOARD FOR****VOCATIONAL EDUCATION**

[Filed February 20, 1991, 11:05 a.m.]

**Original Notice.**

Title of Rule: Chapter 490-100 WAC, Private vocational school licensing.

Purpose: To amend rules previously filed December 13, 1990; to add a new section; and to repeal a section.

Statutory Authority for Adoption: Chapter 28C.10 RCW.

Statute Being Implemented: Chapter 28C.10 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Johnson, Olympia, 586-8683.

Name of Proponent: State Board for Vocational Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To update, extend, and clarify regulations governing the operation of private vocational schools.

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: Educational Service District #113, Mason Pacific Lewis Room, 601 McPhee Road S.W., Olympia, WA 98502, on March 28, 1991, at 8:30 to 9 a.m.

Submit Written Comments to: Stan Marshburn, Chairperson, State Board for Vocational Education, by March 25, 1991.

Date of Intended Adoption: March 28, 1991.

February 20, 1991  
Merritt D. Long  
Executive Director

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-010 AUTHORITY. These rules are promulgated pursuant to ~~((chapter 28C.10 RCW))~~ the authority contained in RCW 28C.10.040(2) to implement the Private Vocational Schools Act.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-030 ~~((EXEMPTIONS))~~ DEFINITIONS. ~~((See RCW 28C.10.030.))~~ (1) The following is intended to clarify the statutory exemptions (see RCW 28C.10.030):

~~((+))~~ (a) "Avocational" or "recreational" means instruction which is primarily intended for leisure and not offered for the purpose of providing a student with employable skills or with competencies that upon completion of the program, course, or class would be customarily applied to gainful employment and is not utilized by the school as a prerequisite for vocational instruction.

~~((+))~~ (b) Entities not otherwise exempt offering only workshops or seminars lasting not more than three calendar days and consisting of no more than twenty-four contact hours of instruction: PROVIDED, That training is completed within the three calendar days; and a vocational education program is not being offered through a series of supplementary seminars.

(2) The term "revoke" as used in RCW 28C.10.050(2) and elsewhere in these regulations means that the agency terminates the school license. When the license is revoked, the school is no longer legally authorized to continue operating.

(3) The term "suspend" as used in RCW 28C.10.050(2) and elsewhere in these regulations means that because of deficiencies, the agency interrupts for a stated time the school's authority to make offers of training, as that is defined under RCW 28C.10.020(9), and prohibits the school for that time to begin instruction of new students, but it may remain in operation to continue training students already enrolled and in good standing on the date such suspension commences.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-035 AUXILIARY FACILITIES. (See RCW 28C.10.020(7).) Any location within the state of Washington at which an entity provides postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession is deemed to be a private vocational school within the meaning of RCW 28C.10.020(7), except for case-by-case exemptions that may be granted for activities that meet the following definition of "auxiliary facility."

(1) Upon application to the agency on forms provided for that purpose, a licensed private vocational school may be authorized to provide training services at an additional physical site termed an "auxiliary facility."

To qualify for the designation "auxiliary facility," the site must be established by the licensee to meet one or more of the following criteria:

(a) To absorb a temporary overload which the licensed facility cannot accommodate; or

(b) To provide a single, specialized kind of training activity, generally on a short-term basis, under circumstances that cannot readily be accommodated at the licensed facility; or

(c) To provide training under contract(s) with a public agency, private company, or other sponsoring entity: PROVIDED, That no fiduciary responsibility is created between students and the licensee under such arrangements: PROVIDED FURTHER, That the training offered is not open to general enrollment.

(2) To have any of its activities classified as an "auxiliary facility" and not subject to being licensed as a private vocational school, a licensee must secure approval from the agency in advance of conducting operations at such a site by documenting that it meets one of the above definitions and in addition that:

(a) The instructional program(s), site administration, and training provided at the auxiliary facility are significantly integrated with the licensee's primary facility; and

(b) The address of the auxiliary facility will not be represented as a school location.

(3) Activities carried forward at an auxiliary facility must be regularly incorporated into operational and financial data reported to the agency by the licensee: PROVIDED, That income derived from activities conducted under contract (see: Subsection ~~((+))~~ (1)(c) of this section) will not be included as "tuition income" for purposes of calculating license fees and/or contributions to the tuition recovery fund.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-040 CANCELLATION AND REFUND POLICY. (See RCW 28C.10.050 (1)(b).) As a condition of licensing, each school must adhere to the following uniform state-wide minimum cancellation and refund policy: PROVIDED, That any refund due to students receiving federal financial assistance ~~((e.g., Pell Grant, Supplemental Education Opportunity Grant, National Direct Student Loan, etc.))~~, grant, or loan, will be refunded by the school to the particular federal financial aid program in accordance with federal law:

(1) A full refund of all money paid if the applicant is not accepted by the school;

(2) A full refund of tuition and fees paid if the applicant withdraws not later than midnight on the fifth business day (excluding Sundays and holidays) after signing the contract or making an initial payment, provided that the applicant has not commenced training;

(3) After five business days (excluding Sundays and holidays), the school may retain an established registration fee equal to ten percent of the total tuition cost, or one hundred dollars, whichever is less. "Registration fee" refers to any fee, however named, covering those expenses incurred by an institution in processing student applications and establishing a student records system;

(4) The official date of termination of a student shall be the last date of recorded attendance when withdrawal occurs in any of the following manners:

(a) When the school receives notice of the student's intention to discontinue the training program;

(b) When the student is terminated for a violation of a published school policy which provides for termination;

(c) When a student, without notice to the institution, fails to attend classes for thirty calendar days.

(5) If training is terminated after entering classes, the student is financially obligated to the school according to the following formulas or maximum charges:

(a) Termination during first week or ten percent of instruction, whichever is less. School may retain ten percent of tuition cost plus registration fee established under subsection (3) of this section;

(b) Termination after first week or ten percent of instruction, whichever is less, but prior to completion of twenty-five percent of contracted instructional time. School may retain twenty-five percent of tuition cost plus registration fee established under subsection (3) of this section;

(c) Termination after completion of first twenty-five percent but prior to completion of fifty percent of contracted instructional time. School may retain fifty percent of tuition cost plus registration fee established under subsection (3) of this section;

(d) Termination after completion of more than fifty percent of contracted instructional time. School may retain the full tuition cost plus registration fee established under subsection (3) of this section.

(6) If a school continues to operate under its license but discontinues instruction in any program after training of students has begun, the students enrolled in the discontinued program are entitled to a prorata refund of all tuition and fees paid unless comparable training is arranged by the school to be provided at another public or private vocational school and such arrangements are agreed to in writing by the student as provided by WAC ((490-800-220)) 490-100-220(4).

(a) Notice in advance of the discontinuance must be provided to the agency and to students in writing, including at the least data required under WAC ((490-800-220)) 490-100-220(2).

(b) The term "discontinued" generally applies to the elimination by the school of a particular course offering prior to its completion. However, the term includes circumstances where program(s) commenced at a specific location under terms of an enrollment agreement are relocated to substituted physical site.

(c) A student affected by relocation may voluntarily accept transportation and other arrangements offered by the school in order to continue his/her training or may file a refund claim.

(d) Requests for refunds pursuant to this provision must be made in writing by the enrolled student within thirty calendar days following discontinuation of the program. Money due the applicant/student shall be refunded within thirty calendar days after receipt of the request.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-050 CATALOG, BROCHURE, OR OTHER WRITTEN MATERIAL. (See RCW 28C.10.050 (1)(c).) The catalog/bulletin shall be the school's principal printed means to explain its operations and requirements to prospective and enrolled students. For this reason, it shall be current, comprehensive, and accurate. Each school shall publish a catalog, brochure, or other written material which shall include the following:

(1) Date of publication;

(2) Names of owners having a ten percent or more equity ownership and officers, including any governing boards, and parent corporation, if a subsidiary;

(3) Names, addresses, and telephone numbers of the school's administrative offices and all auxiliary facilities;

(4) Names and qualifications of teaching faculty. Such lists shall be accurate as of the date of catalog publication. Any changes of faculty shall be noted on a catalog errata sheet provided each student prior to entering classes;

(5) The school calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate;

(6) Admission procedure, policies, and regulations describing accurately and completely all prerequisites (e.g., GED, physical requirements, etc.) and ((requirements for)):

(a) Fulfilling the skills assessment requirements adopted/developed by the school and applied to each applicant as part of the admissions process;

(b) Completing successfully the programs of study in which they are interested; and

((b)) (c) Qualifying for the fields of employment for which their education is designed.

(7) A description of the exact nature and kind of placement assistance offered, if any. If no assistance is offered, the school shall make this fact known;

(8) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

(9) The school's policy and regulations relative to leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance;

(10) The school's policy and regulations relative to standards of progress required of the student. This policy will define the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, and a description of the probationary period, if any, allowed by the school, and conditions for reentrance for those students dismissed for unsatisfactory progress. A statement will be furnished to the student regarding the student's progress.

(11) An accurate description, whether through words, photos, or other means, of the school's facilities, equipment, and physical plant used for training with a description of the equipment available for student use and the maximum or usual class size;

(12) Total cost of training including registration fee, if any, tuition, books, supplies, equipment, laboratory usage, student activities, insurance and all other charges and expenses necessary for completion of the program;

(13) A description of each course of instruction, including:

(a) Specific course objectives: The educational or vocational objective of each course or program including the name of occupations for which the course or program purports to train;

(b) The number of clock or credit hours of instruction and types of instruction (e.g., correspondence, classroom, lab, computer assisted) in each course and the average length of time in weeks or months normally required for completion;

(c) If instruction is calculated in credit hours, the catalog must contain at least one statement describing the contact hour conversion formula applied by the school: The number of contact hours applicable to each quarter or semester credit hour of lecture, laboratory/practicum, and/or internship/externship.

(d) Number of lessons (correspondence/home study schools). "Correspondence and/or home study school" shall mean that the instructional format of the school involves the sequential mailing or distribution of lessons to the student, who studies the material, completes a lesson examination, and returns the examination to the school. The school then grades the lesson/examination (and, in some instances, provides additional comments and instruction), and returns the graded lesson to the student along with the next set of instructional materials;

(e) The scope and sequence of courses or programs required to achieve the educational objective;

(f) A statement indicating what type of certificates, diplomas or other educational credentials are awarded upon graduation or successful completion.

(14) Policy and regulations relative to refund of unearned tuition, fees, and other charges, which must meet the minimum cancellation and refund policy set forth in these rules, including procedures a student shall follow to cancel enrollment before or after instruction has begun;

(15) The following statement shall appear prominently on either the first or last printed page or inside the front or back cover: THIS SCHOOL IS LICENSED UNDER CHAPTER 28C.10 RCW; INQUIRIES OR COMPLAINTS REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE BOARD FOR VOCATIONAL EDUCATION, BUILDING 17, AIRDUSTRIAL PARK, MAILSTOP LS-10, OLYMPIA, WASHINGTON 98504-6110 (206/753-5673);

(16) Availability of financial aid, grants and scholarships, if any;

(17) Supplements or errata sheets for the catalog/bulletin or other written materials shall be filed with the agency prior to being used (see RCW 28C.10.110(2));

(a) Supplement pages or errata sheets shall be fastened to or otherwise made an integral part of that publication;

(b) The catalog/bulletin supplement or errata sheets shall include the publication date;

(c) In event that information on a supplement or errata sheet supplants any other information contained in the catalog/bulletin, the insert shall specifically identify the information it contradicts or replaces, including at the least an appropriate page reference.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-060 ENROLLMENT CONTRACT OR AGREEMENT. (See RCW 28C.10.050 (1)(d).) "Enrollment agreement" is any agreement, instrument or note, however named, which creates or evidences an obligation binding a student to purchase a course of instruction from a school. Each school shall use an enrollment contract or agreement that includes:

(1) The school's cancellation and refund policy, in accordance with these rules, displayed in a type size no smaller than that used to meet any other requirements of this section;

(2) The following statement: THIS SCHOOL IS LICENSED UNDER CHAPTER 28C.10 RCW; ((INQUIRIES)) INQUIRIES OR COMPLAINTS REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE BOARD FOR VOCATIONAL EDUCATION; BUILDING 17, AIRDUSTRIAL PARK; MAILSTOP LS-10; OLYMPIA, WASHINGTON 98504-6110; (206/753-5673);

(3) Information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:

(a) The name and address of the school and the student;



(b) The title of the educational services, date training is to begin, and the number of hours or units of instruction or lessons for which the student is enrolled;

(c) The cost incurred by the student or his/her sponsor in order to complete the training. Such costs shall be itemized and shall include tuition, fees, books, supplies (where appropriate), and all other charges made by the school necessary to complete the training. The student enrollment agreement shall outline the methods of payment or the payment schedule;

(d) A statement acknowledging receipt of a copy of the school's catalog and student enrollment agreement by the student;

(e) Language explaining that the agreement will be binding only when officially accepted and the agreement is fully completed, signed and dated by the student and chief administrative officer or authorized representative of the school prior to the time instruction begins.

(4) A statement that any changes in the agreement shall not be binding on either the student or the school unless such changes have been approved in writing by the chief administrative officer or an authorized representative of the school and by the student or the student's parent or guardian if he/she is a minor;

(5) "NOTICE TO THE BUYER" which includes the following statements in a position above the space reserved for the student's signature:

(a) "DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. THIS IS A LEGAL INSTRUMENT.

(b) ~~((BOTH SIDES))~~ ALL PAGES OF THE CONTRACT ARE BINDING.

(c) READ BOTH SIDES OF ALL PAGES BEFORE SIGNING.

(d) YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT, SCHOOL CATALOG AND ANY OTHER PAPERS YOU SIGN.

(e) YOU MAY CANCEL THIS CONTRACT BY PROVIDING NOTICE OF SUCH CANCELLATION TO THE SCHOOL AT ITS ADDRESS SHOWN ON THE CONTRACT WHICH NOTICE SHALL BE POSTMARKED NOT LATER THAN MIDNIGHT OF THE FIFTH BUSINESS DAY (EXCLUDING SUNDAYS AND HOLIDAYS) FOLLOWING YOUR SIGNING THIS CONTRACT OR IT MAY BE PERSONALLY OR OTHERWISE DELIVERED TO THE SCHOOL WITHIN THAT TIME. IN EVENT OF DISPUTE OVER TIMELY NOTICE, THE BURDEN TO PROVE SERVICE RESTS ON THE SENDER.

(f) IT IS AN UNFAIR BUSINESS PRACTICE FOR THE SCHOOL TO SELL, DISCOUNT OR OTHERWISE TRANSFER THIS CONTRACT OR PROMISSORY NOTE WITHOUT THE SIGNED WRITTEN CONSENT OF THE STUDENT OR HIS/HER FINANCIAL SPONSORS AND A WRITTEN STATEMENT NOTIFYING ALL PARTIES THAT THE CANCELLATION AND REFUND POLICY CONTINUES TO APPLY."

(6) Physically attached to each completed contract shall be a one-page form constructed by the agency and supplied in prototype to each licensee, containing acknowledgements signed by the school and the enrollee relating to the student's rights, responsibilities, and loan repayment obligations; and attesting that the school counseled the enrollee against incurring excessive debt burdens.

(7) The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution or by return mail when the enrollment is solicited by mail.

#### AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-070 TIME OF APPLICATION. (See RCW 28C.10.060.) (1) Initial licensing. Any entity desiring to operate a private vocational school(s) must initially be licensed by the agency no later than ~~((one month))~~ thirty calendar days prior to the date on which it first offers educational services;

(2) Renewal. Each private vocational school must annually renew its license. No later than ~~((one month))~~ thirty calendar days prior to the anniversary date of its license, the private vocational school must file a completed application for license renewal, including a financial statement, attested to by the chief administrative officer, and amend any statements or materials on file which are no longer accurate.

(3) A license may be denied, revoked, or suspended by the agency's executive director or his/her designee for just cause.

(4) Transition. A training location in operation on or before June 7, 1990, as an "additional instruction site" (WAC ~~((490-800-100))~~ 490-100-100(2)) under a license issued to a common owner but which site is required to be individually licensed as a private vocational school, as a consequence of the enactment of RCW 28C.10.020(7) shall be considered to be licensed under chapter 28C.10 RCW until the expiration date of the license under which its owning entity was operating on June 7, 1990: PROVIDED, That during such transition, an affected "additional instruction site" remains otherwise in compliance with the provisions of the act and these rules: PROVIDED FURTHER, That

the license of its owning entity remains valid throughout the transition period described.

#### AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-080 DISPLAY OF LICENSES—LOSS OR DESTRUCTION—CHANGE OF NAME—CHANGE OF LOCATION. (See RCW 28C.10.060.) (1) Licenses shall be issued in the name of the applicant school showing that name, its address, and phone number. In the instance of schools under a common ownership, the name and address of the owning entity shall also be shown.

(2) A certificate shall be issued to each auxiliary facility for which approval is requested and granted in accordance with the provisions of WAC ~~((490-800-100))~~ 490-100-100. It shall contain the identifications described under subsection (1) of this section.

(3) Display. Each school shall prominently display its license and/or certificate issued to an auxiliary facility to the public, prospective students, and other interested persons at each location.

(4) Loss or destruction. Upon the loss or destruction of any license and/or certificate issued to an auxiliary facility, application for a duplicate and payment of the appropriate license reissuance fee must be made to the agency. See WAC ~~((490-800-120))~~ 490-100-120(4).

(5) Change of name. No licensee shall adopt or make a change in its name prior to providing written notification to the agency together with payment of the appropriate license reissuance fee. See WAC ~~((490-800-120))~~ 490-100-120(5).

(6) Change of location. No change in the location of premises including auxiliary facilities, if any, shall be made without applying to and obtaining prior written consent of the agency and making payment of the appropriate license reissuance fee. See WAC ~~((490-800-120))~~ 490-100-120(6).

#### AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-090 CHANGE OF OWNERSHIP—LICENSE NONTRANSFERABLE. (See RCW 28C.10.060.) (1) The ownership of a licensed entity is deemed to have changed at the consummation of:

(a) A sale by the sole proprietor of a school;

(b) A change in the majority interest of general partners of a partnership owning a school; or

(c) A sale or transfer of stock occurs that creates a change in the majority interest in the issued and outstanding shares of a corporation owning a school.

(2) No license issued under this chapter is transferrable. Simultaneous with consummating the change(s) described under subsection (1) of this section, the license(s) issued to the existing owner(s) expires.

(3) The provisions of subsection (2) of this section notwithstanding, to maintain a continuity of operation, the new ownership must make application for a new license no less than fifteen calendar days prior to the change of ownership. The agency may extend the existing license for a maximum sixty calendar days beyond the date that ownership changes: PROVIDED, That the new applicant's chief administrative officer furnishes a written statement asserting that all conditions set forth in the act and these rules are being met or will be met before offering training or education in the period during which the application for new license is pending.

(4) In event the new owner(s) fail to obtain a license in no more than sixty calendar days after the date of sale or transfer of ownership and no further extension of time has been granted by the agency, continued operation beyond that date as a private vocational school will constitute a violation of RCW 28C.10.090.

#### AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-100 APPLICATION CONTENTS. (See RCW 28C.10.050 and 28C.10.060.) Any entity desiring to operate a private vocational school shall apply for license to the agency on forms provided by the agency which shall include the following information attested to by the school's chief administrative officer.

(1) Owners, shareholders, and directors:

(a) The complete legal name of the school, current telephone number, current mailing address, the school's physical address, and date of establishment;

(b) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, birthdates, prior school affiliations and capacities, and any other appropriate information of all those with ten percent or more ownership interest;

(d) A school which is a corporation or a subsidiary of another corporation shall submit to the agency as part of the school's application current evidence that the corporation is registered with the Washington secretary of state's office and the name, address and telephone number of the corporation's registered agent;

(e) "Ownership" of a school means:

(i) In the case of a school owned by an individual, that individual;

(ii) In the case of a school owned by a partnership, all full, silent and limited partners having a ten percent or more ownership interest;

(iii) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(2) Schools under common ownership. Application(s) for initial and renewal licensing may be submitted by a single entity on behalf of each private vocational school under its common ownership: PROVIDED, That the owning entity controls the licensee's recruiting activities, faculty, and administrators, course curricula and guidelines for teaching, and is otherwise wholly accountable for its operations.

(a) Each license issued to a private vocational school under common ownership shall be valid only for the location listed in the initial and renewal applications and the name and address of the owning entity shall be shown thereon in addition to information identifying the individual site.

(b) A single location may be identified by the owning entity as the principal facility for recordkeeping.

(3) ~~((Agents of institutions. Each agent's name, address, phone number, territory, date of birth, prior school affiliations and capacities.~~

~~((4))~~ Financial statement. Each school must annually disclose to the agency information reflecting the financial condition of the school at the close of its most recent fiscal or calendar year to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Entities operating a private vocational school must submit:

(a) The fiscal year dates utilized for the school's operations;

(b) A financial statement ~~((showing gross tuition income (excluding refunds, books, tools, and supplies) for the last completed fiscal year, certified by the school's chief administrative officer. This may be accomplished by submitting one of the following))~~ in a format supplied by the agency that:

(i) ~~((A copy of an external audit prepared by a certified public accountant or a state audit agency; or~~

~~((ii))~~ A financial statement in the format provided by the agency;

~~((c))~~ Is certified true and accurate by the school's chief administrative officer or his/her designee; and

~~((ii))~~ Covers the period of the most recently completed of the periods established in (a) of this subsection.

~~((c))~~ On a showing by the school that inadequate time exists to produce such data in the interval between the ending date of the period established in (a) of this subsection and the due date of an application, the agency will adjust the license period of the school to provide a reasonable interval.

(d) Any entity just starting operations at the time of initial licensing must substitute for the financial statement described under (b) of this subsection, a proposed operating budget for its initial twelve months' period of operation using a format provided by the agency.

~~((d))~~ (e) Any entity seeking initial licensing as a private vocational school which has operated another business or businesses for one year or more prior to filing an application under chapter 28C.10 RCW, shall include in its initial application, in addition to the requirements under ~~((e))~~ (d) of this subsection, a financial statement for any one or more such additional business(es) that is prepared by a certified public accountant and/or certified by its chief administrative officer, covering ~~((the prior business in))~~ the period of its most recently completed fiscal year.

~~((e))~~ (f) The owning entity of multiple schools under a common ownership may file financial information with initial or renewal license applications that consists of a single, consolidated financial statement and balance sheet for the corporate entity, as described under (b) of this subsection: PROVIDED, That it is accompanied by data extracted

therefrom that documents total tuition earnings for each licensee under its common ownership at the close of its most recent fiscal year of operation, or lacking historic data, projects total tuition earnings for a subject school in its first or next completed twelve months of operation.

~~((5))~~ (4) Financial references. The applicant shall furnish the name(s) of one or more bank(s) or other financial institution(s) that may be consulted as financial reference(s) for the entity and school, together with a statement authorizing the agency to verify such information by consulting with the references furnished.

~~((6))~~ (5) A copy of the applicant's catalog.

~~((7))~~ (6) A copy of the applicant's enrollment agreement/contract.

~~((8))~~ (7) Administrators/instructors educational and occupational records, employing qualification forms supplied by the agency for that purpose, evidencing names, Social Security numbers, addresses, phone numbers, positions, education, experience, prior school affiliations, and birthdates.

#### AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-105 APPLICATION ~~((FOR LICENSE))~~ TO OPERATE AS AGENT OF PRIVATE VOCATIONAL SCHOOL. (See RCW 28C.10.060.) (1) No person shall act in this state as an agent for a private vocational school unless the board has approved the individual's registration as an agent as part of the school's license.

(2) The application shall be in writing, upon forms prepared and supplied by the agency and shall contain at least the following:

(a) The full name, Social Security number, current address, and phone number of the individual applying for ~~((license))~~ registration;

(b) The name, current address, and phone number of the vocational school proposed to be represented;

(c) The past employment record of the applicant~~((:))~~;

~~((2))~~ (d) The signatures of the applicant and chief administrative officer of the school.

(3) Each agent registered under this chapter shall be considered for all purposes under chapter 28C.10 RCW to be acting as an agent of the licensee submitting his/her application and no person can be independently registered to perform those functions.

(4) Each school shall provide training to a sales agent prior to his/her representing the school in that capacity that includes:

(a) Knowledge of the Private Vocational School Act (chapter 28C.10 RCW) and the regulations contained in this chapter.

(b) A detailed understanding of the school's catalog, enrollment contract, and refund policy.

(c) An organized review of the school's policies and practices governing the ethical conduct of sales agents.

(5) In the instance of an individual who applies to represent a private vocational school that is domiciled in another state and does not operate training facility(ies) within Washington state, the application shall be accompanied by the ~~((license))~~ fee in WAC ~~((490-800-120))~~ 490-100-120(2).

~~((3))~~ (6) Each school to whom the agent is ~~((licensed))~~ registered shall notify the agency in writing within no more than thirty calendar days following the date that the ~~((licensed))~~ registered agent ceases to perform those services~~((; indicating therein whether for reasons of reassignment to other duties or termination of employment))~~.

#### AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-110 NOTICE OF ACTIONS BY GOVERNMENTAL ENTITIES OR ACCREDITING COMMISSIONS—CHANGE OF CIRCUMSTANCES. (See RCW 28C.10.060.) At the time of original and renewal applications, the entity shall present the agency with details of any consent orders with the Federal Trade Commission and notification of any adverse actions which have been taken by any federal or state agencies, including courts or accrediting commissions~~((The entity))~~ and shall inform the agency in writing of actions being taken to correct deficiencies cited. Any change of circumstance, including bankruptcy, which would ~~((require amendment to the))~~ amend information reported in the application for initial license/license renewal form must be filed with the agency within ~~((thirty))~~ ten calendar days of the change~~((, along with a notarized statement))~~ by the chief administrative officer.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-120 FEES. (See RCW 28C.10.060(3).) (1) Annual fee:

- (a) For in-state schools, the annual licensing fee is based on total annual tuition income.
- (b) For out-of-state schools, the annual licensing fee is based on total annual tuition income received from or on behalf of Washington state residents.
- (c) Schools not having been in operation prior to the date of their initial licensing shall base their annual fee upon estimated total annual tuition income.

Total Annual Tuition Income	License Fee
Up to \$25,000 .....	\$ 250
\$25,001 to \$50,000.....	\$ 500
\$50,001 to \$100,000.....	\$ 600
\$100,001 to \$250,000.....	\$ 750
\$250,001 to \$500,000.....	\$1,000
\$500,001 to \$1,000,000.....	\$1,500
\$1,000,001 to \$2,500,000 .....	\$2,000
Over \$2,500,001 .....	\$2,500

- (2) Agents representing out-of-state schools: \$120 annual fee per agent per school represented.
- (3) Fee for late filing of renewal application: \$25 per day for the ~~((month))~~ thirty calendar days prior to the expiration of the current school license;
- (4) Loss or destruction of license/auxiliary certificate. Reissuance fee: \$25.
- (5) Change of name. Reissuance fee: \$25.
- (6) Change of location. Reissuance fee: \$25.
- (7) Auxiliary location. Certificate issuance fee: \$25.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-130 FINANCIAL STANDARDS. (See RCW 28C.10.050 (1)(a).) The school must demonstrate that it has sufficient financial resources to:

- (1) Fulfill its ~~((commitments))~~ contracted obligations to students;
- (2) ~~((Follow))~~ Meet all refund obligations incurred under a uniform state-wide cancellation and refund policy as specified in these rules;
- (3) Meet the school's operational expenses and maintain its financial obligations;
- (4) ~~((Furnish and maintain))~~ Make scheduled contributions to the tuition recovery fund as required under WAC ~~((490-800-180))~~ 490-100-180.

**NEW SECTION**

WAC 490-100-135 ADMISSIONS STANDARDS. (See RCW 28C.10.050 (1)(g).) Prior to enrolling any individual into a program of study each school shall assess in accordance with the following guidelines the appropriate employment prerequisites, basic skills, and relevant aptitudes of each individual applying for enrollment to determine that he/she has the ability to complete and benefit from the program or programs he/she is considering.

- (1) Within sixty calendar days following the adoption of this section, each current licensee shall file with the agency a description of the methodology it employs to comply with the requirements under this section and each entity applying to be licensed as a private vocational school under chapter 28C.10 RCW shall include such information in its application. Any subsequent substantive change(s) in the methodology initially submitted shall be reported to the agency no more than fifteen calendar days after such change is adopted.
- (2) The individual's ability to benefit shall be measured against current prerequisites for employment in the job objective established for the program, e.g., prior work and health history, driving and arrest records, and evaluations of any applicable physiological factors such as vision acuity, color perception, lifting and weight bearing capabilities, and manual dexterity.
- (3) The individual's academic abilities shall be considered adequate to meet learning needs upon demonstration that he/she has earned a

high school diploma or General Educational Development (GED) Certificate.

- (4) To assess the academic capabilities of individuals applying for admission who have not earned a high school diploma or GED, the school shall adopt or devise a test or tests with the demonstrated capability to:
  - (a) Validate that the individual possesses skills, competencies, and knowledge that correlates with grades, course or program completion or other measures of success in the program of study, or;
  - (b) Validate that the individual's academic skills, competencies, and knowledge are at a level equivalent to that of persons completing a high school education;
  - (c) Provide a periodic, organized review comparing success ratios of accepted students with test cut-off scores and incorporating appropriate cut-off adjustments.
- (5) The agency will accept as prima facie evidence of meeting the criteria in subsection (4) of this section a statement by the school indicating that the testing used to determine ability to benefit has been published by the American College Testing Service (ACT) and/or reviewed and approved by the American Council on Education (ACE).
- (6) The following must be part of the methodology developed for assessment:
  - (a) In the event that tests are administered by school officials, evidence that they are being administered as intended by the publisher/test developers;
  - (b) Information about the test security procedures employed, evidencing that students have no advance information about the exact questions or tasks and that answers cannot be supplied by a third party while completing the test(s);
  - (c) Information about test scoring procedures employed, evidencing that if tests are scored by school officials the tests are being evaluated as intended by the publisher/test developer;
  - (d) Information that the test(s) does/do not contain information that is offensive with regard to gender, age, native language, ethnic origin, or handicapping conditions.
- (7) Records resulting from the assessment of ability to benefit must be included as a regular part of the records of each entering student.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-140 PROGRAM STANDARDS. (See RCW 28C.10.050 and 28C.10.060.) The school shall design and implement programs that by content and instructional strategies have the capacity to provide educational services ((such as)) that will adequately achieve the stated objectives for which the educational services are offered. In evaluating program offerings, the agency will use as a guideline their comparability, if any, to similar programs leading to similar educational objectives that have been established by other comparable schools.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-150 STAFF QUALIFICATIONS. (See RCW 28C.10.050 and 28C.10.060.) (1) The education and experience qualifications of administrators, instructional staff, and other personnel shall adequately insure that the students will receive educational services consistent with the stated objectives for which the educational services are offered.

- (2) No school licensed under this chapter shall use the services of any administrative or instructional personnel for more than thirty calendar days after their initial employment or following the effective date of this section, whichever shall first occur, without completing and filing with the agency information regarding their qualifications. Such information shall be submitted on forms provided by the agency for that purpose.
- (3) Each licensee shall establish and enforce specific written policies setting standards for qualification, supervision, and evaluation of administrators, faculty, and staff. As a minimum, the following qualifications shall be required:
  - (a) School directors must have at least two years of prior experience in either school or business administration, teaching, or other experience related to their duties within the school's organization;
  - (b) If the graduated student is required to be licensed, certificated, or rated as a condition to employment in the job objective of a program, an instructor teaching a related class or course must hold or be qualified to hold such a license, certificate, or rating, and must possess

at least two years of work experience or two years of postsecondary training in the subject which they instruct, or any equivalent combination of both: **PROVIDED**, That current evidence of being qualified to teach that is issued by a regulatory agency, board, or commission of this or another state is acceptable in lieu of the foregoing;

(c) If a school utilizes any form of teacher assistants, aides, or trainees, it shall establish and maintain policies and practices governing their duties and functions. Such personnel shall provide services to students only under the direct supervision of and shall not substitute for a qualified instructor.

(4) No school licensed under this chapter shall employ administrators, faculty members, or agents, and no persons shall hold positions of direct authority or control in a licensed school who are not of good moral character and reputation:

(a) The agency may find a person not to be of good moral character and reputation when the person has been convicted of:

- (i) Any felony within the prior seven years;
- (ii) A misdemeanor which involved the illegal use, possession, or sale of a controlled substance; or
- (iii) A misdemeanor that involved any sexual offense.

(b) The agency may find a person not to be of good moral character when that person is accused of acts while employed by a licensed school involving the illegal sale, possession, or use of a controlled substance, or involving any sexual offense, and for which act or acts the individual has been criminally charged.

(c) The agency shall not make a finding that a person is not of good moral character solely for the reason that the person has been convicted of/charged with a felony but shall consider the relationship of the facts which support the conviction/charge and all associated circumstances to the performance of his or her occupational responsibilities with the licensed school and to that school's students.

(d) In making such determinations the agency shall request a letter of recommendation from the employing school and may consider any other related materials submitted by the school and/or affected individual prior to making a finding under this section.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-160 **FACILITIES**. (See RCW 28C.10.050 and 28C.10.060.) (1) To be licensed under this chapter, the school must have an exact physical location or locations, including in that requirement any auxiliary facility(ies) operated under the provisions of WAC 490-100-035(1).

(2) The physical ((plant and equipment)) structure, classrooms, laboratories, faculty and staff accommodations, study and study lounge areas, restroom/sanitary facilities, and heating/ventilation capabilities of the school shall be commensurate in size, accommodations, and condition to meet the purposes of the school and the program objectives. The school must provide a modern and effective learning environment containing enough classroom, laboratory, and shop space for the number of students to be trained.

(3) The school must have evidence available for agency inspection demonstrating that all premises are maintained in compliance with applicable state laws and local ordinances relating to the safety and health of persons on the premises.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-170 **EQUIPMENT AND MATERIALS**. (See RCW 28C.10.050 and 28C.10.060.) Equipment, furniture, instructional devices and aids, machinery and other physical features of the classroom, laboratory, or shop shall be adequate to achieve the stated educational objectives of the course((-and)). It shall be comparable in number and quality with those used by comparable schools with similar programs and educational objectives((-The equipment available must be)), comparable to that in current use by the appropriate trade, business or profession, and be of sufficient quantity for the number of enrolled students.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-180 **TUITION RECOVERY FUND**. (See RCW 28C.10.082, and 28C.10.084.) (1) Establishment of fund liability limits. The amount of liability that can be satisfied by this fund on behalf

of each individual entity licensed under this chapter shall be based on the following scale:

Total Annual Tuition Income:	Liability Limit:
\$ 0.00 to \$ 50,000 .....	\$ 5,000
\$ 50,001 to \$ 75,000 .....	\$ 7,500
\$ 75,001 to \$ 100,000 .....	\$ 10,000
\$ 100,001 to \$ 150,000 .....	\$ 15,000
\$ 150,001 to \$ 200,000 .....	\$ 20,000
\$ 200,001 to \$ 250,000 .....	\$ 25,000
\$ 250,001 to \$ 350,000 .....	\$ 35,000
\$ 350,001 to \$ 500,000 .....	\$ 50,000
\$ 500,001 to \$ 750,000 .....	\$ 75,000
\$ 750,001 to \$ 1,000,000 .....	\$ 100,000
\$ 1,000,001 to \$ 1,250,000 .....	\$ 125,000
\$ 1,250,001 to \$ 1,500,000 .....	\$ 150,000
\$ 1,500,001 to \$ 1,750,000 .....	\$ 175,000
\$ 1,750,001 and above .....	\$ 200,000

Provided: (a) That the calculation of total annual tuition for a school located outside the state of Washington shall include only that income derived from residents of this state during the entity's preceding fiscal year of operation, as evidenced in the financial statement required by WAC 490-800-100((53)) (4); (b) institutions not yet in operation or otherwise lacking a full year's financial data prior to initial licensing, shall have a liability limit calculated on the basis of the total annual tuition estimate that institution supplies under the provisions of WAC ((490-800-120)) 490-100-100(4); (c) no liability established in any circumstance shall be less than five thousand dollars or more than two hundred thousand dollars.

(2) Matrix for calculating initial capitalization deposits and any assessments necessary under subsection (8) of this section:

Level of Liability (Section 1):	Prorated Participatory Share:
\$ 5,000 .....	\$ 0.15%
\$ 7,500 .....	\$ 0.23%
\$ 10,000 .....	\$ 0.30%
\$ 15,000 .....	\$ 0.46%
\$ 20,000 .....	\$ 0.61%
\$ 25,000 .....	\$ 0.76%
\$ 35,000 .....	\$ 1.07%
\$ 50,000 .....	\$ 1.52%
\$ 75,000 .....	\$ 2.28%
\$ 100,000 .....	\$ 3.05%
\$ 125,000 .....	\$ 3.81%
\$ 150,000 .....	\$ 4.57%
\$ 175,000 .....	\$ 5.33%
\$ 200,000 .....	\$ 6.10%

(3) Initial capitalization. Each entity applying to be initially licensed under this chapter shall submit to the agency in cash, or by check or money order, the following amounts for deposit into the tuition recovery fund, those being calculated by application of the matrix displayed under subsection (2) of this section to an amount totaling two hundred thousand;

Level of Liability (Section 1):	Capitalization Deposit:
\$ 5,000 .....	\$ 305
\$ 7,500 .....	\$ 457
\$ 10,000 .....	\$ 609
\$ 15,000 .....	\$ 914
\$ 20,000 .....	\$ 1,219
\$ 25,000 .....	\$ 1,523
\$ 35,000 .....	\$ 2,133
\$ 50,000 .....	\$ 3,046
\$ 75,000 .....	\$ 4,570
\$ 100,000 .....	\$ 6,093
\$ 125,000 .....	\$ 7,616
\$ 150,000 .....	\$ 9,139
\$ 175,000 .....	\$ 10,663
\$ 200,000 .....	\$ 12,186

(4) Five-year contribution schedule. As a condition to remaining licensed under this chapter, each entity shall, commencing six months

after the due date of its initial capitalization deposit and thereafter, remit to the agency for deposit into the tuition recovery fund semiannual payments in cash, or by check or money order in accordance with the following schedule, such amounts being calculated by application of the matrix displayed under subsection (2) of this section to an amount totaling one million dollars; however the calculation of final payment may be adjusted to cover total remittances to equal the total amount of deposit due.

Level of Liability (Section 1):	Semiannual Deposit Required:
\$ 5,000 .....	\$ 122
\$ 7,500 .....	\$ 183
\$ 10,000 .....	\$ 244
\$ 15,000 .....	\$ 366
\$ 20,000 .....	\$ 487
\$ 25,000 .....	\$ 609
\$ 35,000 .....	\$ 853
\$ 50,000 .....	\$ 1,219
\$ 75,000 .....	\$ 1,828
\$100,000 .....	\$ 2,437
\$125,000 .....	\$ 3,046
\$150,000 .....	\$ 3,656
\$175,000 .....	\$ 4,265
\$200,000 .....	\$ 4,874

(5) Transition into tuition recovery fund. A training location operated prior to June 7, 1990, as an "additional instruction site" (WAC ((~~490-800-100~~)) 490-100-100(2)) under a license issued to a common owner but required to be individually licensed as a consequence of RCW 28C.10.020(7) will, upon the expiration of its current license to operate:

(a) Be considered to have commenced its participation in the tuition recovery fund under the terms of RCW 28C.10.084 on the first date that participation under the fund was commenced by its common owner(s); and

(b) Be considered to have satisfied the requirement for an "initial capitalization" deposit (RCW 28C.10.084(5) and WAC ((~~490-800-100~~)) 490-100-180(3)) by recognizing in its name the initial capitalization deposit received on its behalf from its common owner(s); and

(c) Begin, effective with the date it is required to be separately licensed and thereafter, to make semiannual contributions to the tuition recovery fund on the basis of its reported total tuition income, calculated under subsection (4) of this section; and

(d) Begin, effective with the date it is required to be separately licensed and thereafter, to make semiannual deposits that are the same in number as remained unpaid by its common owner(s) on that date, until it has completed the schedule of ten payments described under subsection (4) of this section.

(6) The agency will prepare and mail to each licensee semiannual notices of the due dates and amounts of deposits required under subsection (4) of this section. The fee for late filings under WAC ((~~490-800-120~~)) 490-100-120(3) of this chapter shall apply to late payments of deposits into the fund for a period cumulating to thirty calendar days. Failure to make a deposit within thirty calendar days is a violation of RCW 28C.10.050 (1)(f).

(7) Each notice conforming to subsection (6) of this section shall include therein at least once each year:

(a) A notation showing the licensee's aggregated prior deposits into the fund;

(b) A notation showing the licensee's balance of remaining payments, based on the most recent deposit received;

(c) A notation showing the cumulated balance existing in the fund at the most recent half-year accounting; and

(d) A summary showing any disbursements made from the fund to satisfy claims in the period since the last such similar summary was disseminated.

(8) Within thirty calendar days after disbursements made to settle claims reduce the operating balance below two hundred thousand dollars and recovery of such funds has not been ensured under the provisions of RCW 28C.10.084 (9)(d) and/or (10), the agency shall assess each licensee a pro rata share of an amount required to restore the deficiency created by such disbursements. In making calculations of each respective share the agency shall employ the same percentages of liability established by the matrix appearing under subsection (2) of this section. In the event that the amount of any single such assessment equals or is less than the semiannual amount of deposit established for

a licensee under subsection (4) of this section, the assessment shall be paid within thirty calendar days of notice. In the event any single assessment exceeds the amount of its semiannual deposit, the entity may apply to the agency for a schedule of deferred payments. The agency shall grant such deferrals on application, but in no case shall the time extended exceed one year beyond the date of an assessment.

(9) Funds disbursed to settle claims against a current licensee shall be recovered by the agency under a schedule to be negotiated with the affected entity on a case-by-case basis following such disbursement. To secure deferral of payment more than thirty calendar days after demand for recovery is made, the burden to prove manifest hardship rests on the entity but in no case shall the time extended exceed one year beyond the date of the initial demand notice.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-200 COMPLAINTS. (See RCW 28C.10.080(5) and 28C.10.120.) (1) To be adjudicated under this chapter, a complaint against a licensee by a former student must be filed no more than one calendar year following the student's last recorded date of attendance or, in the case of correspondence students, one calendar year following the date on which the school received the most recently submitted test for grading or, if the school closes, within sixty calendar days of the closure. Such time may be extended by the agency based on a showing that good faith efforts to obtain satisfaction from the school were being pursued by the student during the time elapsed.

(2) Complaints shall be made in writing to the agency and contain the following information:

(a) The complaining party's name, Social Security number, address, and phone number;

(b) School name, address, and phone number;

(c) Nature of complaint, such as, failure to refund tuition, misrepresentation, or other unfair business practice as specified in the act and these rules;

(d) Facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, financial loss, if any, and any other pertinent information;

(e) An explanation of what efforts have been taken to resolve the problem with the school, if any;

(f) Copies of pertinent documents, such as, the enrollment agreement, financial data and payment contracts, catalog, advertisements, etc.

(3) Upon receipt of a complaint alleging that an institution has failed or is failing to comply with the provisions of the act or this chapter, the agency shall:

(a) Notify the school by mail of the nature of the allegations, including a copy of the complaint and its attachments;

(b) Afford the institution fifteen working days to respond: **PROVIDED**, That the failure by an institution to submit a timely response will be treated by the agency as evidencing that it has no defense to offer;

(c) Investigate the facts supplied by all parties;

(d) Adjudicate the complaint;

(e) Notify all parties of the determinations and remedies.

(4) Any adjudication made under this section by the staff of the agency which is alleged to be unreasonable or unfair in its effect upon institutions or students, and/or which is alleged to be not in keeping with the intent and purposes of the act or these rules and regulations may be appealed by the affected party(ies) to the ((~~executive~~)) deputy director. An informal hearing on the issues shall be conducted by the ((~~executive~~)) deputy director in response to such request. He/she may uphold or reject prior determinations of the staff, in whole or in part; may call for further findings; or take any other action he/she deems appropriate under the circumstances, pursuant to the provisions of the act and these rules.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-205 APPEALS. (See RCW 28C.10.120 and 34-.05.410.) Any school feeling aggrieved by any dispute involving the following actions may request a hearing pursuant to WAC ((~~490-800-208~~)) 490-100-208 and chapter 34.05 RCW:

(1) A denial of an exemption under RCW 28C.10.030.

(2) A denial, suspension or revocation of licensing under RCW 28C.10.050.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-208 HEARINGS. (See RCW 28C.10.120.) (1) Any hearing called for under the act or these rules shall be conducted by a designated hearings officer in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(2) A designated hearings officer shall make findings and conclusions in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The findings, conclusions, and any recommendations for action shall be submitted to the ~~((board members))~~ executive director for final action pursuant to RCW 34.05.461.

(3) The ~~((board members))~~ executive director may accept or reject, in whole or in part, any recommendations made by the hearings officer, may remand for further findings, or take any other action ~~((they))~~ he or she deems appropriate under the circumstances, pursuant to the provisions of the act and these rules.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-210 RECORD RETENTION. (See RCW 28C.10.060(4) and 28C.10.160.) (1) Each school shall maintain for a minimum of fifty years from the date of each student's enrollment or until such time that it ceases to be licensed under this chapter; whichever first occurs, student educational records as defined by these rules.

(2) Past and current catalogs, catalog supplements, and errata sheets shall be retained for a period of at least six years from their respective dates of publication.

(3) "Educational records" include, but are not limited to, transcripts that the school is permitted to create on a single page summary for each student, indicating:

- (a) The name, address, and telephone number of the school;
- (b) Full name, address, and telephone number of the student;
- (c) Dates of attendance;
- (d) Course of instruction or subjects attempted;
- (e) Amount of credit, if any, awarded for each subject;
- (f) Grade for each subject completed;

(g) Date of completion, graduation, or termination together with notation of document(s) issued signifying satisfactory completion, if achieved (degree, diploma, certificate conferred);

- (h) If termination, the reason(s) therefor;
- (i) Signature and title of the certifying officer; and
- (j) Date that transcript is prepared.

(4) "Financial records" include, but are not limited to, the following and are to be retained for no less than six years from the student's date of enrollment:

(a) Signed and completed enrollment agreements and other contracts;

- (b) The student's payment record(~~(;~~
- ~~(c) Financial aid records));~~

(5) Financial aid records related to title IV student financial assistance are not under state jurisdiction, but should be maintained in accordance with appropriate federal regulations.

(6) Schools shall maintain for a minimum of at least one year from date of publication ~~((all copies))~~ or airing a true and legible copy of all newspaper ads and direct mail solicitations together with written or taped transcripts of all broadcast and television advertising purchased in that period.

~~((6))~~ (7) Each school must provide, upon request, transcripts described under subsection (3) of this section to students who have satisfied all financial obligations currently due and payable directly to the school.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-220 SCHOOL CLOSING/CHANGE OF STATUS. (See RCW 28C.10.060(4); 28C.10.084(9); and 28C.10.160.) (1) "Ceases to provide educational services" means that a stoppage of training has occurred because:

(a) Facilities are rendered continuously unusable for a period of thirty calendar days or more; or

(b) Faculty or qualified substitute(s) assigned to a specific class(es) are not available or otherwise fail to perform instructional duties for five or more successive days of scheduled instruction; or

(c) Bankruptcy proceedings or other financial emergency(ies) occur with effect lasting for five or more successive days of scheduled instruction; or

(d) Adverse action has been taken by a federal, state, or local jurisdiction(s) with an effect lasting five or more successive days of scheduled instruction.

(2) The school shall make plans and take measures to protect the contractual rights of present and former students if it ceases to provide educational services to its students. A school going out of business shall return its license certificate to the agency ~~((immediately by mail))~~ within ten calendar days upon cessation of instruction or expiration of its license, whichever comes first.

(3) A school which ceases to provide educational services to its students, either voluntarily or involuntarily, shall:

(a) Inform the agency of this action immediately by the most expeditious means available, confirming such information thereafter by certified mail within three business days;

(b) Give the name, address, and telephone number of the person who will be responsible for fulfilling the requirements of this section;

(c) Provide the agency with the name, Social Security number, address, and telephone number, and the name ~~((of))~~ and cost of tuition and charges for the course of instruction for each student who has not completed the course;

(d) Provide information on the amount of class time left for each student to complete the course; the total amount of tuition and fees paid by each student for any program terminated due to the school's ceasing to provide educational services; ~~((whether or not))~~ and if the tuition and fees were paid through federal student aid, grants, or loans, ((and, if so,)) the amount and type of aid, grant, or loan ((e.g., Pell Grant, Supplemental Education Opportunity Grant, National Direct Student Loan, etc.));

(e) Prepare and distribute to all enrolled students no less than three business days prior to cessation of providing services, a written notice explaining the procedures ~~((they))~~ students are to follow to secure refunds or continue their education and furnish a copy of such notice within three business days to the agency;

(f) File with the agency procedures for disbursement of refunds to students and set a date no longer than thirty calendar days from the last day of instruction to issue refund checks in the full amount for which students are entitled.

(4) If students are receiving instruction prior to the school's ceasing to provide educational services, the school shall file with the agency its plans if any, for teach-out; insuring that all affected students will continue to receive training of the same quality and content as that for which they contracted:

(a) Arrangements for teaching out students made with a public or other licensed private school shall be filed with the agency;

(b) The agency shall verify that students transferring will receive the same kind of program and instructional services as those for which they contracted.

(5) Unless the student agrees in writing to comparable training, a school that ceases to provide educational services shall make pro rata refunds to the student or his/her parent, guardian or sponsor based on a day-by-day proportion of the services provided compared to the total length of the program.

**AMENDATORY SECTION** (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-250 DEGREE-GRANTING PRIVATE VOCATIONAL SCHOOLS—APPLICABLE RULES. (See RCW 28C.10.040(4).) (1) Institutional accredited degree-granting private vocational schools.

(a) Pursuant to rules adopted by the higher education coordinating board, that agency will exempt from compliance with chapter 28B.85 RCW those degree programs that are covered by the institution's accreditation. For purposes of this exemption, the board recognizes those national and regional institutional accrediting agencies recognized by the council on postsecondary accreditation.

(b) The state board for vocational education or its successor agency will process the application of an institutionally accredited degree-granting private vocational school which offers nondegree programs in accordance with chapter 28C.10 RCW. The license fee and bond or other security shall be based on the income derived from nondegree programs.

(2) Nonaccredited degree granting private vocational schools:



(a) The higher education coordinating board will process the application and collect the fee of nonaccredited degree-granting private vocational institutions when the majority of programs offered are degree programs. Nondegree programs will be reviewed by the state board for vocational education or its successor agency, as will student complaints regarding nondegree programs. A single surety bond or other security based on total tuition will be required and will name both agencies as obligees.

(b) The state board for vocational education or its successor agency will license nonaccredited degree-granting private vocational schools when the majority of programs offered are nondegree programs and collect fees based on annual income from nondegree programs; PROVIDED, That the minimum initial fee shall be eight hundred dollars and the minimum renewal fee shall be four hundred dollars. Degree programs will be reviewed by the higher education coordinating board, as will student complaints regarding degree programs. Contributions to the tuition recovery fund will be required under WAC ((490-800-180)) 490-100-180.

(3) If either the state board for vocational education or its successor agency or the higher education coordinating board revokes, suspends or fails to renew the license or authorization of an institution, it immediately will notify the other of such action.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 490-100-012 DUTIES OF THE AGENCY.

**WSR 91-05-078  
PROPOSED RULES  
DEPARTMENT OF LICENSING  
(Engineers and Land Surveyors Board)  
[Filed February 20, 1991, 11:31 a.m.]**

**Original Notice.**

Title of Rule: Amending WAC 196-24-095 Seals; and creating a new section, WAC 196-24-097 Seal/stamp usage.

Purpose: Regulate the practice of engineering and land surveying in the state of Washington.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-095 is amended by adopting a new seal design and clarifying a definition within the section; and WAC 196-24-097 is proposed to define how the stamp/seal is to be used by licensees.

Reasons Supporting Proposal: Review of existing rules illustrated unclear language and requests by licensees as to when and how the seal/stamp is to be used.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alan E. Rathbun, 2424 Bristol Court S.W., Olympia, WA 753-3634.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 196-24-095, this amendment illustrates a new seal/stamp design which will require all licensed engineers and land surveyors to purchase a new seal by April 1, 1992; and WAC 196-24-097, defines when and how the stamp/seal is to be used on engineering and land surveying documents.

Proposal Changes the Following Existing Rules: This proposal adds an approved seal/stamp design to the administrative code. Furthermore, it clarifies the definition of "under direct supervision" which is critical in the supervision of work performed by unlicensed persons.

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

Hearing Location: Seattle Marriott, Sea-Tac, City Suite Area, 3201 South 176th Street, Seattle, WA, on May 3, 1991, at 10:00 a.m.

Submit Written Comments to: Alan E. Rathbun, P.O. Box 9649, Olympia, WA 98504, by May 1, 1991.

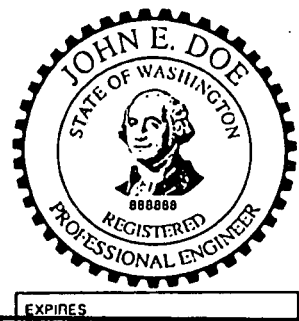
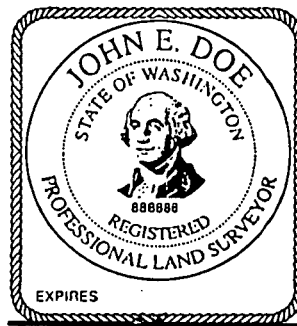
Date of Intended Adoption: May 3, 1991.

February 20, 1991  
Alan E. Rathbun, PE  
Registrar

**AMENDATORY SECTION** (Amending Order 81-10, filed 12/18/81)

WAC 196-24-095 SEALS. The design and format of the seal and or stamp authorized by the board will conform to the following examples:

Embossing seals or rubber stamps are equally acceptable. The impression or image of the seal/stamp shall be no smaller than one and three-quarter inches and no larger than two inches. The seal/stamp shall contain the following minimum information:



- a. State of Washington
- b. Registered Professional Engineer or Registered Professional Land Surveyor
- c. Certificate number
- d. Registrant's name as shown on wall certificate

Other than described and illustrated herein, no other form or format for professional seals/stamps is authorized by the board. All seals/stamps shall conform to this design and format by no later than April 1, 1992. When a registrant places a seal on a document, the registrant must: Sign in permanent ink across the face of said seal, place date that signature was applied immediately adjacent to said signature and indicate date of license expiration. Engineers or land surveyors shall not affix their signature and seal to any engineering or land surveying plan or document dealing with subject matter outside their field of competence nor to any plan or document not prepared under their direct supervision.

"Under direct supervision" shall be construed to mean that the registrant ((providing)) who provide(s) such supervision ((shall have made the decisions on technical matters of policy and design. Furthermore, the registrant)), and who intends to affix his or her signature and seal, shall have exercised his or her professional judgment ((in all)) by way of regular participation in developing the engineering and/or land surveying matters that are embodied in the plans, designs, specifications or other documents involved in the work.

**NEW SECTION**

WAC 196-24-097 SEAL/STAMP USAGE. All individuals registered in accordance with chapter 18.43 RCW shall obtain a seal/stamp of the design as authorized by the board. The use of said seal/stamp shall be in accordance with RCW 18.43.070, WAC 196-24-



095, 196-27-020 (1)(b) and (2)(c) and shall further adhere to the following:

(1) Plan set stamping: Every page of a plan set must contain the seal/stamp of the registrant who performed, directly supervised, or was in responsible charge of the work. Said stamping shall be accompanied by the registrant's signature, the date the registrant signed the plan, and the date of his/her license expiration.

(a) All revisions to plans must be clearly identified and dated on the page said revision is illustrated.

(b) Plans containing more than one registrant's work must be sealed/stamped by each registrant and the document must be clearly noted to the extent of each registrant's responsibility.

(2) Document stamping: Any final document of a technical nature requiring engineering and/or land surveying knowledge must contain the registrant's seal/stamp who prepared said document or had direct supervision over its preparation, his/her signature, the date the registrant signed the document, and the date of his/her license expiration.

(a) Unfinished documents released from the registrant's control may or may not be stamped and signed but must have the registrant identified on it's face.

(b) Unfinished documents released from the registrant's control must be clearly identified as "PRELIMINARY" or other such wording so it may be differentiated from a final document.

(3) Specifications: Specifications must contain the registrant's seal/stamp who prepared said document or had direct supervision over its preparation, his/her signature, the date the registrant signed the document, and the date of his/her license expiration. Said seal/stamp shall appear in a conspicuous location that clearly identifies the work performed by the registrant.

### WSR 91-05-079

#### PROPOSED RULES

#### HEALTH CARE AUTHORITY

[Filed February 20, 1991, 11:54 a.m.]

#### Original Notice.

Title of Rule: Chapter 182-18 WAC, General requirements for all organ transplant programs and specific requirements for liver, kidney, pancreas and heart/lung programs.

Purpose: To establish minimum requirements for organ transplant programs.

Statutory Authority for Adoption: RCW 41.05.160.

Summary: These are minimum requirements for organ transplant programs.

Reasons Supporting Proposal: No standards existed.

Name of Agency Personnel Responsible for Drafting: Roy Plaeger, Health Care Authority, 438-7973; Implementation: Sharon Thompson, Health Care Authority, 438-7971; and Enforcement: Margaret T. Stanley, Health Care Authority, 438-7945.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are meant to assure that all uniform medical plan enrollees who receive organ transplants have their operations performed by qualified transplant surgeons and support teams.

Proposal does not change existing rules.

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

Hearing Location: Sea-Tac Auditorium, Sea-Tac International Airport, on April 10, 1991, at 1:00 p.m.

Submit Written Comments to: Roy Plaeger, by April 10, 1991.

Date of Intended Adoption: April 10, 1991.

February 19, 1991

Roy Plaeger

Program Planning Specialist

#### Chapter 182-18 WAC

#### GENERAL REQUIREMENTS FOR ALL ORGAN TRANSPLANT PROGRAMS

#### NEW SECTION

WAC 182-18-005 PURPOSE. The purpose of this chapter is to establish general requirements for all organ transplant programs and specific requirements for liver, kidney, pancreas, heart and heart-lung transplant programs. Organ transplant programs must at a minimum meet the criteria outlined in the following sections to be eligible to receive payment for services which are provided to persons covered by the state's uniform medical plan.

#### NEW SECTION

WAC 182-18-010 TRANSPLANT PROGRAM. (1) The transplant program must be a current member of the United Network for Organ Sharing (UNOS).

(2) The program must have a transplant surgeon and a transplant physician on site who meet both the certification requirements and the specific training and experience requirements for the applicable organ.

(3) The program must have two or more years of experience with transplantation of the applicable organ and must meet the organ-specific volume and outcome requirements.

(4) For patients transplanted from 1985 and after the program must demonstrate actual one-year and two-year patient survival rates that exceed the national averages<sup>1</sup>. If the program's survival rates fall below the national averages, the program must demonstrate that this is related to patient severity (resulting from transplantation of unusually high-risk patients or similar factors). In lieu of actual survival rates, programs may provide actuarial one-year and two-year patient survival rates using the Kaplan-Meier technique.

<sup>1</sup> For liver transplants, the program must demonstrate one-year and two-year patient survival rates that exceed the national averages for patients transplanted from October 1987 and after.

#### NEW SECTION

WAC 182-18-020 NEW PROGRAMS. The "new program" requirement will only apply to abdominal transplant programs, i.e., kidney, liver, and pancreas. Heart and heart-lung programs will not be considered for "new program" status. In addition, thoracic transplant experience (e.g., heart and heart-lung) will not be recognized as adequate experience for establishing a "new program" for abdominal organs.

(1) If the program has less than two years experience with the applicable organ it must meet the following requirements to be considered a "new program":

(a) The program must have two or more years of transplant experience with another organ.

(b) The program must have performed fifty or more transplants of the other organ, i.e., fifty kidney transplants, fifty liver transplants, or fifty pancreas transplants, but not a combination. At least ten of the fifty transplants must have been performed in the past year.

(c) For patients transplanted from 1985 and after the program must demonstrate actual one-year and two-year patient survival rates that exceed the national averages<sup>1</sup>. If the program's survival rates fall below the national averages, the program must demonstrate that this is related to patient severity (resulting from transplantation of unusually high-risk patients or similar factors). In lieu of actual survival rates, programs may provide actuarial one-year and two-year patient survival rates using the Kaplan-Meier technique.

(d) The program must have a transplant surgeon and a transplant physician on site who meet the specific training and experience requirements for the applicable organ.

(e) The program must have performed four transplants of the applicable organ within a two-month period, with acceptable outcomes.

(2) A program that meets these requirements will be considered a "new program".

<sup>1</sup> For liver transplants, the program must demonstrate one-year and two-year patient survival rates that exceed the national averages for patients transplanted from October 1987 and after.

#### NEW SECTION

**WAC 182-18-030 PEDIATRIC PROGRAMS.** (1) Pediatric programs that fail to meet the organ-specific volume requirements, but meet all other requirements, will be considered on a provisional basis, provided they meet the following criteria:

(a) The pediatric program is closely affiliated with an adult program.

(b) The pediatric program shares its primary transplant surgeon with the affiliated adult program.

(c) The program has performed a minimum volume of pediatric transplants with acceptable outcomes. The organ-specific minimum volumes will be at least: Three pediatric heart or heart-lung transplants; four pediatric liver transplants; two pediatric kidney transplants; and two pediatric pancreas transplants.

(2) Pediatric programs that meet these requirements may combine their volumes and outcomes with their affiliated adult program.

#### NEW SECTION

**WAC 182-18-040 TRANSPLANT TEAM TRAINING AND EXPERIENCE.** (1) The primary transplant surgeon(s) must be certified by the American Board of Surgery or its equivalent.

(2) The primary transplant physician(s) must be certified by the American Board of Internal Medicine or its equivalent.

#### NEW SECTION

**WAC 182-18-050 MULTIPLE ORGAN TRANSPLANTS.** Coverage for these transplants will be carefully evaluated on a case-by-case basis by the health care authority and its medical advisors.

#### NEW SECTION

**WAC 182-18-060 INSTITUTIONAL COMMITMENT.** (1) The hospital or medical center must allocate adequate resources to the transplant program including, but not limited to, the following: Funding; surgical beds; operating and recovery room resources; and intensive care resources.

(2) The hospital or medical center must provide an adequate level of collaborative support from physicians and ancillary health professionals in the fields of: Anesthesiology; hematology; immunology; infectious diseases; nursing; organ procurement; oncology; pathology; pediatrics (if appropriate); physical medicine and rehabilitation; pulmonary medicine and respiratory support; radiology; social services and tissue typing.

(3) The program must have a nursing team that is trained in managing the special problems of immunosuppressed patients.

(4) The program must have an anesthesia team that is available at all times.

(5) Adequate blood bank services must be available to provide large quantities of blood on short notice.

(6) The program must have adequate plans for organ procurement.

(7) The program must have adequate malpractice and liability insurance.

(8) The program must conduct regular quality assurance evaluations.

#### NEW SECTION

**WAC 182-18-070 PATIENT MANAGEMENT.** (1) The program must have patient assessment and management protocols that address the following phases of treatment: Waiting; hospitalization; post-discharge; and long-term management.

(2) The program must have established plans or procedures for managing patient complications and must demonstrate their capacity to respond immediately to patient emergencies.

(3) The program must have plans for maintaining adequate communication with referring physicians.

(4) The program must have plans for communicating with and educating the patient and family during the following phases of treatment: Waiting; hospitalization; post-discharge; and long-term management.

#### NEW SECTION

**WAC 182-18-080 GENERAL RECIPIENT SELECTION CRITERIA FOR ALL ORGANS.** (1) The transplant program must have established selection procedures and written criteria for determining the suitability of patients for transplantation. The procedures and criteria must ensure that candidates are selected in a fair manner.

(2) The transplant program's selection criteria must include generally accepted indications and contraindications that are specific to the applicable organ.

(3) The program's selection criteria must include the following, or similar, considerations:

(a) The candidate must be selected based on critical medical need and maximum likelihood of a successful outcome.

(b) The candidate must be emotionally stable with a realistic attitude demonstrated to the past and current illness. The patient must be capable of following a complex medical regimen for the rest of his/her life, after transplantation.

(c) The candidate must have the social and/or family support needed for him/her to adhere to the complex post-operative treatment program.

(4) When persons covered by the Washington state uniform medical plan are considered for candidacy, the program must submit completed patient evaluations to the Washington state health care authority.

#### LIVER TRANSPLANT PROGRAMS SPECIFIC REQUIREMENTS

#### NEW SECTION

**WAC 182-18-090 LIVER TRANSPLANT PROGRAM.** (1) The program must have performed a minimum of twenty liver transplants. At least ten of the twenty operations must have been performed in the past year.

(2) The hospital or medical center must provide an adequate level of collaborative support from physicians and ancillary health professionals in the field of hepatology.

#### NEW SECTION

**WAC 182-18-100 LIVER TRANSPLANT TEAM TRAINING AND EXPERIENCE.** (1) The primary transplant surgeon must have at least one year of formal training and one year of experience in performing liver transplants at a program that meets UNOS training requirements for livers. Training must have followed the residency or fellowship for the appropriate board certification. Experience must include preoperative assessment, post-operative management and operation as a primary surgeon for an optimum of twelve or more and a minimum of six liver transplants.

(2) In lieu of the above, the primary transplant surgeon must have three or more years of experience which include preoperative assessment, post-operative management and operation as a primary surgeon for an optimum of thirty-six or more and a minimum of eighteen liver transplants. Experience must have been acquired in a program that meets UNOS membership criteria.

(3) The primary transplant physician must have one year of formal training in transplantation medicine in a program that meets UNOS membership criteria. Training must have followed the residency or fellowship for the appropriate board certification. Training must include preoperative and post-operative patient care for an optimum of twelve or more and a minimum of six liver transplants.

(4) In lieu of the above, the primary transplant physician must have a minimum of two years of experience in transplantation medicine in a program that meets UNOS membership criteria. Experience must include patient care responsibility during the preoperative and post-operative period for an optimum of twenty-four or more and a minimum of twelve liver transplants.

#### KIDNEY TRANSPLANT PROGRAMS SPECIFIC REQUIREMENTS

#### NEW SECTION

**WAC 182-18-110 KIDNEY TRANSPLANT PROGRAM.** (1) The program must have performed a minimum of thirty kidney transplants. At least ten of the thirty operations must have been performed in the past year.

(2) The hospital or medical center must provide an adequate level of collaborative support from physicians and ancillary health professionals in the field of nephrology.

#### NEW SECTION

WAC 182-18-120 KIDNEY TRANSPLANT TEAM TRAINING AND EXPERIENCE. (1) The primary transplant surgeon must have at least one year of formal training and one year of experience in performing kidney transplants at a program that meets UNOS training requirements for kidney transplants. Training must have followed the residency or fellowship for the appropriate board certification. Experience must include preoperative assessment, post-operative management and operation as a primary surgeon for an optimum of twenty or more and a minimum of ten kidney transplants.

(2) In lieu of the above, the primary transplant surgeon must have three or more years of experience which include preoperative assessment, post-operative management and operation as a primary surgeon for an optimum of sixty or more and a minimum of thirty kidney transplants. Experience must have been acquired in a program that meets UNOS membership criteria.

(3) The primary transplant physician must have one year of formal training in transplantation medicine in a program that meets UNOS membership criteria. Training must have followed the residency or fellowship for the appropriate board certification. Training must include preoperative and post-operative patient care for an optimum of twenty or more and a minimum of ten kidney transplants.

(4) In lieu of the above, the primary transplant physician must have a minimum of two years of experience in transplantation medicine in a program that meets UNOS membership criteria. Experience must include patient care responsibility during the preoperative and post-operative period for an optimum of forty or more and a minimum of twenty kidney transplants.

#### PANCREAS TRANSPLANT PROGRAMS SPECIFIC REQUIREMENTS

#### NEW SECTION

WAC 182-18-130 PANCREAS TRANSPLANT PROGRAM. (1) The program must have performed a minimum of fifteen pancreas transplants. At least ten of the fifteen operations must have been performed in the past year.

(2) The hospital or medical center must provide an adequate level of collaborative support from physicians and ancillary health professionals in the field of endocrinology.

#### NEW SECTION

WAC 182-18-140 PANCREAS TRANSPLANT TEAM TRAINING AND EXPERIENCE. (1) The primary transplant surgeon must have at least one year of formal training and one year of experience in performing pancreas transplants at a program that meets UNOS training requirements for pancreas transplants. Training must have followed the residency or fellowship for the appropriate board certification. Experience must include preoperative assessment, post-operative management and operation as a primary surgeon for an optimum of ten or more and a minimum of five pancreas transplants.

(2) In lieu of the above, the primary transplant surgeon must have three or more years of experience which include preoperative assessment, post-operative management and operation as a primary surgeon for an optimum of thirty or more and a minimum of fifteen pancreas transplants. Experience must have been acquired in a program that meets UNOS membership criteria.

(3) The primary transplant physician must have one year of formal training in transplantation medicine in a program that meets UNOS membership criteria. Training must have followed the residency or fellowship for the appropriate board certification. Training must include preoperative and post-operative patient care for an optimum of ten or more and a minimum of five pancreas transplants.

(4) In lieu of the above, the primary transplant physician must have a minimum of two years of experience in transplantation medicine in a program that meets UNOS membership criteria. Experience must include patient care responsibility during the preoperative and post-operative period for an optimum of twenty or more and a minimum of ten pancreas transplants.

#### HEART AND/OR HEART-LUNG TRANSPLANT PROGRAMS SPECIFIC REQUIREMENTS

#### NEW SECTION

WAC 182-18-150 HEART AND/OR HEART-LUNG TRANSPLANT PROGRAM. (1) The program must be approved by Medicare and must have performed a minimum of thirty-six heart and/or heart-lung transplants. At least twelve operations must have been performed in each of the past two years.

(2) The hospital or medical center must provide an adequate level of collaborative support from physicians and ancillary health professionals in the fields of cardiology, pulmonary medicine, and cardiovascular surgery.

(3) The hospital or medical center must have an active cardiovascular medical and surgical program. General indicators of this type of program would be a minimum of five hundred cardiac catheterizations and coronary arteriograms annually, with the ability and willingness to do these procedures on an emergency basis and a surgical group that has demonstrated low mortality rates in an active open heart surgical program involving at least two hundred fifty procedures a year.

#### NEW SECTION

WAC 182-18-160 HEART AND/OR HEART-LUNG TRANSPLANT TEAM TRAINING AND EXPERIENCE. Training and experience requirements for the primary heart or heart-lung transplant surgeon can be met as follows:

(1) The primary transplant surgeon must be certified by the American Board of Thoracic Surgery or its equivalent.

(2) Training and experience during the applicant's cardiothoracic residency:

(a) The individual performed as primary surgeon twenty or more heart or heart-lung transplant procedures (application should be supported by operative notes) during his/her cardiothoracic fellowship.

(b) The individual has been involved in all levels of heart transplantation and patient care including donor selection, organ procurement, recipient selection, post-operative hemodynamic care, post-operative immunosuppressive therapy, and outpatient follow-up.

(c) The individual has a letter from the director of the training program verifying that the fellow has met the above requirements and that the fellow is qualified to direct a cardiac transplant program.

(d) The above training was at a medical center with a cardiothoracic training program that is approved by the American Board of Thoracic Surgery or, in the case of foreign training, by the UNOS Membership and Professional Standards Committee.

(3) When the training and experience requirements for the transplant surgeon have not been met during one's cardiothoracic residency, they can be met during a subsequent twelve-month cardiac transplant fellowship if all the following conditions are met:

(a) The fellow performed as primary surgeon twenty or more heart or heart-lung transplant procedures (application must be supported by operative notes) during his/her cardiac transplant fellowship.

(b) The fellow has been involved in all levels of heart transplantation and patient care including donor selection, organ procurement, recipient selection, post-operative hemodynamic care, post-operative immunosuppressive therapy, and outpatient follow-up.

(c) The fellow has a letter from the director of the training program verifying that the fellow has met the above requirements, and that the fellow is qualified to direct a cardiac transplant program.

(d) The above training was at a medical center with a cardiothoracic training program that is approved by the American Board of Thoracic Surgery and/or the UNOS Membership and Professional Standards Committee, or in the case of a foreign transplant center, one that has been reviewed by UNOS to assure that the program's overall training experience is acceptable.

(4) If the transplant surgeon requirements have not been met, as outlined above, in a cardiothoracic residency or heart transplant fellowship, they can be met by experience if the following conditions are met:

(a) The surgeon performed as primary surgeon, over a minimum of two or a maximum of three years, twenty or more heart or heart-lung transplant procedures at a UNOS member heart transplant program or its foreign equivalent (application should be supported by operative notes; transplants performed during board qualifying surgical residency do not count).

(b) The surgeon has been involved in all levels of heart transplantation and patient care including donor selection, organ procurement, recipient selection, post-operative hemodynamic care, post-operative immunosuppressive therapy, and outpatient follow-up.

(c) The surgeon has a letter from the director of this UNOS transplant program verifying that the surgeon has met the above requirements, and is qualified to direct a cardiac transplant program.

(5) The primary transplant physician must have one year of formal training in transplantation medicine in a program that meets UNOS membership criteria. Training must have followed the residency or fellowship for the appropriate board certification. Training must include preoperative and post-operative patient care for an optimum of fifteen or more and a minimum of seven heart and/or heart-lung transplants.

(6) In lieu of the above, the primary transplant physician must have a minimum of two years of experience in transplantation medicine in a program that meets UNOS membership criteria. Experience must include patient care responsibility during the preoperative and post-operative period for an optimum of thirty or more and a minimum of fourteen heart and/or heart-lung transplants.

**WSR 91-05-080**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 20, 1991, 1:18 p.m.]

**Original Notice.**

Title of Rule: To amend current WAC 308-20-010, 308-20-020, 308-20-030, 308-20-040, 308-20-050, 308-20-060, 308-20-070, 308-20-080, 308-20-090, 308-20-105, 308-20-110, 308-20-140 and clarify language; and to adopt WAC 308-20-175 out of state requirements.

Purpose: To amend current language and adopt rules outlining out of state requirements.

Statutory Authority for Adoption: RCW 18.16.030.

Statute Being Implemented: Chapter 18.16 RCW.

Summary: To clarify application, licensing and school rules regarding requirements for obtaining and maintaining registration.

Reasons Supporting Proposal: Enable licensing and enforcement activities to be applied appropriately.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Riker, 2424 Bristol Court, Olympia, WA 98504, 586-6359.

Name of Proponent: Department of Licensing, governmental.

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

Proposal Changes the Following Existing Rules: Clarify language, adopt rules regarding out of state applicants, expands school safety and sanitation to comply with inspections.

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

Hearing Location: Department of Licensing, 2424 Bristol Court, Olympia, WA 98504, 3rd Floor Conference Room, on March 28, 1991, at 9:00 a.m.

Submit Written Comments to: Judy Riker, Court Reporters, P.O. Box 9649, Olympia, WA 98504, by March 27, 1991.

Date of Intended Adoption: March 29, 1991.

February 20, 1991  
 Judy J. Riker  
 Program Manager

Reviser's note: WAC 308-20-060 is referred to in the agency's CR-102; however, the proposed text of the section was not included with the filing by the agency. cf. RCW 34.08.020 (1)(a).

**AMENDATORY SECTION** (Amending Order PM 772, filed 9/14/88)

WAC 308-20-010 DEFINITIONS. (1) ~~((Achievement indicators form form designed and used by the school to record achievement rating of student learning objectives:))~~ "Creditable hour" means only those hours of training while the student is performing in the subject areas listed in the course outline, as stated in WAC 308-20-080.

(2) "Chemical compounds formulated for professional use only" ~~((=))~~ are those compounds containing hazardous chemicals in a form not generally sold to the public; ((such as)) including but not limited to, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances, or ((corrosive materials)) approved chemical compounds. These compounds must be designated for use on the hair of the face, neck, skin, or scalp.

(3) "Curriculum" ~~((=))~~ means a detailed course of study.

(4) "Student learning objectives" ~~((=))~~ are measurable outcomes expected to occur as the result of instruction.

(5) "Instructional objectives" ~~((=))~~ are measurable evaluation of the attainment of the student learning objectives.

(6) "Terminal learning objectives" ~~((=))~~ are final outcomes expected to occur at the completion of a course of study as a result of instruction.

(7) "Monthly student record" is a form preprinted with school name that shows the actual activities of the student in each subject, (i.e., shampoo, haircut, perm, color, etc.) within each course (i.e., barbering, manicuring, chemical services, or cadet instructor).

**AMENDATORY SECTION** (Amending Order PM 772, filed 9/14/88)

WAC 308-20-020 TERM OF COURSE-EXAMINATION ELIGIBILITY. A school shall not require students to remain in school after the completion of ~~((any))~~ the minimum state creditable hours required in the course of instruction.

Any individual, seventeen years of age or older, having completed 500 hours of manicurist training approved by the director may apply for examination to be licensed as a manicurist.

Any individual, seventeen years of age or older, having completed 800 hours of barber training as approved by the director may apply for examination to be licensed as a barber.

Any individual, seventeen years of age or older, having completed 1600 hours of cosmetology training as approved by the director may apply for examination to be licensed as a cosmetologist. Cosmetology training consists of ~~((a))~~ the 500 hour manicurist course, the 800 hour barber course and ((an additional)) the 300 hours of training in ((the performance of all)) chemical services as approved by the director.

Any person who has the same qualifications as a cosmetologist and who has completed at least 500 hours of instruction in cosmetology teaching techniques and lesson planning in a school may apply for examination to be licensed as a cosmetology instructor.

**AMENDATORY SECTION** (Amending Order PM 772, filed 9/14/88)

WAC 308-20-030 CURRICULUM STRUCTURE. Each curriculum shall be designed to prepare students for at least beginning employment/job entry. A school offering training in cosmetology, barbering, manicuring, and instructor-training will submit a curriculum for each course. The curriculum shall include the minimum state required hours in accordance with the course outline as stated in WAC 308-20-080 and 308-20-105.

Each curriculum shall include clearly defined, tangible instructional objectives and student learning objectives to meet the training needs ~~((for))~~ of each ((curriculum)) course offered by the school.

**AMENDATORY SECTION** (Amending Order PM 772, filed 9/14/88)

WAC 308-20-040 APPLICATION FOR SCHOOL LICENSE. With each school application, the following items must be included before a school license will be approved by the department:

- (1) Names and addresses of all school owners;
- (2) Names and addresses of all school operators or managers;

(3) Names and addresses of all instructors responsible for the training of students. The department must be notified, in writing, when a change of instructor staff occurs;

(4) A copy of the curriculum for each course the school intends to offer. A cosmetology school must submit a combined curriculum for manicurist, barber and chemical services; a ~~((barber))~~ school offering barber instruction must submit a barber curriculum; a ~~((manicurist))~~ school offering manicurist instruction must submit a manicurist curriculum. A school offering instruction in cosmetology, barber, and manicurist must submit a separate curriculum for each. Any school offering cosmetology instructor training must submit a curriculum in cosmetology teaching techniques and lesson planning. Each curriculum must meet the training guidelines established by the director and adopted by rules pursuant to this chapter. A copy of the instructional objectives, student learning objectives, terminal learning objectives and ~~((achievement indicator form))~~ student rating scale for each curriculum must be submitted with the application. ~~((The achievement indicator form must include the school name and address preprinted on the form;))~~ A school license will be issued with endorsements to instruct in cosmetology, barbering, manicuring, and/or instructor training according to the curriculums submitted;

(5) Each school will submit, at the time of application, a catalog, bulletin or other printed material which contains accurate and current information regarding the operation and requirements of the school. Supplements to the catalog/bulletin are to be fastened to the publication and, if such information supersedes any information contained elsewhere in the catalog/bulletin, it must be clearly indicated on the supplement. The catalog/bulletin is to be made available to all students prior to enrollment and must include, but not be limited to, the following information:

- (a) Names of all owners and/or managers.
- (b) Names and qualifications of all instructors.
- (c) Beginning and ending dates of training, including hours of operation, and observed holidays.
- (d) Placement assistance, if any.
- (e) Policy outlining acceptable conduct of students including grounds for dismissal and readmission.
- (f) School policy on absences, leave, tardiness, and make-up work.
- (g) School policy and regulations regarding student progress including expected rate of progress, minimum acceptable grades, penalties for unsatisfactory progress, and the rights of students to appeal.
- (h) Total cost to students including registration fee, books, supplies, equipment, tuition, lab fees, or any other associated cost for which the student is liable.
- (i) A description of each course to include total hours, the course objectives and the method of instruction. (E.g., classroom lab, etc.) and any certificate or credentials awarded upon completion.
- (j) Cancellation and refund policies.

(k) The address and phone number of the department of licensing, cosmetology section for student's use in contacting the state regarding Washington state laws or concerns about their training.

(6) A copy of the school's monthly and final student record form, showing hours of training earned in each area listed in WAC 308-20-080 or in the case of an instructor-trainee, WAC 308-20-105. The form must be preprinted with the school name and address and signature areas for both the student and instructor and be in a form acceptable to the department.

The approved form must show operations or hours of activity daily in each subject, by course, i.e., barbering, manicuring, or chemicals with total hours by course daily and monthly in subjects, listed in WAC 308-20-080, with totals in each subject for month to date and total to date. Hours of training in addition to state required hours should show in a separate area.

(7) Each school shall submit a copy of the enrollment contract or agreement for each course of training offered. The contract/agreement must include at least the following:

- (a) The school's cancellation and refund policy;
- (b) Adequate information to clearly define the terms of the agreement between the student and the school, including but not limited to:
  - (i) The name and address of the school and student.
  - (ii) The date training is to begin, and the number of hours of instruction.
  - (iii) An itemized list of all costs incurred by the student to complete the training. Such costs shall include tuition and registration fees, books, supplies, and equipment and all other charges made by the school. Methods of payment or payment schedule must be clearly stated.

(c) A statement acknowledging receipt of the copy of the school's catalog/brochure and enrollment agreement by the student;

(d) The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to the student at the time of execution.

~~((7))~~ (8) A description of the school facilities and equipment. This may be submitted by facility architect's blue print with equipment penciled in or by accurate hand drawn diagram including equipment to be used for training of students;

~~((8))~~ (9) A surety bond as established by WAC 308-20-060 shall be submitted with the application for school licensure. No school shall be approved until the surety bond is in force.

The department shall be notified within fifteen days of any changes in subsections (1) through ~~((8))~~ (9) of this section.

(10) Estimated gross tuition form indicating the expected gross tuition for one year. To be used to determine the required bond amount. If the tuition earned exceeds the estimated amount, the bond will be amended to reflect actual tuition earned.

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-050 CHANGE IN OWNERSHIP OF SCHOOL. If a change involving twenty-five or more percent of school ownership occurs, a new license application must be submitted with proof of ownership, or percentage of ownership, by the new owners. ~~((★))~~ The new application must ~~((then be submitted to the department within fifteen days of change of ownership. Such notification is to include any changes made in curriculum, management personnel, instructional staff, tuition or registration fee, catalog, brochure, contract or surety bond))~~ be complete. It must include all items listed in WAC 308-20-040 and the required fee. A new license must be issued prior to operation. Applicants should allow at least forty-five days for processing a complete application.

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-070 TRAINING GUIDELINES. A numerical rating scale shall be used to evaluate and record student progress ~~((on the achievement indicator form))~~.

The student's competency in attaining learning objectives is to be rated ~~((on a scale of 1-4 as follows:~~

- 4. Job ready—Can completely perform the job safely and independently.
- 3. Moderately competent—Can perform job completely and safely with limited supervision.
- 2. Limited competency—Requires instruction and close supervision in order to perform a task safely.
- 1. No exposure—No experience or knowledge in this area).

Schools will design a rating method form that will demonstrate each student's progress in each course. Schools will design instructional objectives which promote student progress from ~~((1))~~ beginning ~~((1-4 rating))~~ to completion ~~((4 rating))~~ within the specified hours required for each course. Each month the school shall provide each student with a current copy of his/her ~~((achievement indicator form))~~ rating.

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-080 COURSE OUTLINE OF TRAINING REQUIREMENTS.

<del>((COURSE</del>	<del>MINIMUM ACHIEVEMENT REQUIRED BEFORE STUDENTS MAY WORK ON CUSTOMERS IN SCHOOL</del>
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Barber services training:

- 1. Shampooing \_\_\_\_\_ 2
- 2. Haircutting or trimming \_\_\_\_\_ 2

((COURSE \_\_\_\_\_ MINIMUM ACHIEVEMENT  
REQUIRED BEFORE  
STUDENTS MAY WORK  
ON CUSTOMERS IN  
SCHOOL

- 3. Arranging, dressing, curling or waving (excluding chemical services) \_\_\_\_\_ 2
- 4. Sanitation of materials, equipment and tools \_\_\_\_\_ 3
- 5. Safety \_\_\_\_\_
  - (a) The use of materials, equipment and tools \_\_\_\_\_ 3
  - (b) Recognition of diseases or disorders of the skin, scalp or hair \_\_\_\_\_ 3

Manicurist services training:

- 1. Application and removal of artificial nails \_\_\_\_\_ 2
- 2. Sanitation of materials, equipment and tools to provide the service \_\_\_\_\_ 3
- 3. Safety \_\_\_\_\_
  - (a) In the use of materials, equipment and tools to provide a service \_\_\_\_\_ 3
  - (b) In the recognition of a disease or disorder of the nail or skin \_\_\_\_\_ 3
  - (c) Use of chemicals formulated for professional use only \_\_\_\_\_ 3
- 4. Skin care involving hot compresses or massage \_\_\_\_\_ 2
- 5. Skin care involving electrical appliances \_\_\_\_\_ 2
- 6. Temporary removal of superfluous hair \_\_\_\_\_
  - (a) Mechanical \_\_\_\_\_ 2
  - (b) Chemical \_\_\_\_\_ 2
  - (c) Electrical \_\_\_\_\_ 2

Cosmetology chemical services training:

- 1. Permanent waving \_\_\_\_\_
  - (a) Sectioning and wrapping \_\_\_\_\_ 2
  - (b) Preperm test curl \_\_\_\_\_ 2
  - (c) Solution application \_\_\_\_\_ 2
  - (d) Processing \_\_\_\_\_ 2
  - (e) Neutralizing \_\_\_\_\_ 2
- 2. Chemical relaxing \_\_\_\_\_
  - (a) Sectioning \_\_\_\_\_ 2
  - (b) Strand test \_\_\_\_\_ 2
  - (c) Relaxer application \_\_\_\_\_ 2
  - (d) Processing \_\_\_\_\_ 2
  - (e) Neutralizing \_\_\_\_\_ 2
- 3. Hair coloring or bleaching \_\_\_\_\_
  - (a) Predisposition test \_\_\_\_\_ 2
  - (b) Strand test \_\_\_\_\_ 2
  - (c) Measurement and mixing of chemicals \_\_\_\_\_ 2
  - (d) Application of chemicals \_\_\_\_\_ 2
  - (e) Removal of chemicals \_\_\_\_\_ 2
- 4. Safety \_\_\_\_\_
  - (a) In the storage, mixing and use of chemicals \_\_\_\_\_ 3
  - (b) In the uses of materials, equipment and tools to provide a service \_\_\_\_\_ 3
- 5. Sanitation of all materials, equipment and tools to provide a service \_\_\_\_\_ 3

All ratings are to be recorded at least monthly on each student's achievement indicator form. All ratings should reflect job readiness rather than a grade given in class. The suggested job readiness completion rating for all procedures is "4.") Listed are the courses that make up the mandatory 800 hours of training for barbering, 500 hours of training for manicuring, and 300 hours of training for chemical services. To qualify for the barber examination students only need complete the 800 hours of barbering courses, to qualify for the manicurists examination students need only complete the 500 hours of manicuring, and to qualify for the cosmetology examination students must complete all three areas of training. A cosmetologist training consists of the barbering and manicuring courses as well as the chemical services training.

A cosmetologist qualifies to perform all listed services and must be trained in all three areas.

Barber Services Training:

- 1. Theory
- 2. Shampooing - includes draping, brushing hair, scalp manipulations; PH values, conditioning and rinsing
- 3. Scalp and Hair Analysis
- 4. Haircutting and Trimming - includes scissor, razor, thinning shears, and clipper
- 5. Cutting and Trimming of Facial Hair - includes beard and mustache, eyebrow, ear & nose
- 6. Thermal Styling
- 7. Wet Styling - includes pin curling, braiding, fingerwaves, shaping, and rollers
- 8. Dry Styling - includes braiding, shaping, brushing, backcombing, and rollers
- 9. Styling Aids
- 10. Sanitation - includes cleaning individual work station, shampoo and dispensary bowls after individual use, proper disposal and storage of towels used by the student, life expectancy of disinfectants, sanitizing implements used by the student
- 11. Diseases - skin, scalp and hair
- 12. Safety - includes demonstration of implements and proper use, electrical appliances
- 13. First Aid - as related to the barbering field

Manicurist Training Services:

- 1. Theory
- 2. Artificial Nails - includes nail analysis, preparation of the nail, application, finish and removal
- 3. Skin Care - includes hot compresses, facials, hand massage or using approved electrical or mechanical appliances, or approved chemical compounds
- 4. Temporary removal of superfluous hair - tweezing, waxing, tape, and chemicals
- 5. Sanitation - cleaning of individual work station, proper storage and disposal of equipment used by the student, disinfectants and life expectancy of disinfectants, sanitation methods of equipment
- 6. Safety - includes demonstration of implements and proper use
- 7. Diseases and Disorders - nail and skin
- 8. First Aid - as related to the manicurist field

Chemical Services Training

- 1. Theory
- 2. Permanent Waving - includes scalp and hair analysis, sectioning and wrapping, preperm test curl (when necessary), solution application, processing (test curl, when necessary) and neutralizing
- 3. Chemical Relaxing - includes scalp and hair analysis, sectioning, strand test, relaxer application
- 4. Chemical Training Elements - includes processing, neutralizing, materials, equipment
- 5. Hair Coloring or Bleaching - includes scalp & hair analysis, predisposition test, strand test, measurement and mixing of chemicals, application of chemicals and removal of chemicals
- 6. Sanitation - clean individual work station, sanitize individual equipment and tools, life expectancy of disinfectant, proper use and storage of linens
- 7. First Aid and Safety - as it relates to the use of chemicals

AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-090 STUDENT CREDIT FOR TRAINING. (1) Only those hours of instruction received under the direction of a licensed instructor and on the premises of the licensed school ((~~may be credited toward the hourly training requirement~~)) in which the student is enrolled and in the courses listed in this chapter shall be credited toward the hourly training requirements.

(2) Students shall not receive credit for training received during any period the school license is void, expired, suspended, revoked, or otherwise not currently in effect.

(3) Manicurists will be given 500 hours credit and barbers will be given 800 hours credit toward meeting the hourly requirement of 1600 hours in cosmetology. Cosmetology students transferring to a barber or manicurist course shall transfer only the credit that applies to the course for which they are transferring.

(4) Students transferring from another school, state, country or territory may, at the school's discretion, receive credit toward completion of student learning objectives and course requirement hours as follows: (a) Hour for hour credit as applies to each of the Washington state minimum recognized creditable hours in each course, and; (b) student learning objective credit after successfully demonstrating to the school that the objectives have been met.

Schools transferring credits will transfer to the student report form, in appropriate categories by course, the credits accepted. The certifying school accepts responsibility for total training of the student.

(5) Each month the school will provide a copy of the completed monthly report form to the student. When a student transfers to a new school an enrollment student record will be developed for the permanent student file with a copy given to the student prior to enrollment. This will reflect the training transferred and the areas of training still needed.

#### NEW SECTION

WAC 308-20-095 EXAMINATION ELIGIBILITY OF APPLICANTS FROM OUT-OF-STATE SCHOOLS. A student who has received cosmetology, barbering, and/or manicuring instruction in a school outside Washington may be allowed to take the Washington state chemical/barber/manicurist examination(s) under chapter 18.16 RCW if the following requirements are met:

- (1) The complete application and proper fee is paid;
- (2) The applicant is seventeen years of age or older;
- (3) The applicant has completed a course of training equivalent to that required under chapter 18.16 RCW, as stated in WAC 308-20-080, in a school properly licensed under pertinent laws in the jurisdiction where the school is located. This must be documented by a detailed transcript of the courses taken and time involved in each course; and
- (4) Verification that the school attended holds a current license.
- (5) Approval from the department, prior to scheduling any examination.

#### AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-105 CURRICULUM FOR INSTRUCTOR-TRAINEES. Licensed schools wishing to offer training for cosmetology instructors are required to develop and maintain an appropriate curriculum. This curriculum should be based on five hundred hours of training and study in the areas shown below:

- (1) Training in instructional methods covering the following subjects or units:
  - (a) Methods of teaching cosmetology:
    - (i) Lesson planning to meet instructional objectives;
    - (ii) Student learning principles for student learning objectives;
    - (iii) Classroom management; and
    - (iv) Four-step method.
  - (b) Occupational analysis and advisory committees:
    - (i) Develop system for analysis;
    - (ii) Charting and categorizing;
    - (iii) Validating; and
    - (iv) Organizing and working with advisory committees.
  - (c) Course organization:
    - (i) Develop instruction from analysis;
    - (ii) Organize and prioritize;
    - (iii) Group and sequence learning units;
    - (iv) Test and evaluate; record progress of students on ~~((achievement indicators))~~ monthly report forms; and
    - (v) Teaching aids.
  - (d) Student leadership development:
    - (i) How to be effective;
    - (ii) ~~((Vocational Industrial Clubs of America or))~~ Student leadership organization such as Vocational Industrial Clubs of America;
    - (iii) Personality and conduct;
    - (iv) Interpersonal relationships; and
    - (v) Customer relations.
  - (e) One of the following topics or units:

- (i) Testing and rating;
  - (ii) Audio visual materials;
  - (iii) Philosophy of vocational education; or
  - (iv) Techniques in individualized instruction.
- (2) Training in clinic supervision and management covering the application of teaching techniques as follows:
- (a) Practical classroom and clinic services:
    - (i) Sanitation of all tools, implements, equipment, and work areas; and
    - (ii) Safety involved in providing any service to members of the public.
  - (b) Safety in the storage, mixing, and use of all chemicals used in a cosmetology, barber, or manicurist school or business.
  - (c) ~~((Reception area management: (i) Customer relations; (ii) Use of cash register; and (iii) Telephone techniques. (d))~~ Student's practical assignments.
    - ~~((e))~~ (d) Motivational supervision.
    - ~~((f))~~ (e) Student assistance.

#### AMENDATORY SECTION (Amending Order PM 772, filed 9/14/88)

WAC 308-20-110 MINIMUM SCHOOL SAFETY STANDARDS. (1) Each licensed school or institution will be responsible for providing a clean, safe environment for the training of students and provide all students the necessary training to ensure that sanitation and safety measures are applied for the maximum protection of the public, students ~~((or)), and models ((used by students or instructors))~~.

(2) An adequate supply of hot and cold running water must be provided for the benefit of the student's and consumer's health, safety and welfare.

(3) Clean towels shall be provided for each customer and shall be laundered after every use. Towels will be kept in closed cabinets until used.

(4) Robes or gowns used by customers must be laundered after every use, and stored in closed cabinets until used. Soiled linens should be kept in ventilated closed containers. Towels, robes and gowns shall not be washed or dried on the premises except in suitable automatic washers and dryers.

(5) A separate area with an adequate supply of hot and cold running water, shall be designated as a dispensary for the dispensing of supplies and for the cleaning of tools, equipment and materials.

(6) Wet sanitizer—fresh, clean solution shall be ~~((placed daily))~~ in a clean covered container for the sanitizing of combs, brushes and other tools or implements.

(7) Chemicals must be stored in compliance with state and local laws to ensure maximum protection against fires, fumes, corrosion of containers or contamination. ~~((Flammable liquids that have a flash point below 100°F and vapor pressure not exceeding 40 lbs per square inch under 100°F must be provided adequate ventilation in storage so that normal leakage of such vapors from containers will be diluted enough to prevent spark from igniting them. Reducing or oxidizing materials must be stored separately from powerful oxidizing agents.))~~ Storage areas shall be posted "flammable liquids." ~~((Acids must be stored in a cool, well ventilated area void of sources of ignition. Metal shelves used to store acids must be painted or otherwise rendered immune to attack by acids. Corrosive materials must be kept in a cool, well ventilated area.))~~ Materials should be inspected regularly and corroded containers must be discarded immediately.

(8) ~~((Approved fire extinguishers must be kept in vicinity of storage area.~~

~~((9))~~ Adequate toilet facilities shall be provided for the use of customers, employees and students. The use of common towels and bar soap is prohibited.

~~((10))~~ (9) Shampoo bowls will be kept clean and free of hair in traps.

(10) Licenses of the school and all currently employed instructors must be posted in public view.

(11) All trays, rollers, floors, chairs, and other implements should be free from dust, dirt, and/or hair.

(12) Clippers, scissors, razors, rollers, and other implements should be disinfected and sanitized after each use. Once sanitized they should be stored in clean covered/sealed containers to maintain dry sanitation. Used implements should be stored in an area separate from the sanitized implements.



(13) Hazardous chemicals and flammable liquid signs should be posted in the dispensary, storage room, and any other location these materials may be located.

(14) Fire extinguishers must be in the location of the dispensary, storage room, and other locations where flammable liquids may be kept.

(15) Facial rooms must have provisions for privacy, hot and cold running water, closed cabinets for linen storage, and method or procedure to sanitize and store implements in a manner that maintains sanitation.

(16) General appearance - the school floor, walls, and ceilings must be clean. Ventilation should be sufficient to keep odors from the chemicals used at a safe level. Electrical wiring must be acceptable to the local fire district as demonstrated by a current fire inspection form. Electrical plug-in should not reflect any frays and be properly repaired to prevent shock.

**AMENDATORY SECTION** (Amending WSR 90-07-030, filed 3/14/90, effective 4/14/90)

WAC 308-20-140 EXAMINATION—APPLICATION. Examinations are administered at least monthly. Examination schedules will be published (~~by the director~~) and issued to each school. Each licensed school shall post the schedule of examinations in plain view for the students and provide students with an application and all necessary information for completing and submitting the application. No school shall prohibit or hinder a student from submitting an application for examination if the student is at least seventeen years of age and has completed the state required (~~number of~~) hours in the approved course of study.

Each application submitted must be complete in every respect, including fee before the applicant will be scheduled for examination. The application must include a copy of the final student record form verifying the total activities in each subject and the hours of training in each course signed by the student and instructor. A sworn statement by the student that all statements on the application are true and correct is to be included. The school owner or manager will also sign a sworn statement that all statements made in the application are true and correct and this school has complied with all state regulations regarding the training of the student.

Applications may be submitted when the student is within one hundred fifty hours of completing the required training. These applications must include a sworn statement by student and school owner or manager that the student is within 150 hours of completing the required training. The training affidavit and final student record form (~~may be submitted at the examination site the morning of the exam for determination of exam eligibility~~) must be submitted prior to being authorized to sit for any examination. If completed properly and otherwise satisfactory, the applicant will be (~~allowed~~) authorized to take the examination(s).

~~(Applications and fees for examination must be date stamped received into the department of licensing no later than the first day of the month to be scheduled for the following month's examination. (For example: Must be received by August 1 to be scheduled for September examination.) Only when the date received stamp is omitted or illegible, will the postmark by the postal service be substituted.)~~

Any person who (~~either (1)~~) fails to appear as scheduled for an examination, (~~((2) fails to request to be rescheduled at least seven days prior to scheduled examination date, or (3) fails to supply the training affidavit and student record form at least seven days prior to the scheduled examination date~~) shall forfeit the fee (~~for examination, except in cases of emergency as determined by the department~~).

~~(Applications and fees for reexamination must be received by the Professional Licensing Division at 2424 Bristol Court S.W., Olympia, Washington on or before the 20th of the month to be scheduled for the following month's examination.)~~

#### NEW SECTION

WAC 308-20-175 PERSONS LICENSED IN OTHER JURISDICTIONS. Persons licensed in any state, territory, or possession of the United States, or foreign country can apply for licensure by submitting a complete application, fee, verification of current licensure,

and a detailed transcript of all cosmetology, barber, and/or manicurist training.

(1) After review of the courses taken and hours involved if it is determined that the training at the time of licensure was obtained, is equivalent to Washington state requirements, as stated in WAC 308-20-080, a license will be issued without examination.

(2) After review of the courses taken and hours involved if it is determined that the training is not equivalent to Washington state requirements, additional training in the lacking area(s) is required. When training to meet the requirements is obtained, the applicant must pass the examination(s) in the areas the training was needed, if a current out-of-state license is held. If the out-of-state license is invalid the complete examination for the requested license must be passed. The department will schedule the required examination(s) upon receipt of a statement from the school of the completion of required training and the monthly student record form that verifies the actual training received.

#### **WSR 91-05-081**

#### **WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF PERSONNEL (Personnel Board)**

[Filed February 20, 1991, 1:35 p.m.]

The State Personnel Board is withdrawing WAC 356-06-040 Classified service and 356-22-230 Examinations—Noncompetitive. The original notice filed was WSR 90-20-148 and the following continuances were WSR 90-23-027, 91-02-033 and 91-03-068.

Dee W. Henderson  
Director

#### **WSR 91-05-082**

#### **PROPOSED RULES PERSONNEL BOARD**

[Filed February 20, 1991, 1:38 p.m.]

Continuance of WSR 91-02-024.

Title of Rule: Amending WAC 356-18-112 Shared leave; 356-30-260 Probationary period—Provisions—Status of employee; and 356-30-305 Trial service period—Provision.

Purpose: These rules describe the state leave sharing program. They also describe the reasons for extending trial service and probationary periods.

Statutory Authority for Adoption: RCW 41.06.040.

Statute Being Implemented: RCW 41.06.150.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on March 14, 1991, at 10:00 a.m.

Submit Written Comments to: Dorian Sanchez, Department of Personnel, P.O. Box 1789, Mailstop FE-11, Olympia, WA 98507, by March 12, 1991.

Date of Intended Adoption: March 14, 1991.

February 15, 1991  
Dee W. Henderson  
Secretary

**WSR 91-05-083**  
**PERMANENT RULES**  
**PERSONNEL BOARD**

[Order 370—Filed February 20, 1991, 1:41 p.m., effective April 1, 1991]

Date of Adoption: February 14, 1991.

Purpose: This rule permits special pay ranges to equal or approximate prevailing rate practices found in private industry or other governmental units.

Citation of Existing Rules Affected by this Order: Amending WAC 356-15-130 Special pay ranges.

Statutory Authority for Adoption: RCW 41.06.040 and 41.06.150.

Pursuant to notice filed as WSR 91-02-025 on December 24, 1990.

Effective Date of Rule: April 1, 1991.

February 15, 1991  
 Dee W. Henderson  
 Secretary

**AMENDATORY SECTION** (Amending Order 361, filed 11/14/90, effective 12/15/90)

**WAC 356-15-130 SPECIAL PAY RANGES.**

These ranges are used to equal or approximate prevailing rate practices found in private industry or other governmental units. An affected class is identified either by a letter designation following the basic salary range number or by a letter designation preceding a number. In the latter case, a special salary schedule will be used for such classes.

(1) "E" range: This range is used for classes having a prevailing pay range which is shorter than Washington's standard ranges. An "E" range is a standard range with the first four steps removed. Thus, the first step of such a range is the same as Step E of the standard range having the same range number. Periodic increases through the steps of this range are made at the same time intervals as through standard ranges, i.e., a two-step increase after six months at Step E and two annually thereafter up to the maximum step of the range.

(2) "L" range: This special range is used only for the class of liquor store clerk (0628). The "L" range was designed to more closely parallel the prevailing pay structure for retail clerks in private industry. Periodic increases through the steps of the "L" range are made at the same time intervals as through a standard range. Normal progression is Steps A, D, G and K, which represents ten percent per periodic increase.

(3) "T" range: Used only for the classes of institution teachers. These ranges are constructed by identifying Step K of the correspondingly numbered regular state ranges as "Step 10" of the "T" range; the lower nine steps of the "T" range are each two regular-range steps (approximately 5%) apart. Advancement through these ranges is at the rate of one step per year.

(4) "V" range: Used only for the classes of teachers of the deaf or blind and principals, school for the deaf or blind. "V" ranges are the same as the current ranges of

Vancouver, Washington School District #37 for certificated employees of similar background and experience. Advancement through the range is at the rate of one step per year.

(5) "I" range: This range is always ten ranges higher than the range approved for lottery district sales representative or lottery telemarketing representative 1 and 2 and it may be applied only to those classifications. Use of this range is limited to sales incentive programs which: (a) May not exceed ten weeks for any program; (b) may not exceed four programs in any consecutive twelve months; (c) require achievement of specific goals which are set for each program by the lottery, such goals to be in excess of normal performance standards for the class.

The lottery is authorized to compensate individual employees on the "I" range for not more than three months as a result of any one sales incentive program, with the number of months stipulated in the incentive program announcement. Within these limits, movement of any employee to and from the "I" range will be at the discretion of the lottery, and shall be from and to the same step, subject to change by the employee's periodic increment date.

(6) "N" range: This range is used for classes requiring licensure as a registered nurse and having a prevailing pay range which is longer than Washington's standard ranges. An "N" range is a standard range, steps A through K, with five added steps, L through P. Periodic increases through step K of these ranges are made at the same intervals as through standard ranges. Thereafter, an employee receives a one-step increase each year up to the maximum step of the range.

(7) "J" range: This range consists of the single rate of twenty dollars per hour. Use is limited to lottery employees who volunteer and are selected for lottery drawing duty as one of the following: (a) The lottery drawing official (LDO); (b) the lottery security official (LSO); or (c) the headquarters drawing official (HDO), as described under lottery procedures.

Employees performing these functions during their normal working shift will not be eligible for "J" range compensation. Employees performing these functions outside of their shift will be compensated by the "J" rate on an hourly basis with a two-hour minimum per drawing period.

(8) "D" range: This range is a single level hourly rate equivalent to one-half of step A of range 29. It is payable to employees who have dog handler assignments, and only while they are off duty, but are still required to care for the dog in their charge (usually at home). Work time to be paid at D range includes, but is not limited to time required for daily feeding, exercising, grooming, and emergency health care of the dog, and care and cleaning of the kennel.

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 91-05-084**  
**PERMANENT RULES**  
**COMMITTEE FOR**  
**DEFERRED COMPENSATION**  
 [Filed February 20, 1991, 2:01 p.m.]

Date of Adoption: February 12, 1991.

Purpose: To comply with public records disclosure requirements of chapter 42.17 RCW.

Statutory Authority for Adoption: Chapter 41.04 RCW.

Pursuant to notice filed as WSR 91-02-098 on January 2, 1991.

Changes Other than Editing from Proposed to Adopted Version: To generalize meeting dates in WAC 154-300-005; and to change a fixed charge for making copies to a "reasonable" charge in order to avoid revising in case of fee increase in WAC 154-300-060.

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

February 20, 1991

Mary Bush

Program Manager

[NEW SECTION]

WAC 154-300-005 DESCRIPTION OF COMMITTEE FOR DEFERRED COMPENSATION. 1. The Committee for Deferred Compensation is a state agency charged with the responsibility of administering deferred compensation and dependent care salary reduction programs for the benefit of state employees, and in the case of deferred compensation, to eligible employees of the state's political subdivisions, as authorized by RCW 41.04.260 and RCW 41.04.600 through RCW 41.04.645.

2. The Committee for Deferred Compensation is composed of five members appointed by the Governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who possesses expertise in the area of insurance or investment of public funds, one who shall be the state attorney general or his designee, and one additional member selected by the governor. The Committee normally meets quarterly. Additional meetings are scheduled as necessary.

3. The agency staff consists of an executive director appointed by the Committee. The executive director is responsible for administering the daily operations of the agency, and for performing any additional duties delegated by the Committee. Staff members are employed by the executive director and include three division managers: marketing, accounting and program.

4. The administrative offices of the Committee for Deferred Compensation and its staff are located at 2600 Martin Way, Suite D, Olympia, Washington 98504-6711.

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

NEW SECTION

WAC 154-300-010 PURPOSE. The purpose of this chapter is to ensure compliance by the Committee for Deferred Compensation with the provisions of chapter 42.17 RCW, and in particular with RCW 42.17.250 through 42.17.320, dealing with public records.

NEW SECTION

WAC 154-300-020 DEFINITIONS. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punch cards, discs, drums and other documents.

(3) "Committee" means the Committee for Deferred Compensation appointed pursuant to RCW 41.04.260.

(4) "Director" means the executive director of the Committee for Deferred Compensation.

NEW SECTION

WAC 154-300-030 PUBLIC RECORDS OFFICER. The Committee's records shall be in the charge of the public records officer designated by the Director. The person so designated shall be located in the administrative office of the Committee. The public records officer shall be responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 154-300-040 OFFICE HOURS. Public records shall be available for inspection and copying during the customary office hours of the Committee. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

[NEW SECTION]

WAC 154-300-050 REQUEST FOR PUBLIC RECORDS. Public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the Committee which shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the Committee's administrative office if the public record's officer is not available, at the administrative office of the

Committee during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index; and
- (e) An appropriate description of the record requested, if the requested matter is not identifiable by reference to the Committee's current index.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

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

#### [NEW SECTION]

**WAC 154-300-060 COPYING.** No fee shall be charged for the inspection of public records. The department shall charge a reasonable fee for providing copies of public records and for use of the Committee's copy equipment to reimburse the Committee for its actual cost incident to such copying.

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

#### [NEW SECTION]

**WAC 154-300-070 EXEMPTIONS.** (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 154-300-050 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260, the Committee reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe the disclosure of such details would violate personal privacy or endanger vital governmental interest. After such data is deleted, the remainder of the record shall be made available.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

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

#### NEW SECTION

**WAC 154-300-080 REVIEW OF DENIALS OF PUBLIC RECORDS REQUEST.** (1) Any person who objects to the denial of a request for a public record may petition for review of such decision by tendering a written request to the director for review. The written request shall specifically refer to the written statement by

the public records officer or other staff member which constituted or accompanied the denial.

(2) The director shall consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the director has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

#### NEW SECTION

**WAC 154-300-090 PROTECTION OF PUBLIC RECORDS.** (1) No person shall knowingly alter, deface or destroy public records of the Committee.

(2) Original copies of public records of the Committee shall not be removed from the administrative offices of the Committee.

(3) Care and safekeeping of public records of the Committee, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requester.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization when furnished.

#### NEW SECTION

**WAC 154-300-100 RECORDS INDEX.** (1) The Committee has available to all persons a current index which provides identifying information as to the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990.

(2) The current index promulgated by the agency shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

#### NEW SECTION

**WAC 154-300-110 REQUEST FOR RECORDS BY MAIL—ADDRESS.** All communications with the Committee including but not limited to the submission of materials pertaining to its operation and/or the administration or enforcement of chapter 42.17 RCW and these rules and all requests for copies of the Committee's decisions and other matters shall be addressed to the

Committee's administrative offices as follows: Committee for Deferred Compensation, c/o Public Records Officer, 2600 Martin Way, Suite D, Olympia, WA 98504-6711.

**NEW SECTION**

**WAC 154-300-120 ADOPTION OF FORM.** The Committee hereby adopts the following forms for use by all persons requesting inspection and/or copies of records of the Committee, attached hereto as Form A and Form B. Form B shall be completed when the request is for a list of individuals.

**FORM A**

**REQUEST FOR PUBLIC RECORDS**

Name of Requester: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Date of Request: \_\_\_\_\_ Time of Request: \_\_\_\_\_  
Nature of Request:  
1. Index Reference \_\_\_\_\_  
2. If not identifiable by reference to the index, then describe the document(s) in detail \_\_\_\_\_  
\_\_\_\_\_  
Signature \_\_\_\_\_

**For Office Use Only:**

(1) Request Granted [ ] Record Withheld [ ] Record Withheld In part [ ]  
(2) If withheld, name the exemption contained in chapter 42.17 RCW or other statute which authorizes the withholding of the record or part or record:  
(3) If withheld, briefly explain how the exemption applies to the record withheld.  
(4) If request granted, time \_\_\_\_\_, day \_\_\_\_\_.

**FORM B**

**COMMITTEE FOR DEFERRED COMPENSATION, PUBLIC RECORDS ACCESS**

STATE OF WASHINGTON }  
COUNTY OF \_\_\_\_\_ } ss. AFFIDAVIT TO RELEASE PUBLIC RECORDS

(Name and Address)

having been duly sworn, deposes and says:

- 1. I have requested copies of the following public records:
- 2. I understand that Washington state law, RCW 42.17.260(5), prohibits the use of lists of individuals for commercial purposes.
- 3. I understand that the use for commercial purposes of said records may also violate the rights of the individuals named therein and may subject me to liability for such commercial use.
- 4. I understand that section 2 and 3 herein apply when I use said records for commercial purposes and when others use said records or copies of same for commercial

purposes. I understand that I may be liable in either case.

5. I understand that "commercial purposes" means that the person requesting the record intends that the list will be used to communicate with the individuals named in the record for the purpose of facilitating profit expecting activity.

6. Therefore, I do hereby swear and affirm on oath and under penalty of law that I will not use said records for commercial purposes and that further, it is my affirmative duty to prevent others from using said records for commercial purposes.

7. I do further swear and affirm on oath and under penalty of law that I will protect and hold harmless, including the cost of defending, the agency and its agents and employees from which I have obtained said records from any and all claims arising either directly or indirectly from the commercial use of said records.

Signature \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Notary Public in and for the state of Washington residing at \_\_\_\_\_

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 91-05-085**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**  
[Filed February 20, 1991, 2:33 p.m.]

**Original Notice.**

Title of Rule: WAC 314-16-125 Suggestive, lewd and/or obscene conduct on licensed premises.

Purpose: Specifies specific types of conduct which are prohibited on liquor licensed premises and provides rules for controlling activities on liquor licensed premises.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Deletes certain prohibitions, references pertaining to still pictures which are currently prohibited to be displayed upon a liquor licensed premise.

Name of Agency Personnel Responsible for Drafting: Mary Tennyson, 1025 East Union, Olympia, 586-2451; Implementation: The Board, 1025 East Union, Olympia, 753-6262; and Enforcement: Gary Gilbert, 1025 East Union, Olympia, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule regulates suggestive, lewd and/or obscene conduct on liquor licensed premises. Language pertaining to the display of still photographs/pictures has the potential of preventing educational materials from being distributed in such premises to help curtail the further

spread of AIDS and other diseases. Deleting the references to still pictures and contradictory language is necessary in order to further the board's statutory responsibility of protecting public health and welfare.

Proposal Changes the Following Existing Rules: Deletes references to still pictures and certain actions which may be portrayed in pictures as educational or health and prevention informational materials.

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

Hearing Location: Liquor Control Board, 1025 East Union, 5th Floor Board Room, Olympia, WA 98504, on April 3, 1991, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, 1025 East Union, Olympia, WA 98504, by April 1, 1991.

Date of Intended Adoption: April 3, 1991.

February 20, 1991

Paula C. O'Connor

Chairman

**AMENDATORY SECTION** (Amending Order 115, Resolution No. 124, filed 11/2/82)

**WAC 314-16-125 SUGGESTIVE, LEWD AND/OR OBSCENE CONDUCT ON LICENSED PREMISES.** The following acts or conduct on licensed premises are prohibited:

(1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in subsection (1) above.

(3) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

(4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(5) To permit any person to perform acts of or acts which simulate:

(a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) The touching, caressing or fondling of the breast, buttocks, anus or genitals.

(c) The displaying of the pubic hair, anus, vulva or genitals.

(6) Subject to subsection (5) herein, to permit entertainers whose breast and/or buttocks are exposed to view to perform elsewhere on the licensed premises except upon a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron.

(7) Subject to subsection (5) herein, to permit any dancer-entertainer to perform on the licensed premises except when removed at least six feet from the nearest patron. This subsection shall not be applied to performances of traditional ethnic dancing such as belly dancing, flamenco dancing, Hawaiian, or Tahitian dancing, etc., performed in restaurant, hotel, or club licensed premises, provided that the following conditions are met:

(a) That the licensee shall have applied for and received written approval of the board for such activity.

(b) That the dancers shall be compensated by the licensee.

(c) The licensee shall keep and have available for inspection by the board, or any peace officer, at all reasonable times, a list of all traditional ethnic dancers employed at the licensed premises. Such list shall be retained for a period of thirty days after termination of employment and shall designate the following information with respect to each entertainer:

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

(ii) Residence address and phone number;

(iii) Social Security number;

(iv) Terms of the agreement of employment; and

(v) Signature of both the licensee and the dancer.

(d) That a person employed as a traditional ethnic dancer at a licensed premises shall not act as an employee in any other public capacity such as a waiter, waitress, host/hostess, etc., in connection with the sale or service of liquor at that licensed premises.

(e) The dance performances authorized by this subsection shall be those performed for the enjoyment of the general audience of the licensee and not for individual patrons.

(8) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

(9) To permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

(10) To permit the showing of film, ~~((stills))~~ or moving pictures, electronic reproduction, or other visual reproductions, not including still pictures in any medium, depicting:

(a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(b) ~~((Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals:~~

~~((c))~~ Scenes wherein a person displays the vulva or the anus or the genitals.

~~((d)) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above;))~~

(11) Nothing in this rule is intended to modify the provisions of RCW 66.28.080 concerning city or county dancing or music permits.

(12) Notwithstanding any of the provisions of this rule, no licensee shall employ, use the services of, or permit upon his licensed premises, any entertainment or person whose attire or conduct is in violation of any city or county ordinance.

(13) The occurrence of any of the above acts or conduct, whether permitted on the part of a licensee or his employees or agents or any other persons under the control or direction of the licensee or his employees or agents, shall constitute good and sufficient cause for cancellation of license privileges.

(14) If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

**WSR 91-05-086**

**PROPOSED RULES**

**LIQUOR CONTROL BOARD**

[Filed February 20, 1991, 2:36 p.m.]

Original Notice.

Title of Rule: WAC 314-20-020 Beer labels—Certificate of label approval required—Labels to be submitted.

Purpose: To relieve adverse economic impact to small business owners by rescinding language requiring alcohol content on beer container labels.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.28.120.

Summary: The rule, as proposed, would eliminate the requirement to have alcohol content by volume to be on malt beverage containers in order to relieve adverse economic impact upon small businesses within Washington.

Reasons Supporting Proposal: Adverse impact to small businesses.

Name of Agency Personnel Responsible for Drafting: Carter Mitchell, 1025 East Union, Olympia, WA, 753-6276; Implementation: The Board, 1025 East Union, Olympia, 753-6262; and Enforcement: Gary Gilbert, 1025 East Union, Olympia, 586-3052.

Name of Proponent: Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board adopted language to require alcohol content on all malt beverage container labels. The adverse impact this requirement would have on small businesses has been determined to be far greater than originally anticipated or reported in the economic impact statement. Repeal of the language will result in no additional cost to businesses for compliance.

Proposal Changes the Following Existing Rules: Eliminates language requiring alcohol content to be listed on malt beverage container labels.

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

Hearing Location: Liquor Control Board, 5th Floor Board Room, 1025 East Union, Olympia, WA 98504, on March 27, 1991, at 9:30 a.m.

Submit Written Comments to: M. Carter Mitchell, 1025 East Union, Olympia, WA 98504, by March 26, 1991.

Date of Intended Adoption: March 27, 1991.

February 20, 1991  
Paula C. O'Connor  
Chairman

**AMENDATORY SECTION** (Amending Order 290, Resolution 299 [90-18-008], filed 8/24/90)

WAC 314-20-020 BEER LABELS—CERTIFICATE OF LABEL APPROVAL REQUIRED—LABELS TO BE SUBMITTED. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

~~((2) Such label shall show the alcoholic content of the beer by volume on the label or container with a tolerance not to exceed five-tenths of one percent:))~~

~~((3))~~ (2) A request for certificate of label approval must be submitted on a form(s) prescribed by the board which is one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department.

~~((4))~~ (3) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

~~((5))~~ (4) No label shall be used that is misleading.

~~((6))~~ (5) Every producer, importer, or wholesaler of beer shall, upon request of the board or its authorized representative, furnish without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

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

**Reviser's note:** The typographical errors 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 91-05-087**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed February 20, 1991, 2:51 p.m.]

Original Notice.

Title of Rule: WAC 246-824-020 Registration of apprentices; 246-824-050 Approval of prescribed courses

in opticianry; 246-824-080 General provisions; and 246-824-075 Continuing education requirements for dispensing opticians.

Purpose: Amends rules to update language; updated school accrediting body and set process for school approval; updates Department of Health address information; and establishes mandatory continuing education requirements.

Statutory Authority for Adoption: RCW 43.17.060 and 18.130.070.

Statute Being Implemented: RCW 18.34.030, 18.34.120 and 18.34.070(5).

Summary: Amendments will update language, Department of Health address, and school accrediting body. New section allows for further protection of the public through mandatory continuing education.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice K. Boden, 1300 Quince Street, Olympia, WA, 753-3576.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This action will amend rules regarding dispensing opticians by amending rule to correct language; update school accrediting body and set process for school approval; update Department of Health address information; and establishes mandatory continuing education.

Proposal Changes the Following Existing Rules: This will change existing rules by correcting language and Department of Health address and by updating references to the accrediting body for dispensing opticians.

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

Hearing Location: General Administration Auditorium, 11th and Columbia, Olympia, Washington, on March 26, 1991, at 1:30 p.m.

Submit Written Comments to: Leslie Baldwin, 1300 S.E. Quince Street, Olympia, WA 98504, by March 25, 1991.

Date of Intended Adoption: April 2, 1991.

February 20, 1991  
Pam Campbell Mead  
for Kristine Gebbie  
Secretary

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-824-020 REGISTRATION OF APPRENTICES. (1) Registration of an apprentice shall be requested by the physician, optometrist or dispensing optician who intends to provide the training for and direct supervision of the apprentice's work, on a form provided by the ~~((director))~~ secretary.

(2) Separate registrations shall be required if an individual receives his or her apprenticeship training from more than one licensee.

(3) In determining whether or not an individual has completed his or her apprenticeship, within the minimum of three years or the maximum of six years, only the apprenticeship training received subsequent to the date that the apprentice was formally registered with the ~~((director))~~ secretary will be considered: PROVIDED, That an individual who has been registered in an apprentice-type program by an agency of the state of Washington, which program has been approved by the ~~((director))~~ secretary, and who has been trained and directly supervised by a licensed physician, optometrist, or dispensing optician while



in such program, may have all such training considered toward fulfillment of his or her apprenticeship, whether such training occurred before or after his or her formal registration with the ((director)) secretary: PROVIDED, FURTHER, That this exemption is not to be construed or applied in any manner which would except any person from any provision of RCW 18.34.030: PROVIDED, FURTHER, That before such training may be considered toward fulfillment of ((his)) an apprenticeship, formal registration of the individual must be requested by the physician, optometrist, or dispensing optician who has trained and supervised the individual, in retrospective accordance with subsections (1), (2) and (4) of this section, on a form provided by the ((director)) secretary.

(4) The licensee initially requesting the registration of an apprentice shall notify the ((director)) secretary whenever he or she terminates the apprenticeship training, unless such termination is concluded by reason of the apprentice becoming licensed as a dispensing optician.

(5) After registration, the apprentice shall notify the ((director)) secretary, in writing and within thirty days, of any name or address change.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-824-050 APPROVAL OF PRESCRIBED COURSES IN OPTICIANRY. The ((director)) secretary, pursuant to RCW 18.34.070, hereby adopts the accreditation standards of the ((American Board of Opticianry of the National Academy of Opticianry)) Commission on Opticianry Accreditation, "Essentials of an Accredited Educational Program for Ophthalmic Dispensers," ((in effect as of March 4, 1979)) as adopted by the Commission on Opticianry Accreditation on July 1, 1990. The ((director)) secretary approves all and only those institutions accredited by, and in good standing with, the ((American Board of Opticianry of the National Academy of Opticianry)) Commission on Opticianry Accreditation in accordance with these accreditation standards as of ((March 4, 1979)) July 1, 1990. ((Other institutions which apply for the director approval and which meet the standards to the director satisfaction may be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved by the director.))

The ((director)) secretary reserves the right to withdraw approval of any course in opticianry which ceases to meet the approval of the ((director)) secretary or the ((American Board of Opticianry of the National Academy of Opticianry)) Commission on Opticianry Accreditation after notifying the school in writing and granting it an opportunity to contest the ((director's)) secretary's proposed withdrawal. It is the responsibility of a student to ascertain whether or not a school has been approved by the secretary.

#### NEW SECTION

WAC 246-824-075 CONTINUING EDUCATION REQUIREMENTS FOR DISPENSING OPTICIANS. Purpose and scope. The purpose of these requirements is to ensure the continued high quality of services provided by the licensed dispensing optician. Continuing education consists of educational activities designed to review existing concepts and techniques and conveys information and knowledge about advances in the field of opticianry, so as to keep the licensed dispensing opticians abreast of current and forecasted developments in a rapidly changing field.

(1) Basic requirements. As a prerequisite for license renewal, licensed dispensing opticians are required to have thirty hours of continuing education every three years. The credit hours will be measured as follows: Any single session covering not less than two hours and forty minutes will be assigned three credits; any single session covering not less than one hour and forty minutes will be assigned two credits; any single session covering not less than fifty minutes will be assigned one credit.

Fifteen of the credit hours shall relate to contact lenses.

Continuing education credit hours in excess of the required hours earned in any renewal period may not be carried forward to a subsequent renewal period.

(2) Effective date of requirement. The effective date of the continuing education requirement will be upon the 1994 license renewal date

or three years after initial licensure in Washington state, whichever is later.

(3) Qualification of program for continuing education credit. Courses offered by the organizations and methods listed in this section will be presumed to qualify as continuing education courses. The secretary reserves the authority to refuse to accept credits in any course if the secretary determines that the course did not provide information sufficient in amount or relevancy to opticianry. Qualifying organizations and methods for the purposes of this section shall include in-class training, correspondence courses, video and/or audio tapes offered by any of the following:

- (a) American board of opticianry;
- (b) National academy of opticianry;
- (c) Optical laboratories association;
- (d) National contact lens examiners;
- (e) Pacific coast contact lens society;
- (f) Contact lens society of America;
- (g) Opticians association of Washington;
- (h) Opticianry colleges or universities approved by the secretary;
- (i) Speakers sponsored by any of the above organizations;
- (j) Any state or national opticianry association; and
- (k) Additional qualifying organizations or associations as approved by the secretary.

(4) Certification of compliance. Each licensee shall certify, on forms provided by the department, that the minimum continuing education and training requirements have been met. Each licensee shall be responsible for retaining copies of all records, certificates, or other evidence of continuing education course completion. In said documentation the licensee shall:

- (a) Keep records documenting attendance course title and course content.
- (b) Be prepared to validate, through submission of these records, that attendance has taken place.

The department may, at its discretion, require any licensee to submit, in addition to the sworn certification, proof of completion of continuing education requirements. Failure to comply with the continuing education requirements will be cause for a license to lapse. Any licensee whose license has lapsed shall pay a late penalty fee as established by rule for each year the license has lapsed and submit evidence of continuing education requirement compliance. Any licensee whose license has lapsed for a period of two years or more may reinstate his or her license by paying an examination fee and successfully passing the examination provided in RCW 18.34.070.

**AMENDATORY SECTION** (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-824-080 GENERAL PROVISIONS. (1) "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of ((licensing)) health, whose address is:

((Department of Licensing  
Professional Programs Management Division  
P.O. Box 9012  
Olympia, Washington 98504-8001))  
Department of Health  
Professional Licensing Services  
1300 S.E. Quince St.  
Olympia, Washington 98504

(5) "Dispensing optician" means a person licensed pursuant to chapter 18.34 RCW.

(6) "Mentally or physically disabled dispensing optician" means a dispensing optician who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice dispensing with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

**WSR 91-05-088**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
**(Occupational Therapy Practice Board)**  
 [Filed February 20, 1991, 2:54 p.m.]

**Original Notice.**

Title of Rule: WAC 308-171-041 Continued competency; 308-171-001 Definitions; 308-171-010 Recognized education programs—Occupational therapists; 308-171-020 Recognized educational programs—Occupational therapy assistants; and 308-171-103 Persons exempt from licensure pursuant to RCW 18.59.040(5).

Purpose: Housekeeping actions to update recognized educational programs; and to define licensure requirements for occupational therapists.

Other Identifying Information: This chapter will be recodified as chapter 246-847 WAC.

Statutory Authority for Adoption: RCW 18.59.130(2).

Statute Being Implemented: Chapter 18.59 RCW.

Summary: Updates recognized educational programs and clarifies licensure requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Neva, 1300 S.E. Quince Street, Olympia, WA, 753-3132.

Name of Proponent: Washington State Occupational Therapy Practice Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Updates recognized educational programs and further defines licensure requirements for occupational therapists and occupational therapy assistants.

Proposal Changes the Following Existing Rules: Changes 1989-1990 listing of educational programs in occupational therapy to 1990-1991; changes definition of working days from "days state offices are open to conduct business" to "consecutive calendar days."

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

Hearing Location: Holiday Inn, in the Oak Room, 800 Rainier Avenue South, Renton, WA 98057-0487, on April 5, 1991, at 9:30 a.m.

Submit Written Comments to: Department of Health, Occupational Therapy Section, 1300 S.E. Quince Street, Olympia, WA 98504, by April 1, 1991.

Date of Intended Adoption: April 5, 1991.

February 11, 1991

Carol Neva

Program Manager

**AMENDATORY SECTION** (Amending Order 075, filed 7/30/90, effective 8/30/90)

WAC 308-171-001 DEFINITIONS. (1) The following terms in RCW 18.59.020(2) shall mean:

(a) "Scientifically based use of purposeful activity" is the treatment of individuals using established methodology based upon the behavioral and biological sciences and includes the analysis, application and adaptation of activities for use with individuals having a variety of physical, emotional, cognitive and social disorders. Use of purposeful activity includes a process of continually modifying treatment to meet the changing needs of an individual. Purposeful activity is goal-oriented and cannot be routinely prescribed.

(b) "Teaching daily living skills" is the instruction in daily living skills based upon the evaluation of all the components of the individual's disability and the adaptation or treatment based on the evaluation. Components of a disability are physical, sensory, social, emotional and cognitive functions.

(c) "Developing prevocational skills and play and avocational capabilities" is not only the development of prevocational skills and play and avocational capabilities but involves the scientifically based use of purposeful activity.

(d) "Designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment" is not specific occupational therapy services if a person designs, fabricates, or applies selected orthotic and prosthetic devices or selected adaptive equipment for an individual if the device or equipment is prescribed or ordered by a health care professional authorized by the laws of the state of Washington to prescribe the device or equipment or direct the design, fabrication, or application of the device or equipment.

(e) "Adapting environments for the handicapped" is the evaluation of all the components of an individual's disability and the adaptation of the environment of the individual based on the evaluation. Components of a disability are physical, sensory, social, emotional and cognitive functions.

(2) "Supervision" and "regular consultation" of an occupational therapy assistant by an occupational therapist in RCW 18.59.020(4) and "direct supervision" of a person holding a limited permit by an occupational therapist in RCW 18.59.040(7) shall mean face to face meetings between the occupational therapist and occupational therapy assistant and between the occupational therapist and holder of a limited permit occurring at intervals as determined necessary by the occupational therapist to establish, review, or revise the client's treatment objectives. The meetings shall be documented and the documentation shall be maintained in each client's treatment record. The failure to meet to establish, review, or revise the client's treatment objectives at sufficient intervals to meet the client's needs shall be grounds for disciplinary action against the occupational therapist's license and/or the occupational therapy assistant's license to practice in the state of Washington and/or the limited permit pursuant to WAC 308-171-300 (4) and (14), 308-171-301 (2) and (3) and RCW 18.59.100 for conduct occurring prior to June 11, 1986 and pursuant to RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(3) "Professional supervision" of an occupational therapy aide in RCW 18.59.020(5) shall mean:

(a) Documented training by the occupational therapist of the occupational therapy aide in each specific occupational therapy technique for each specific client and the training shall be performed on the client;

(b) Face to face meetings between the occupational therapy aide and the supervising occupational therapist or an occupational therapy assistant under the direction of the supervising occupational therapist occurring at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once every two weeks; and

(c) The occupational therapist shall observe the occupational therapy aide perform on the client the specific occupational therapy techniques for which the occupational therapy aide was trained at intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once a month.

The meetings and client contacts shall be documented and the documentation shall be maintained in the client's treatment records. The failure to meet at sufficient intervals to meet the client's needs shall be grounds for disciplinary action against the occupational therapist's license to practice in the state of Washington pursuant to WAC 308-171-300 (4) and (14), 308-171-301 (2) and (3) and RCW 18.59.100 for conduct occurring prior to June 11, 1986 and pursuant to RCW 18.130.180 for conduct occurring on or after June 11, 1986.

(4) Sections (2) and (3) of this rule shall not be effective until July 1, 1985.

(5) "Clients" include patients, students, and those to whom occupational therapy services are delivered.

(6) "Evaluation" is the process of obtaining and interpreting data necessary for treatment, which includes, but is not limited to, planning for and documenting the evaluation process and results. The evaluation data may be gathered through record review, specific observation, interview, and the administration of data collection procedures, which include, but are not limited to, the use of standardized tests, performance checklists, and activities and tasks designed to evaluate specific performance abilities.

(7) "Work site" in RCW 18.59.080 means the primary work location.

(8) "In association" for RCW 18.59.040(7) shall mean practicing in a setting in which another occupational therapist licensed in the state of Washington is available for consultation and assistance as needed to provide protection for the clients' health, safety and welfare.

(9) One "contact hour" is considered to be sixty minutes.

(10) "Peer reviewer" shall mean a licensed occupational therapist chosen by the licensee to review the self study plan and verify that the self study activity meets the objectives for peer reviewed self study as defined in WAC 246-847-065.

**AMENDATORY SECTION** (Amending Order 075, filed 7/30/90, effective 8/30/90)

WAC 308-171-010 **RECOGNIZED EDUCATIONAL PROGRAMS—OCCUPATIONAL THERAPISTS.** The board recognizes and approves courses of instruction conducted by schools that have obtained accreditation of the program in occupational therapy from the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the American Occupational Therapy Association as recognized in the ((1989-1990)) 1990-1991 Listing of Educational Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc.

**AMENDATORY SECTION** (Amending Order 075, filed 7/30/90, effective 8/30/90)

WAC 308-171-020 **RECOGNIZED EDUCATIONAL PROGRAMS—OCCUPATIONAL THERAPY ASSISTANTS.** The board recognizes and approves courses of instruction conducted by schools that have obtained approval of the occupational therapy assistant associate degree programs and occupational therapy assistant certificate programs from the American Occupational Therapy Association as recognized in the ((1989-1990)) 1990-1991 Listing of Educational Programs in Occupational Therapy published by the American Occupational Therapy Association, Inc.

**AMENDATORY SECTION** (Amending Order PM 610, filed 8/19/86)

WAC 308-171-103 **PERSONS EXEMPT FROM LICENSURE PURSUANT TO RCW 18.59.040(5).** (1) To qualify for the exemption from licensure pursuant to RCW 18.59.040(5), the individual claiming the exemption shall in writing notify the department, at least thirty days before any occupational therapy services are performed in this state, of the following:

(a) In which state(s) the individual is licensed to perform occupational therapy services and the license number(s); or

(b) If the exemption is claimed pursuant to RCW 18.59.040 (5)(b), the individual shall submit a signed notarized statement attesting to having passed the American Occupational Therapy Association certification examination and having engaged in occupational therapy practice; not having engaged in unprofessional conduct or gross incompetency as established in WAC 308-171-300 for conduct occurring prior to June 11, 1986 and as established in RCW 18.130.180 for conduct occurring on or after June 11, 1986; and not having been convicted of a crime ((~~of~~ ~~involving~~)) involving moral turpitude or a felony relating to the profession of occupational therapy; and

(c) A signed notarized statement describing when the occupational therapy services will be performed, where the occupational therapy services will be performed, and how long the individual will be performing occupational therapy services in this state.

(2) A ninety-day temporary permit must be received by the occupational therapist prior to rendering of occupational therapy services.

(3) "Working days" in RCW 18.59.040(5) shall mean ((~~days state offices are open to conduct business~~)) consecutive calendar days.

**AMENDATORY SECTION** (Amending Order 094, filed 10/26/90, effective 11/26/90)

WAC 308-171-041 **CONTINUED COMPETENCY.** Beginning January 1, 1993, evidence of continued competency completed after January 1, 1991, for the practice of occupational therapy shall include a minimum of thirty contact hours of continuing education per license renewal period. The thirty contact hours may be obtained through two or more of the following methods which have specified goals and objectives relating to the practice of occupational therapy as defined in

RCW 18.59.020 and WAC 308-171-001; inservices, coursework, conferences, workshops, peer reviewed self study, presentations, or ((~~peer reviewed~~)) publications.

## WSR 91-05-089

### PROPOSED RULES

#### DEPARTMENT OF HEALTH (Podiatric Medical Board)

[Filed February 20, 1991, 2:56 p.m.]

#### Original Notice.

Title of Rule: Amendatory sections: WAC 308-31-010 Examinations; 308-31-020 Definitions; 308-31-025 Scope of practice; 308-31-030 Approved schools of podiatric medicine; 308-31-040 Identification of licensees; 308-31-050 Presumption of responsibility for advertisements; 308-31-057 AIDS prevention and information education requirements; 308-31-060 Advertisements prior to licensure prohibited; 308-31-100 Delegation of acts to unlicensed persons; 308-31-110 Acts that may be delegated to an unlicensed person; 308-31-120 Acts that may not be performed by unlicensed persons; 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; 308-31-280 Malpractice suit reporting; 308-31-500 Professional and ethical standards; 308-31-510 Patient abandonment; 308-31-520 Exercise of professional judgment and skills; 308-31-530 Prohibited transactions; 308-31-540 Soliciting patients; 308-31-550 Excessive fees; 308-31-560 Maintenance of patient records; and 308-31-570 Inventory of legend drugs and controlled substances; and new sections: WAC 246-922-055 Reciprocity requirements; 246-922-300 Podiatric continuing education required; 246-922-310 Categories of creditable podiatric continuing education activities; 246-922-320 Certification of compliance; 246-922-045 Examination conduct; 246-922-280 Renewal expiration date; 246-922-290 Inactive license and reactivation; and 246-922-295 Lapsed license reinstatement.

Purpose: With the exception of WAC 308-31-030 which adds a newly accredited school to the approved schools, other amendatory changes are terminology changes to be consistent with SHB 2792 passed in 1990. New sections implement SHB 2792.

Statutory Authority for Adoption: RCW 18.22.015.

Statute Being Implemented: Chapter 18.22 RCW, Podiatric medicine and surgery.

Summary: Amendatory changes address consistency of terminology changes. New sections address reciprocity, renewal of license, inactive license and reactivation and reinstatement of an expired license and are intended to implement statute changes in SHB 2792.

Reasons Supporting Proposal: To provide for more effective administration.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson,

Program Manager, 1300 Quince Street, Olympia 98504, 586-8438.

Name of Proponent: Washington State Podiatric Medical Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amended rules are made consistent with terminology identified in statute changes. New sections implementing SHB 2792 passed in 1990 and provide for establishing an inactive status license which will assist in increasing the program's revenue base. Conditions for renewal of licenses are established and mechanisms are being adopted for reactivating inactive licenses and reinstating licenses that have lapsed.

Proposal Changes the Following Existing Rules: Existing rule changes are primarily to maintain consistent terminology in both the statute and rules.

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

Hearing Location: Holiday Inn - Sea-Tac, 17338 Pacific Highway South, Seattle, WA, on March 29, 1991, at 9:00 a.m.

Submit Written Comments to: Arlene Robertson, Program Manager, 1300 Quince Street, Mailstop EY-23, Olympia, WA 98504, by March 28, 1991.

Date of Intended Adoption: March 29, 1991.

February 13, 1991

Arlene A. Robertson  
Program Manager

**AMENDATORY SECTION** (Amending Order PM 813, filed 12/30/88)

WAC 308-31-010 EXAMINATIONS. (1) In order to be licensed to practice ((podiatry)) podiatric medicine and surgery in the state of Washington, all applicants except those who are seeking licensure by endorsement from another state under subsection ~~((6))~~ (8) of this section, must pass Part I and Part II of the national examination prepared by the National Board of ((Podiatry)) Podiatric Medical Examiners in addition to ~~((an))~~ the PMLexis examination approved by the Washington state ((podiatry)) podiatric medical board as the state examination.

(2) The Washington state podiatric medical examination shall include the following topics: Medicine and general podiatric medicine, to include but not limited to, microbiological diseases, dermatology, neurology, cardiovascular-respiratory, musculoskeletal, metabolic and endocrine, medical emergencies and trauma, rheumatology; and therapeutics, to include but not limited to, pharmacology, physical medicine and rehabilitation, local therapy, systemic therapy, surgery, and biomechanics.

(3) The state examination shall be administered twice annually on the second Tuesday of June and the first Tuesday of December. Applications for examination or reexamination shall be received in the office of the professional licensing services division, department of health, no later than April 15th for the following June examination and October 1 for the following December examination.

(4) Every applicant for a ((podiatry)) podiatric physician and surgeon license shall be required to pass the state examination with a grade of at least 75.

~~((3))~~ (5) The board shall approve the method of grading each examination, and shall apply such method uniformly to all applicants taking the examination.

~~((4))~~ (6) The board and the department shall not disclose any applicant's examination score to anyone other than the applicant, unless requested to do so in writing by the applicant.

~~((5))~~ (7) The applicant will be notified, in writing, of his or her examination scores.

~~((6))~~ (8) Applicants for licensure who have been licensed by examination in another state or who have successfully passed the examinations given by the National Board of ((Podiatry)) Podiatric Medical Examiners will be required to pass the state approved examination. If the examination taken in another state is the Virginia or PMLexis examination and the applicant passed the Virginia examination or PMLexis on or after June 1988 the applicant shall be deemed to have passed the approved examination in this state.

~~((7))~~ (9) Applicants failing the state approved examination whether taken in this or another state in which the Virginia or PMLexis examination was taken after June 1988 may be reexamined no more than three times. Applicants who have failed the state approved examination three times may petition the board to be permitted to retake the examination on additional occasions and the applicant must provide satisfactory evidence to the board that he or she has taken remedial measures to increase his or her likelihood of passing the examination. If the applicant does not provide satisfactory evidence to the board, the board shall deny the request to retake the examination until such time that the applicant can provide satisfactory evidence of remedial measures undertaken to increase his or her likelihood of passing the examination.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-020 DEFINITIONS. (1) Chiroprody ~~((and))~~, podiatry, and podiatric medicine and surgery shall be synonymous.

(2) "Board" shall mean the Washington state ((podiatry)) podiatric medical board.

(3) ~~((Director\*))~~ "Secretary" shall mean the ~~((director))~~ secretary of the department of ~~((licensing))~~ health.

(4) "Supervision" shall mean that a licensed ((podiatrist)) podiatric physician and surgeon whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized and directed the procedures to be performed. A ((podiatrist)) podiatric physician and surgeon shall be physically present in the treatment facility while the procedures are performed.

(5) "Treatment facility" means a podiatric medical office or connecting suite of offices, podiatric medical clinic, room or area with equipment to provide podiatric medical treatment, or the immediately adjacent rooms or areas. A treatment facility does not extend to any other area of a building in which the treatment facility is located.

(6) "Unlicensed person" means a person who is not a ((podiatrist)) podiatric physician and surgeon duly licensed pursuant to the provisions of chapter 18.22 RCW.

**AMENDATORY SECTION** (Amending Order PM 643, filed 4/14/87)

WAC 308-31-025 SCOPE OF PRACTICE. (1) An "ailment of the human foot" as set forth in RCW 18.22.010 is defined as any condition, symptom, disease, complaint, or disability involving the functional foot. The functional foot includes the anatomical foot and any muscle, tendon, ligament, or other soft tissue structure directly attached to the anatomical foot and which impacts upon or affects the foot or foot function and osseous structure up to and including the articulating surfaces of the ankle joint.

(2) In diagnosing or treating the ailments of the functional foot, a ((podiatrist)) podiatric physician and surgeon is entitled to utilize medical, surgical, mechanical, manipulative, radiological, and electrical treatment methods and the diagnostic procedure or treatment method may be utilized upon an anatomical location other than the functional foot. The diagnosis and treatment of the foot includes diagnosis and treatment necessary for preventive care of the well foot.

(3) A ((podiatrist)) podiatric physician and surgeon may examine, diagnose, and commence treatment of ailments for which differential diagnoses include an ailment of the human foot. Upon determination that the condition presented is not an ailment of the human foot, the ((podiatrist)) podiatric physician and surgeon shall obtain an appropriate consultation or make an appropriate referral to a licensed health care practitioner authorized by law to treat systemic conditions. The ((podiatrist)) podiatric physician and surgeon may take emergency actions as are reasonably necessary to protect the patient's health until the intervention of a licensed health care practitioner authorized by law to treat systemic conditions.

(4) A ((podiatrist)) podiatric physician and surgeon may diagnose or treat an ailment of the human foot caused by a systemic condition

provided an appropriate consultation or referral for the systemic condition is made to a licensed health care practitioner authorized by law to treat systemic conditions.

(5) A ((podiatrist)) podiatric physician and surgeon shall not administer a general or spinal anesthetic, however, a ((podiatrist)) podiatric physician and surgeon may treat ailments of the human foot when the treatment requires use of a general or spinal anesthetic provided that the administration of the general or spinal anesthetic is by or under the supervision of a physician authorized under chapter 18.71 or 18.57 RCW.

**AMENDATORY SECTION** (Amending Order PM 624, filed 11/3/86)

WAC 308-31-030 APPROVED SCHOOLS OF PODIATRIC MEDICINE. For the purpose of the laws relating to podiatric medicine, the board approves the following list of schools of podiatric medicine: California College of Podiatric Medicine, San Francisco, California; College of Podiatric Medicine and Surgery, Des Moines, Iowa; New York College of Podiatric Medicine, New York, New York; Ohio College of Podiatric Medicine, Cleveland, Ohio; Pennsylvania College of Podiatric Medicine, Philadelphia, Pennsylvania; Dr. William Scholl College of Podiatric Medicine, Chicago, Illinois; Barry University School of Podiatric Medicine, Miami Shores, Florida.

**AMENDATORY SECTION** (Amending Order 418, filed 1/14/83)

WAC 308-31-040 IDENTIFICATION OF LICENSEES. Each person licensed pursuant to chapter 18.22 RCW must be clearly identified to the public as a doctor of podiatry at every establishment in which he or she is engaged in the practice of ((podiatry)) podiatric medicine and surgery. Such identification must indicate the name of the licensee at or near the entrance to the licensee's office. Only the names of people actually practicing at a location may appear at that location or in any advertisements or announcements regarding that location. The name of an individual who has previously practiced at a location may remain in use in conjunction with that location for a period of no more than one year from the date that person ceases to practice at the location.

**AMENDATORY SECTION** (Amending Order 418, filed 1/14/83)

WAC 308-31-050 PRESUMPTION OF RESPONSIBILITY FOR ADVERTISEMENTS. Any licensed doctor of podiatry whose name, office address or place of practice is mentioned in any advertisement of any kind or character shall be presumed to have caused, allowed, permitted, approved and sanctioned such advertising and shall be presumed to be personally responsible for the content and character thereof. Once sufficient evidence of the existence of the advertisement has been introduced at any hearing before the Washington podiatric medical board ((of podiatry)), the burden of establishing proof to rebut this presumption by a preponderance of the evidence shall be upon the doctor of podiatry.

**AMENDATORY SECTION** (Amending Order PM 813, filed 12/30/88)

WAC 308-31-057 AIDS PREVENTION AND INFORMATION EDUCATION REQUIREMENTS. (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the department of ((social and)) health ((services)) or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

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

(3) Renewal of licenses. For the renewal on June 30, 1989, all persons making application for licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4) of this section.

(4) AIDS education and training.

(a) Acceptable education and training. The board will accept education and training that is consistent with the model curriculum available from 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 licensure, renewal, or reinstatement of any license on lapsed, inactive, suspended, or revoked 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 (a) of this subsection.

(c) Documentation. The licensee 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.

**AMENDATORY SECTION** (Amending Order 418, filed 1/14/83)

WAC 308-31-060 ADVERTISEMENTS PRIOR TO LICENSURE PROHIBITED. Any individual who has not been licensed to practice as a ((podiatrist)) podiatric physician and surgeon by the state of Washington is prohibited from advertising as practicing ((podiatry)) podiatric medicine and surgery in this state, by any means including placement of a telephone listing in any telephone directory.

**AMENDATORY SECTION** (Amending Order PM 638, filed 2/3/87)

WAC 308-31-100 DELEGATION OF ACTS TO UNLICENSED PERSONS. The purpose of WAC 308-31-110 and 308-31-120 is to establish guidelines on delegation of duties to persons who are not licensed to practice ((podiatry)) podiatric medicine and surgery. The ((podiatry)) podiatric medical laws of Washington state authorize the delegation of certain duties to nonpodiatric personnel and prohibit the delegation of certain other duties. The licensed ((podiatrist)) podiatric physician and surgeon is ultimately responsible for all treatments performed at his direction. Duties that may be delegated to a person not licensed to practice ((podiatry)) podiatric medicine and surgery may be performed only under the supervision of a licensed ((podiatrist)) podiatric physician and surgeon. The degree of supervision required to assure that treatment is appropriate and does not jeopardize the systemic or pedal health of the patient varies with, among other considerations, the nature of the procedure and the qualifications of the person to whom the duty is delegated. 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 that it is necessary to adopt the following definitions and regulations.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-110 ACTS THAT MAY BE DELEGATED TO AN UNLICENSED PERSON. A ((podiatrist)) podiatric physician and surgeon may allow an unlicensed person to perform the following acts under the ((podiatrist's)) podiatric physician and surgeon's supervision.

(1) Patient education in foot hygiene.

(2) Deliver a sedative drug in an oral dosage form to patient.

(3) Give preoperative and postoperative instructions.

(4) Assist in administration of nitrous oxide((:)) analgesia or sedation, but the unlicensed person shall not start the administration of the gases and shall not adjust the flow of the gases unless instructed to do so by the ((podiatrist)) podiatric physician and surgeon. Patients must never be left unattended while nitrous oxide analgesia or sedation is administered to them. This regulation shall not be construed to prevent any person from taking appropriate action in the event of a medical emergency.

(5) Take health histories.

(6) Determine rate and quality of patient's radial pulses.

(7) Measure the patient's blood pressure.

(8) Perform a plethysmographic or doppler study.

(9) Observe the nature of the patient's shoes and hose.

(10) Observe and report wearing patterns on the patient's shoes.

(11) Assist in obtaining material for a culture-sensitivity test.

(12) Take scrapings from the skin or nails of the feet, prepare them for microscopic and culture examination.

(13) Perform weightbearing and nonweightbearing x-rays.

- (14) Photograph patient's foot disorder.
- (15) Debride hyperkeratotic lesions of the foot.
- (16) Remove and apply dressing and/or padding.
- (17) Make necessary adjustments to the biomechanical device.
- (18) Produce impression casting of the foot.
- (19) Produce the following:
  - (a) Removable impression insoles and modifications.
  - (b) Protective devices for alleviating or dispersing pressure on certain deformities or skin lesions such as ulcers, corns, calluses, digital amputation stumps (e.g., latex shields).
- (20) Apply strap and/or pad to the foot and/or leg.
- (21) Prepare the foot for anesthesia as needed.
- (22) Know the indications for and application of cardiopulmonary resuscitation (CPR).
- (23) Prepare and maintain a surgically sterile field.
- (24) Apply flexible cast (e.g., Unna Boot).
- (25) Apply cast material for immobilization of the foot and leg.
- (26) Remove sutures.
- (27) Debride nails.
- (28) Administer physical therapy as directed by the ((podiatrist)) podiatric physician and surgeon.
- (29) Counsel and instruct patients in the basics of:
  - (a) Their examination, treatment regimen and prophylaxis for a problem.
  - (b) Patient and family foot health promotion practices.
  - (c) Patient and family care of specific diseases affecting the foot (e.g., diabetes, cerebrovascular accident, arthritis).
  - (d) Performing certain exercises and their importance.
- (30) Give patient or family supplementary health education materials.

**AMENDATORY SECTION** (Amending Order PM 638, filed 2/3/87)

WAC 308-31-120 ACTS THAT MAY NOT BE PERFORMED BY UNLICENSED PERSONS. No ((podiatrist)) podiatric physician and surgeon shall allow an unlicensed person who is in his or her employ or is acting under his or her supervision or direction to perform any of the following procedures:

- (1) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human feet or adjacent structures.
- (2) Any administration of general, spinal, or injected local anesthetic of any nature in connection with a podiatric operation.
- (3) Suture.
- (4) Determine the rate and quality of patient's pedal pulses.
- (5) Perform and quantitate a neurological, musculoskeletal, or dermatological examination.
- (6) Palpation of the feet or lower extremities.
- (7) Any interprofessional communication.
- (8) Perform a biomechanical examination.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric medical board, whose address is:

Department of Health  
Professional Licensing Services  
P. O. Box 1099  
Olympia, WA 98507-1099

(5) ((Podiatrist)) "Podiatric physician and surgeon" shall mean a person licensed pursuant to chapter 18.22 RCW.

(6) "Mentally or physically disabled ((podiatrist)) podiatric physician and surgeon" shall mean a ((podiatrist)) podiatric physician and surgeon who has either been determined by a court to be mentally incompetent or mentally ill or who is unable to practice ((podiatry)) podiatric medicine and surgery with reasonable skill and safety to patients by reason of any mental or physical condition.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric physician and surgeon 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.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric physician and surgeon's services are terminated or are restricted based on a determination that the ((podiatrist)) podiatric physician and surgeon has either committed an act or acts which may constitute unprofessional conduct or that the ((podiatrist)) podiatric physician and surgeon may be mentally or physically impaired. Said officer shall also report if a ((podiatrist)) podiatric physician and surgeon accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon unprofessional conduct or upon being mentally or physically impaired.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric physician and surgeon has committed unprofessional conduct or that a ((podiatrist)) podiatric physician and surgeon may be able to practice ((podiatry)) podiatric medicine and surgery 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.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric physician and surgeon 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.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric physician and surgeon is employed to provide



patient care services, to report to the board whenever such a ((podiatrist)) podiatric physician and surgeon has been judged to have demonstrated his/her incompetency or negligence in the practice of ((podiatry)) podiatric medicine and surgery, or has otherwise committed unprofessional conduct, or is mentally or physically impaired.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

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)) podiatric physician and surgeon 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.

**AMENDATORY SECTION** (Amending Order 060, filed 5/30/90, effective 6/30/90)

WAC 308-31-280 MALPRACTICE SUIT REPORTING. Every licensed ((podiatrist)) podiatric physician and surgeon 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)) podiatric physician and surgeon's incompetency or negligence in the practice of podiatric medicine and surgery. Every ((podiatrist)) podiatric physician and surgeon 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)) podiatric physician and surgeon's incompetence or negligence in the practice of ((podiatry)) podiatric medicine and surgery regardless of the dollar amount of the settlement or judgment.

**AMENDATORY SECTION** (Amending Order PM 643, filed 4/14/87)

WAC 308-31-500 PROFESSIONAL AND ETHICAL STANDARDS. In addition to those standards specifically expressed in chapter 18.22 RCW and chapter 18.130 RCW, the board adopts the standards that follow in governing or regulating the practice of ((podiatrists)) podiatric physicians and surgeons within the state of Washington.

((Podiatry)) Podiatric medicine and surgery is that specialty of medicine and research that seeks to diagnose, treat, correct and prevent ailments of the human foot. A podiatrist shall hold foremost the principal objectives to render appropriate podiatric medical services to ((the)) society and to assist individuals in the relief of pain or correction of abnormalities, and shall always endeavor to conduct himself or herself in such a manner to further these objectives.

The ((podiatrist)) podiatric physician and surgeon owes to his or her patients a reasonable degree of skill and quality of care. To this end, the ((podiatrist)) podiatric physician and surgeon shall endeavor to keep abreast of new developments in podiatric medicine and surgery and shall pursue means that will lead to improvement of his or her knowledge and skill in the practice of ((podiatry)) podiatric medicine and surgery. "Quality of care" consists of the following elements:

- (1) Necessity of care.
- (2) Appropriateness of service rendered in view of the diagnosis.
- (3) Utilization of services (over or under).
- (4) Quality of service(s) rendered.
- (5) Whether the service(s) reported had been actually rendered.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-510 PATIENT ABANDONMENT. The ((podiatrist)) podiatric physician and surgeon shall always be free to accept or reject a particular patient, but once care is undertaken, the ((podiatrist)) podiatric physician and surgeon shall not neglect the patient as long as that patient cooperates with, requests, and authorizes the podiatric medical services for the particular problem.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-520 EXERCISE OF PROFESSIONAL JUDGMENT AND SKILLS. A ((podiatrist)) podiatric physician and surgeon shall not accept patients under terms or conditions that interfere with the free exercise of the ((podiatrist's)) podiatric physician and

surgeon's professional judgment or infringe upon the utilization of his or her professional skills.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-530 PROHIBITED TRANSACTIONS. A ((podiatrist)) podiatric physician and surgeon shall not compensate or give anything of value to a representative of the press, radio, television or other communication media in anticipation of or in return for professional publicity of any individual ((podiatrist)) podiatric physician and surgeon in a news item.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-540 SOLICITING PATIENTS. A ((podiatrist)) podiatric physician and surgeon shall not participate in the division of fees or agree to split or divide fees received for podiatric medical services with any person for bringing or referring patients.

**AMENDATORY SECTION** (Amending Order PM 624, filed 11/3/86)

WAC 308-31-550 EXCESSIVE FEES. Fees charged by ((podiatrists)) podiatric physicians and surgeons for professional services rendered to patients must not be excessive. Such fees may not exceed those in accord with the usual, customary and reasonable charges in the particular community. Complaints regarding excessive charges will be evaluated by the board on an individual basis governed by the following definitions of usual, customary and reasonable fees, as used herein:

(1) "Usual" is defined as the usual fee which is charged for a given service by an individual ((podiatrist)) podiatric physician and surgeon in his practice (i.e., his or her own usual fee).

(2) "Customary" is defined as that range of usual fees charged by ((podiatrists)) podiatric physicians and surgeons of similar training and experience for the same service within a given metropolitan or specific geographic area.

(3) "Reasonable" is defined as a fee which meets the above two criteria or, in the opinion of the board, is justifiable in the circumstances of the particular case in question. This rule is intended to assist in applying RCW 18.22.151(13), which was repealed effective June 11, 1986; therefore, this rule applies only to conduct prior to June 11, 1986.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-560 MAINTENANCE OF PATIENT RECORDS. Any ((podiatrist)) podiatric physician and surgeon who treats patients in the state of Washington shall maintain complete treatment records regarding patients treated. These records shall include, but shall not be limited to x-rays, treatment plans, patient charts, patient histories, correspondence, financial data and billing. These records shall be retained by the ((podiatrist)) podiatric physician and surgeon in an orderly, accessible file and shall be readily available for inspection by the Washington state ((podiatry)) podiatric medical board or its authorized representative.

**AMENDATORY SECTION** (Amending Order PL 450, filed 1/4/84)

WAC 308-31-570 INVENTORY OF LEGEND DRUGS AND CONTROLLED SUBSTANCES. Every ((podiatrist)) podiatric physician and surgeon shall maintain a record of all legend drugs and controlled substances that he or she has prescribed or dispensed. This record shall include the date prescribed or the date dispensed, the name of the patient prescribed or dispensed to, the name of the medication, and the dosage and amount of the medication prescribed or dispensed. The record of the medication prescribed or dispensed will be clearly indicated on the patient record.

**NEW SECTION**

WAC 246-922-055 RECIPROCITY REQUIREMENTS. An applicant licensed in another state must file with the secretary verification of the license certified by the proper authorities of the issuing state to include the issue date, license number, current expiration date, and whether any action has been taken to revoke, suspend, restrict, or otherwise sanction the licensee for unprofessional conduct or that the licensee may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a physical or mental



condition. The applicant must document that the educational standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state.

#### NEW SECTION

**WAC 246-922-300 PODIATRIC CONTINUING EDUCATION REQUIRED.** The podiatric medical board encourages licensees to deliver high-quality patient care. The board recognizes that continuing education programs designed to inform practitioners of recent developments within podiatric medicine and relative fields and review of various aspects of basic professional education and podiatric practice are beneficial to professional growth. The board encourages participation in podiatric continuing education as a mechanism to maintain and enhance competence.

(1) Twenty-five contact hours of podiatric continuing education shall be required annually to maintain a current license.

(2) In case a licensee fails to meet the requirements due to illness, retirement (with no further provision of podiatric services being provided consumers), or other extenuating circumstances, each case will be considered by the board on an individual basis. When circumstances justify it, the board may grant an extension of time or a change in requirements. In the case of permanent retirement or illness, the board may grant indefinite waiver of podiatric continuing education as a requirement for relicensure, provided an affidavit is received indicating the podiatric physician and surgeon is not providing podiatric services to consumers. If such permanent retirement or illness status is changed or podiatric services are resumed, it is incumbent upon the licensee to immediately notify the board and show proof of practice competency as determined necessary by the board.

#### NEW SECTION

**WAC 246-922-310 CATEGORIES OF CREDITABLE PODIATRIC CONTINUING EDUCATION ACTIVITIES.** The following categories of creditable podiatric continuing education activities sponsored by the following organizations are approved by the board. The credits must be earned in the twelve-month period preceding application for renewal of licensure. One contact hour is defined as a typical fifty-minute classroom instructional session or its equivalent.

(1) Courses or seminars approved by the American Podiatric Medical Association and its component societies and affiliated and related organizations.

(2) Courses or seminars offered by accredited, licensed, or otherwise approved hospitals, colleges, and universities and their associated foundations and institutes offering continuing education programs in podiatric medicine.

(3) Courses or seminars offered by recognized nonpodiatric medical and health-care related societies (e.g., the American Medical Association, the American Physical Therapy Association) offering continuing education programs related to podiatric medicine.

(4) Courses or seminars offered by other nonprofit organizations, other proprietary organizations, and individuals offering continuing education in podiatric medicine.

#### NEW SECTION

**WAC 246-922-320 CERTIFICATION OF COMPLIANCE.** (1) In conjunction with the application for renewal of licensure, a licensee shall submit an affidavit verifying compliance with the twenty-five contact hours of podiatric continuing education requirement on a form provided by the board. The first reporting period shall commence June 1, 1991, with verification of compliance required for the 1992 renewal of licensure.

(2) The board may require a licensee to submit evidence in addition to the affidavit to demonstrate compliance with the twenty-five contact hours of podiatric continuing education requirement. Accordingly, it is the responsibility of a licensee to maintain evidence of such compliance for two years following the reporting period the hours were used for renewal of licensure.

#### NEW SECTION

**WAC 246-922-045 EXAMINATION CONDUCT.** Failure to follow written or oral instructions relative to the conduct of the examination, including termination time of the examination will be considered grounds for expulsion from the examination.

Applicants will be required to refrain from talking to other examinees during the examination unless specifically directed or permitted to

do so by a test proctor. Any applicant observed talking or attempting to give or receive information, or using unauthorized materials during any portion of the examination may be expelled from the examination and deemed to have failed the examination.

#### NEW SECTION

**WAC 246-922-280 RENEWAL EXPIRATION DATE.** Commencing in 1992, a podiatric physician and surgeon license shall be renewed annually on June 1. In conformance with RCW 34.05.422 a licensee will be considered to have made timely renewal application if the appropriate renewal fee and required accompanying documentation, if applicable, is received on or before the expiration date.

#### NEW SECTION

**WAC 246-922-290 INACTIVE LICENSE AND REACTIVATION.** A licensee who is in active practice in another state may maintain a current license by requesting his or her license be placed on inactive status.

(1) A licensee practicing in another state whose Washington license to practice podiatric medicine and surgery became inactive on or after July 1, 1987, due to nonpayment of the renewal fees may request his or her license be placed on inactive license status. The request and inactive license fee must be submitted by September 1, 1991.

(2) A licensee who holds a current Washington podiatry license and is actively practicing in another state may request his or her license be placed on inactive status.

A license shall be maintained on the inactive status by payment of the inactive renewal fee annually and verification of compliance with the continuing education requirements established by the board.

An inactive license may be reactivated by payment of the current renewal fee and verification that the licensee has not had any action taken by a state or federal jurisdiction or hospital which would prevent or restrict the licensee's practice of podiatric medicine and surgery; or voluntarily given up any license or privilege or been restricted in the practice of podiatric medicine and surgery in lieu of or to avoid formal action.

#### NEW SECTION

**WAC 246-922-295 LAPSED LICENSE REINSTATEMENT.** A license that has not been renewed due to nonpayment of the annual renewal fee shall be considered to be a lapsed license. The license may be reinstated without examination if the board determines that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of podiatric medicine and surgery.

(1) A license that has lapsed less than one year shall be reinstated upon written request, including a practice chronology from the date of license lapse to the present, payment of the renewal penalty fee together with all delinquent annual renewal fees, and verification of compliance with the continuing education requirements established by the board.

(2) A person whose license has lapsed for longer than one year must:

(a) File an original application;

(b) Submit the original application fee and current renewal fee;

(c) Provide practice chronology of podiatric medicine from the date the license lapsed and evidence of having met the board's current continuing education requirements;

(d) Provide verification that the licensee has not had hospital privileges restricted or revoked;

(e) Provide verification of all state licenses and that the licensee has not been disciplined by a state regulatory board or agency;

(f) Provide documentation relative to any malpractice settlements or judgments within the past five years;

(g) Provide other documentation as the board may require.

**WSR 91-05-090**

**PROPOSED RULES**

**DEPARTMENT OF HEALTH  
(Pharmacy Board)**

[Filed February 20, 1991, 2:57 p.m.]

Original Notice.

Title of Rule: Out-of-state prescriptions.

Purpose: To implement RCW 69.41.120.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005(7)

Summary: This rule allows pharmacists to substitute a therapeutically equivalent generic drug product on prescriptions written by practitioners in another state. This rule also allows pharmacists to accept prescriptions written on a prescription blank different than that required for Washington practitioners by RCW 69.41.120.

Reasons Supporting Proposal: These rules will implement RCW 69.41.120.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: D. H. Williams, 1300 Quince Street S.E., EY-20, Olympia, WA 98504, 753-6834.

Name of Proponent: Washington State Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements RCW 69.41.120 by setting the criteria by which a pharmacist can substitute a therapeutically equivalent generic drug when dispensing a prescription issued by a practitioner licensed in a state other than Washington. This rule also allows a pharmacist to accept a prescription written by a practitioner in another state which is on a prescription blank different than that required for Washington practitioners.

Proposal does not change existing rules.

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

Hearing Location: Wright Building, Third Floor Conference Room, 464 12th Avenue, Seattle, WA, on March 28, 1991, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, 1300 Quince Street S.E., EY-20, Olympia, WA 98504, by March 25, 1991.

Date of Intended Adoption: March 28, 1991.

January 28, 1991  
Donald H. Williams  
Executive Director

#### NEW SECTION

WAC 360-49-050 OUT-OF-STATE PRESCRIPTIONS. (1) When dispensing a prescription issued by a practitioner licensed in a state other than Washington, and recognized in RCW 69.41.030, the pharmacist must honor the instructions of the practitioner regarding substitution. These instructions may be on a prescription blank different than that required for Washington practitioners by RCW 69.41.120 and may include the use of the words "dispense as written," words of similar meaning, a checkoff box, or some other indication or intent.

(2) If the practitioner has not clearly provided instructions regarding substitution, a pharmacist may substitute a therapeutically equivalent generic drug only if:

- (a) The pharmacist has personal knowledge and is familiar with the laws and rules regarding substitution in the state of origin; or
- (b) The pharmacist obtains oral or written authorization from the practitioner; or
- (c) The pharmacist obtains current information regarding the manner in which an out-of-state practitioner provides instruction from:
  - (i) The Washington state board of pharmacy; or
  - (ii) The board of pharmacy in the state, other than Washington, in which the practitioner practices; or
  - (iii) Some other professional source.

(3) Drug product selection shall be based on Washington law and rule as set forth in WAC 360-49-020.

**WSR 91-05-091**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
**(Pharmacy Board)**

[Filed February 20, 1991, 2:59 p.m.]

Original Notice.

Title of Rule: Internship requirements, WAC 360-10-030, 360-10-050, and 360-10-060.

Purpose: To revise the internship rules.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005(7)

Summary: These rules will extend the date by which pharmacist-preceptors shall complete a board-approved training program to qualify for certification and will allow an intern to work under the supervision of a licensed pharmacist in the absence of a preceptor, however, these hours will not count towards fulfilling any internship requirement.

Reasons Supporting Proposal: To extend the date by which pharmacist-preceptors must complete a board-approved training program and to allow an intern to continue to work in the absence of a preceptor.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: D. H. Williams, 1300 Quince Street S.E., EY-20, Olympia, WA 98504, 753-6834.

Name of Proponent: Washington State Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 360-10-030 and 360-10-060 will allow an intern to continue to work in the absence of a preceptor as long as the intern is being supervised by a licensed pharmacist. None of the hours earned while the intern's preceptor is away from the pharmacy will count towards fulfilling any internship requirement. WAC 360-10-050 requires pharmacist-preceptors to participate in a board-approved training program every five years to be eligible for certification. This rule change will extend the date by which training must be completed to June 30, 1991.

Proposal Changes the Following Existing Rules: WAC 360-10-030 and 360-10-060 allows an intern to work under the supervision of a pharmacist in the absence of their preceptor. WAC 360-10-050 extends the date by which pharmacist-preceptors must participate in a board-approved training program to qualify for certification.

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

Hearing Location: Wright Building, Third Floor Conference Room, 464 12th Avenue, Seattle WA, on March 28, 1991, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, 1300 Quince Street S.E., EY-20, Olympia, WA 98504, by March 25, 1991.

Date of Intended Adoption: March 28, 1991.

January 28, 1991  
Donald H. Williams  
Executive Director

AMENDATORY SECTION (Amending Order 208, filed 12/9/87)

WAC 360-10-030 RULES FOR THE PHARMACY INTERN.

(1) The intern shall send notification to the board of pharmacy on or before the first day of beginning of his/her training. Such notification shall consist of the date, the name of the pharmacy, and the name of the preceptor where the intern expects to begin his/her internship. The board of pharmacy shall promptly notify the intern of the acceptability of the preceptor under whom the intern expects to gain experience. Internship credit will not be accepted until the preceptor has been certified.

(2) The pharmacy intern shall engage in the practice of pharmacy, and the selling of items restricted to sale under the supervision of a licensed pharmacist, only while he/she is under the direct and personal supervision of a certified preceptor or a licensed pharmacist designated by the preceptor to supervise that intern during the preceptor's absence from the site. Provided, that hours of experience gained while the certified preceptor is absent from the site shall not be counted toward fulfilling any internship requirement.

AMENDATORY SECTION (Amending Order 055, filed 5/16/90, effective 6/16/90)

WAC 360-10-050 REQUIREMENTS FOR PRECEPTOR CERTIFICATION. (1) A pharmacist who is licensed and actively engaged in practice in a Class A pharmacy in the state of Washington, and who has met certification requirements prescribed in this section of the regulation and who has completed a board approved training program within the last five years, and who has been certified by the board of pharmacy shall be known as "pharmacist preceptor." The requirement for completion of an approved training program becomes effective (~~January 1~~) June 30, 1991.

(2) The pharmacist preceptor must have completed twelve months as a licensed pharmacist engaged in the practice of pharmacy as defined in RCW 18.64.011(11).

(3) Any preceptor or preceptor applicant who has been found guilty of a drug or narcotic violation or whose pharmacist license has been revoked, suspended, or placed on probation by the state board of pharmacy shall not be eligible for certification as a preceptor, until completion of the probationary period, and a showing of good cause for certification as a pharmacist preceptor.

(4) The preceptor shall be responsible for the quality of the internship training under his/her supervision and he/she shall assure that the intern actually engages in pharmaceutical activities during that training period.

(5) The board of pharmacy shall withdraw a preceptor's certification upon proof that the preceptor failed to meet or maintain the requirements as stated in this section.

(6) In considering the approval of special internship programs pursuant to WAC 360-10-080, the board may approve alternative qualification requirements for the preceptors of such programs.

AMENDATORY SECTION (Amending Order 211, filed 3/2/88)

WAC 360-10-060 RULES FOR PRECEPTORS. (1) The pharmacist preceptor, or his or her designee in accordance with WAC 360-10-030(2), shall supervise the pharmacy intern and shall be responsible for the sale of restricted items, and the compounding and dispensing of pharmaceuticals dispensed by an intern.

(2) The pharmacist preceptor must use the board approval plan of instruction for interns.

(3) Upon completion of the intern's experience at each site, the preceptor under whom this experience was obtained shall file a report with the board. Such report shall briefly describe the type of professional experience received under the preceptor's supervision and the preceptor's evaluation of the intern's ability to practice pharmacy at that stage of internship.

(4) The board of pharmacy shall provide the necessary affidavit forms to certify hours of experience under the personal supervision of a preceptor. Affidavits must be certified and recorded in the office of the board not later than thirty days after the completion of any site intern experience; provided that any experience necessary for eligibility to

take the licensing examination must be in the board office no later than thirty days prior to the examination.

(5) The pharmacist preceptor may supervise more than one intern during a given time period; however, two interns may not dispense concurrently under the direct supervision of the same preceptor.

**WSR 91-05-092**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
**(Pharmacy Board)**  
[Filed February 20, 1991, 3:00 p.m.]

Original Notice.

Title of Rule: Pharmacist to pharmacy assistant ratio.

Purpose: To allow pharmacies which provide services to inpatients of a hospital or extended care facility to include pharmacists who are practicing outside of the confines of the licensed pharmacy when calculating the pharmacist to pharmacy assistant ratio.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005(7)

Summary: The board will consider approval of pharmacy assistant utilization plans which include all pharmacists who are actually practicing pharmacy, whether physically in the pharmacy or elsewhere, when calculating ratio between pharmacists and pharmacy assistants for the purposes of RCW 18.64A.040.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: D. H. Williams, 1300 Quince Street S.E., EY-20, Olympia, WA 98504, 753-6834.

Name of Proponent: Washington State Board of Pharmacy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule allows the board to consider approval of pharmacy assistant utilization plans which include all pharmacists who are actually practicing pharmacy, whether physically in the pharmacy or elsewhere, when calculating the ratio between pharmacists and pharmacy assistants for the purposes of RCW 18.64A.040.

Proposal does not change existing rules.

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

Hearing Location: Wright Building, Third Floor Conference Room, 464 12th Avenue, Seattle, WA, on March 28, 1991, at 10:00 a.m.

Submit Written Comments to: Donald H. Williams, 1300 Quince Street S.E., EY-20, Olympia, WA 98504, by March 25, 1991.

Date of Intended Adoption: March 28, 1991.

January 28, 1991  
Donald H. Williams  
Executive Director

NEW SECTION

WAC 360-52-120 PHARMACIST TO PHARMACY ASSISTANT RATIO. (1) RCW 18.64A.040 establishes a ratio of pharmacists to level A pharmacy assistants who are performing level A functions.

This ratio is one to one in most pharmacies, including hospital outpatient activities and one to three in pharmacies associated with inpatient hospital services.

(2) In determining which pharmacists may be included in the calculation of the ratio, the board will consider approval of pharmacy assistant utilization plans which include all pharmacists within the pharmacy who are engaged in the actual practice of pharmacy. When the pharmacy provides service to inpatients of a hospital or extended care facility, pharmacists who are practicing pharmacy outside of the confines of the licensed pharmacy (e.g., performing nursing unit inspections, reviewing charts, consulting with health professional staff) may be included in the ratio, provided:

(a) There are sufficient numbers of pharmacists within the pharmacy to properly supervise the work of the pharmacy assistants;

(b) The pharmacy is not open to the public;

(c) The medications are being checked by another health professional before being given to the patient;

(d) Drug orders are not dispensed from the pharmacy without being checked by a licensed pharmacist or pharmacy intern.

### WSR 91-05-093

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

[Order 143—Filed February 20, 1991, 3:02 p.m.]

Date of Adoption: February 13, 1991.

Purpose: Amends rules to allow department to transfer a certificate of need in the event of death or divorce of an individual person holding the certificate.

Citation of Existing Rules Affected by this Order: Amending WAC 246-310-500.

Statutory Authority for Adoption: RCW 70.38.135.

Pursuant to notice filed as WSR 91-01-075 on December 17, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-310-500 (7)(h) was added which provides for a new two year validity period when a certificate of need which has not been commenced is being transferred.

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

February 13, 1991  
Pam Campbell Mead  
for Kristine M. Gebbie  
Secretary

#### AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-310-500 ISSUANCE, SUSPENSION, DENIAL, REVOCATION, AND TRANSFER OF A CERTIFICATE OF NEED. (1) The secretary's designee shall issue a certificate of need to the applicant.

(a) The secretary's designee shall issue a certificate of need for:

(i) The proposed project, or

(ii) A separable portion of the proposed project.

(b) When the certificate of need is issued for a separable portion of the proposed project, the secretary's designee shall provide written notice to the applicant stating the reasons for the department's action.

(c) The secretary's designee shall issue a certificate of need only when the department finds that the project or the separable portion of the proposed project is consistent with the applicable criteria contained in chapter ~~((248-19))~~ 246-310 WAC.

(d) In issuing a certificate of need, the secretary's designee shall:

(i) Specify the maximum capital expenditure which may be obligated under the certificate, and

(ii) Prescribe the cost components to be included in determining the capital expenditure which may be obligated under such certificate.

(2) The secretary's designee may issue a conditional certificate of need for a proposed project or a separable portion of the proposed project.

(a) The conditions attached to a certificate of need must directly relate to the project being reviewed.

(b) The conditions must directly relate to criteria contained in chapter ~~((248-19))~~ 246-310 WAC.

(3) The department shall apply the following provisions when suspending a certificate of need.

(a) The secretary's designee may suspend a certificate of need for cause which shall include, but not be limited to:

(i) Suspicion of fraud,

(ii) Misrepresentation,

(iii) False statements,

(iv) Misleading statements,

(v) Evasion or suppression of material fact in the application for a certificate of need or any of its supporting materials.

(b) The secretary's designee shall issue an order which states the reason for any suspension of a certificate of need to the person to whom the certificate of need had been issued.

~~((i) Such order shall state the reason for the suspension:~~

~~(ii) A copy of such order of suspension shall be sent to the appropriate advisory review agencies:))~~

(c) A suspension of a certificate of need shall not exceed one hundred twenty calendar days.

(i) Prior to the expiration of the suspension the department shall:

(A) Review the facts and circumstances relevant to the suspension;

(B) Reinstate, amend, or revoke the certificate of need; and,

(ii) Send written notice of its decision on a suspended certificate of need to((:

~~(A))~~ the person to whom the certificate of need had been issued(~~(, and~~

~~(B) The appropriate advisory review agencies:))~~.

(4) The secretary's designee shall send written notification of denial of a certificate of need to the applicant submitting the certificate of need application((:

~~(a) Such notification shall state))~~ stating the reasons for the denial.

~~((b) Copies of such notification shall be sent to the appropriate advisory review agencies:))~~

(5) When a proposed project or separable portion of the proposed project is denied a certificate of need, the department shall not accept another certificate of need application for the same project or separable portion unless the department determines:

(a) There is a substantial change in existing or proposed health facilities or services in the area to be served by the project; or

(b) There is a substantial change in the need for the facilities or services of the type proposed in the area to be served by the project; or

(c) One year has lapsed since the submission of the application for the certificate of need subject to regular review which was denied or the next scheduled concurrent review cycle permits the submission of applications.

(6) The department shall apply the following provisions in the revocation of a certificate of need.

(a) The secretary's designee may revoke a certificate of need for cause which shall include the following:

- (i) Fraud,
- (ii) Misrepresentation,
- (iii) False statements,
- (iv) Misleading statements, and
- (v) Evasion or suppression of material facts in the application of a certificate of need, or in any of its supporting materials.

(b) When the secretary's designee revokes a certificate of need, the secretary's designee shall(:

(i)) provide written notice of revocation to the person to whom the certificate of need was issued, including a statement of the reasons for such revocation(, and

(ii) ~~Send a copy of the notice of revocation to the appropriate advisory review agencies).~~

(7) The department shall apply the following procedures in transferring or assigning a certificate of need.

(a) The department shall consider a request to transfer or assign a certificate of need valid only when:

(i) The person to whom the certificate of need was originally issued, or personal representative, where the holder is deceased, submits to the department a written request that the certificate of need be transferred to another person and gives the full name and complete address of the other person; and

(ii) The person to whom the current holder of the certificate of need wishes to transfer the certificate sends an application for such transfer on a form and in such a manner as prescribed and published by the department.

(b) The department shall review applications for transfer or assignment of a certificate of need according to the:

(i) Expedited review procedures in WAC ((248-19-340)) 246-310-150; or

(ii) Regular review procedures in WAC ((248-19-330)) 246-310-160.

(c) The secretary's designee shall base his or her decision to approve or deny an application to transfer or assign a certificate of need on:

(i) The demonstrated ability of the person wishing to acquire the certificate of need to undertake, complete, and operate the project in accordance with the following review criteria:

(A) WAC ((248-19-380)) 246-310-220 (1) and (3), and

(B) WAC ((248-19-390)) 246-310-230 (1), (3), and (5).

(ii) The continuing conformance of the project with all other applicable review criteria(, and

(iii) ~~The comments and recommendations of the appropriate advisory review agency).~~

(d) When the person submitting an application to transfer or assign a certificate of need proposes to modify the project description or the maximum capital expenditure, the department shall inform in writing such person that a new or amended certificate of need is required.

(e) When the department denies an application for transfer or assignment of a certificate of need, the department shall inform in writing the person who submitted the application of the reasons for such denial.

(f) The department shall not transfer or assign any certificate of need issued after February 1, 1988, except when:

(i) Prior to completion of the project, death or divorce of ~~((a jointly held))~~ one or more persons holding a certificate renders it impossible ~~((for the remaining holder of the certificate))~~ or impractical to complete the project in the absence of a transfer or assignment; or

(ii) After commencement, a substantial portion of the project has been completed by the original holder of the certificate.

(g) The department shall not transfer or assign a certificate of need under subsections (7)(f)(i) and (ii) of this section when the authorized project is to be relocated.

(h) When the department transfers a certificate of need for a project which has not been commenced, the transferred certificate of need shall have a validity period of two years from the date of issue with the provision for one six-month extension if the holder can demonstrate to the satisfaction of the secretary's designee that substantial and continuing progress towards commencement has been made.

(8) When the secretary's designee fails to issue or deny a certificate of need, the applicant may seek a writ of mandamus from superior court pursuant to chapter 7.16 RCW.

## WSR 91-05-094

### PERMANENT RULES

### DEPARTMENT OF HEALTH

[Order 144B—Filed February 20, 1991, 3:06 p.m.]

Date of Adoption: November 27, 1990.

Purpose: To update application and licensure requirements, exam appeal procedures and supervision and utilization of supportive personnel.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-010, 246-915-030, 246-915-040, 246-915-050, 246-915-080, 246-915-110, 246-915-130, 246-915-140, 246-915-150, 246-915-160, 246-915-170, 246-915-180, and 246-915-210.

Statutory Authority for Adoption: RCW 18.74.023.

Pursuant to notice filed as WSR 90-21-073 on October 16, 1990.

Changes Other than Editing from Proposed to Adopted Version: Purpose of rule is to define licensee responsibilities pertaining to practice, supervision and utilization of supportive personnel. Amendments to proposed

rule further clarify what must be documented and where documentation must be maintained.

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

February 11, 1991

Christine A. Larson

Board Chair

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-010 DEFINITIONS. For the purposes of administering chapter 18.74 RCW, the following terms are to be construed as set forth herein:

(1) The "performance of tests of neuromuscular function" includes the performance of electroneuromyographic examinations.

(2) "Consultation" means a communication regarding a patient's evaluation and proposed treatment plan with an authorized health care practitioner.

(3) "Supervisor" shall mean the licensed physical therapist.

(4) "Physical therapist assistant" shall mean ~~((an individual who shall have received an associate degree as a physical therapist assistant from an approved school, or a graduate of an approved school of physical therapy who has not been licensed to practice physical therapy in Washington state))~~ a graduate of an approved school of physical therapy who is eligible for licensure but has not been licensed to practice physical therapy in Washington state, or an individual who has received an associate degree as a physical therapist assistant from an approved school.

(5) "Physical therapist aide" shall mean an individual who shall have received on-the-job training from a physical therapist.

(6) "Immediate supervision" shall mean the supervisor is in audible or visual range of the patient and the person treating the patient.

(7) "Direct supervision" shall mean the supervisor is on the premises, is quickly and easily available and the patient has been examined by the physical therapist at such time as acceptable physical therapy practice requires, consistent with the delegated health care task.

(8) "Indirect supervision" shall mean the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires, and consistent with the particular delegated health care task.

(9) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(10) "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.

(11) "Spinal manipulation" or "manipulative mobilization" is defined as movement beyond the normal physiological range of motion.

## NEW SECTION

WAC 246-915-015 EXAMINATION APPEAL PROCEDURES. (1) Any candidate who takes the state written examination for licensure and does not pass may request informal review by the board of his or her examination results. The request must be in writing and must be received by the department of health, professional licensing services division within thirty days of the postmark on the notification of the examination results. The board will not set aside the examination results unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness, or manifest unfairness. The board will not consider any challenges to examination scores unless the total revised score could result in a passing score.

(2) The procedure for filing an informal review is as follows:

(a) Contact in writing the department of health office in Olympia for an appointment to appear personally to review incorrect answers on failed examinations.

(b) The candidate will be provided a form to complete in the department of health office in Olympia in defense of his or her examination answers.

(c) The candidate must state the specific reason or reasons why the candidate feels the results of the examination should be changed.

(d) The candidate will be identified only by candidate number for the purpose of this review. Letters of reference or requests for special consideration will not be read or considered by the board.

(e) The candidate may not bring in any resource materials for use while completing the informal review form.

(f) The candidate will not be allowed to remove any notes or materials from the office upon leaving.

(g) The candidate must comply with all procedural and security requirements for examination appeals established by the department of health.

(h) The board will review and evaluate the comments submitted by the candidate on the forms provided for the informal review and make its decision regarding the candidate.

(i) The candidate will be notified in writing of the board's decision by the department.

(3) Any candidate who is not satisfied with the result of the examination review may request a formal hearing to be held before the board pursuant to the Administrative Procedure Act. Such hearing must be requested within thirty days of the postmark of the result of the board's review of the examination results. The request must state the specific reason or reasons why the candidate feels the results of the examination should be changed. The prior determination will not be set aside unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness, or manifest unfairness. The board will not consider any challenges to examination scores unless the total revised score could result in a passing score.

(4) Prior to scheduling the hearing the candidate or the state's attorney may petition to appear before an administrative law judge for a prehearing conference to consider the following:

- (a) The simplification of issues;
- (b) The necessity of amendments to the notice of specific reasons for examination result change;
- (c) The possibility of obtaining stipulations, admissions of fact, and documents;
- (d) The limitation of the number of expert witnesses;
- (e) A schedule for completion of all discovery; and
- (f) Such other matters as may aid in the disposition of the proceeding.

(5) The administrative law judge shall enter an order 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. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order of the board.

(6) Candidates seeking formal appeal will receive at least twenty days' advance notice of the time and place of the formal hearing. The hearing will be restricted to the specific reasons the candidate has identified as the basis for a change in the examination score.

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-030 EXAMINATION. (1) The examination acceptable to and approved for use under the provisions of RCW 18.74.035 shall be the examination for physical therapists as ~~((recognized by the American Physical Therapy Association))~~ approved by the board of physical therapy. A passing score is not less than ~~((sixty percent raw score on each of the three examination parts))~~ 1.0 standard deviation below the national mean.

(2) If a candidate fails to receive a passing score on the examination, he or she will be required to retake ~~((only the section(s) failed))~~ the examination.

(3) Where necessary, applicant's score will be rounded off to the nearest whole number.

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-040 RECIPROCITY—REQUIREMENTS FOR LICENSURE. (1) Before reciprocity is extended to any individual licensed to practice physical therapy under the law of another state, territory, or District of Columbia, the board shall determine the qualifications of the applicant as prescribed by law based in part on the examination and the passing score approved by the board ~~((with not less than sixty percent raw score on each of the three examination parts))~~.

(2) If the decision to extend reciprocity is based on an examination other than the examination approved ~~((by the board))~~ in WAC 246-915-030(1), the board shall

determine if such examination is equivalent to that required by the laws of this state.

(3) The board shall not recommend to the ~~((director))~~ secretary that a person be licensed as a physical therapist under the reciprocity provisions of RCW 18.74.060, unless said applicant shall have taken and passed the examination approved by the board, or other examination equivalent to that required by the laws of this state.

(4) If a licensee has not worked in physical therapy in the last three years, the applicant may be granted reciprocity under the following conditions:

(a) The board may require reexamination of an applicant who has not been actively engaged in lawful practice in another state or territory; or

(b) Waive reexamination in favor of evidence of continuing education satisfactory to the board.

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-050 REINSTATEMENT. ~~((+++))~~

(1) Any physical therapist who fails to renew the license within thirty days of the date set by the ((director)) secretary for renewal shall automatically lapse. The licensee may, within three years from the date of lapse and upon recommendation of the board, request the license be revived by paying all back fees and a penalty fee determined by the ((director)) secretary.

(2) If a license has lapsed more than three years, the license may be revived under the following conditions:

(a) The board may require reexamination of an applicant who has not been continuously engaged in lawful practice in another state or territory, or

(b) Waive reexamination in favor of evidence of continuing education satisfactory to the board.

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-080 RENEWAL OF LICENSE.

(1) The annual license renewal date for physical therapists shall coincide with the licensee's birthdate. Individuals making application for initial license and examination, provided they meet all such requirements, will be issued a license to expire on their next birth anniversary date.

~~((Effective January 1, 1989, all persons making application for licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of WAC 308-42-123. Persons whose 1989 license expires on or before March 31, 1989, may, upon written application, be granted an extension to April 15, 1989, to meet the AIDS education requirement.~~

~~((3))~~ Licensees are responsible for annual renewal of a license whether or not they receive notification from the department.

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-110 AIDS EDUCATION AND TRAINING. (1) Acceptable education and training. The department will accept education and training that



is consistent with the model curriculum available from 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.

(2) Implementation. Effective January 1, 1989, the requirement for licensure application (~~(, renewal,)~~) or reinstatement of any license on lapsed ~~(;)~~ 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 (1) of this section.

(3) Documentation. The applicant or licensee shall:

(a) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987 ~~(, and before renewal date or December 31, 1989, whichever date is earlier)~~;

(b) Keep records for two years documenting attendance and description of the education; and

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

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-130 INITIAL EVALUATION—REFERRAL—NONREFERRAL—RECOMMENDATIONS—FOLLOW-UP. (1) Initial evaluation of a ~~((nonreferral))~~ patient shall include history, chief complaint, examination, and recommendation for treatment.

(2) Direct referral of a patient by an authorized health care practitioner may be by telephone, letter, or in person: PROVIDED, HOWEVER, If the instructions are oral, the physical therapist may administer treatment accordingly, but must make a notation for his/her record describing the nature of the treatment, the date administered, the name of the person receiving treatment, and the name of the referring authorized health care practitioner.

(3) The physical therapist will follow-up each ~~((referral or nonreferral))~~ patient visit with the appropriate recordkeeping as defined in WAC ~~((308-42-160))~~ 246-915-200.

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-140 SUPPORTIVE PERSONNEL—SUPERVISION. Supervision of supportive personnel requires that the supervisor perform the following activities:

(1) Provide initial evaluation of the patient.

(2) Develop a treatment plan and program, including long and short-term goals.

(3) Assess the competence of supportive personnel to perform assigned tasks.

(4) Select and delegate appropriate portions of the treatment plan and program.

(5) Direct and supervise supportive personnel in delegated functions.

(6) Reevaluate the patient and adjust the treatment plan as acceptable physical therapy practice requires, consistent with the delegated health care task.

(7) Following an evaluation or reevaluation by the licensed physical therapist, the tasks delegated to and performed by the physical therapist aide are to be determined, taught, supervised, and documented by the licensed physical therapist and shall remain the responsibility of the supervising licensed physical therapist. A separate record shall be maintained by the licensed physical therapist documenting training and proficiency of the aide to perform the delegated tasks. The supervising licensed physical therapist must be on the premises while treatment is performed.

(8) Provide discharge planning.

(9) Individuals involved in direct patient care in a physical therapy setting who do not qualify as a physical therapist or physical therapist assistant, shall require direct or immediate supervision.

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-150 PHYSICAL THERAPIST ASSISTANT SUPERVISION RATIO. The number of full time equivalent physical therapist assistants and aides utilized in any physical therapy practice shall not exceed twice in number the full time equivalent licensed physical therapists practicing therein.

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-160 ~~((SUPPORTIVE))~~ PERSONNEL IDENTIFICATION. ~~((All supportive personnel))~~  
(1) Each person shall wear ((an identification)) a badge identifying ((them as either)) his or her clinical title, and/or role in the facility as a physical therapist, a physical therapist assistant, or a physical therapist aide as appropriate. Supportive personnel shall not use any term or designation which indicates or implies that he or she is licensed ((or registered)) in the state of Washington.

(2) A license or certified copy of the license shall be posted in a safe, conspicuous location at the licensee's work site. The licensee's address may be blocked out before posting the license or certified copy of the license.

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

WAC 246-915-170 SPECIAL REQUIREMENTS FOR PHYSICAL THERAPIST ASSISTANT UTILIZATION. The physical therapist assistant may function under immediate, direct or indirect supervision if the following requirements are met:

(1) Patient reevaluation must be performed by a supervising licensed physical therapist every five visits, or ((once a week)) if treatment is performed more than once a day, reevaluation must be performed at least once a week.

(2) Any change in the patient's condition not consistent with planned progress or treatment goals necessitates a reevaluation by the licensed physical therapist before further treatment is carried out.

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

**WAC 246-915-180 PROFESSIONAL CONDUCT PRINCIPLES.** (1) The patient's lawful consent is to be obtained before any information related to the patient is released, except to the consulting or referring authorized health care practitioner and/or authorized governmental agency(s).

(a) Physical therapists are responsible for answering legitimate inquiries regarding a patient's physical dysfunction and treatment progress, and

(b) Information is to be provided to insurance companies for billing purposes only.

(2) Physical therapists are not to compensate to give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity in a news item. A paid advertisement is to be identified as such unless it is apparent from the context it is a paid advertisement.

(3) It is the licensee's responsibility to report any unprofessional, incompetent or illegal acts which are in violation of chapter 18.74 RCW or any rules established by the board.

(4) It is the licensee's responsibility to recognize the boundaries of his or her own professional competencies and that he or she uses only those in which he or she can prove training and experience.

(5) Physical therapists shall recognize the need for continuing education and shall be open to new procedures and changes.

(6) It is the licensee's responsibility to represent his or her academic credentials in a way that is not misleading to the public.

(7) It is the responsibility of the physical therapist to refrain from undertaking any activity in which his or her personal problems are likely to lead to inadequate performance or harm to a client and/or colleague.

(8) A physical therapist shall not use or allow to be used any form of public communication or advertising connected with his or her profession or in his or her professional capacity as a physical therapist which:

(a) Is false, fraudulent, deceptive, or misleading;

(b) Uses testimonials;

(c) Guarantees any treatment or result;

(d) Makes claims of professional superiority.

**AMENDATORY SECTION** (Amending Order 103B, filed 12/21/90, effective 1/31/91)

**WAC 246-915-210 GENERAL PROVISIONS.** (1) "Unprofessional conduct" as used in these regulations shall mean the conduct described in RCW 18.130.180.

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Board" means the physical therapy board, whose address is:

Department of ((Licensing)) Health  
 ((Division of Professional Programs Management  
 P.O. Box 9649))  
 1300 Quince Street  
 Olympia, WA 98504

(5) "Physical therapist" means a person licensed pursuant to chapter 18.74 RCW.

(6) "Mentally or physically disabled physical therapist" means a physical therapist who has either been determined by a court to be mentally incompetent or mentally ill or who is unable to practice physical therapy with reasonable skill and safety to patients by reason of any mental or physical condition.

**WSR 91-05-095**

**PERMANENT RULES**

**DEPARTMENT OF HEALTH  
 (Chiropractic Disciplinary Board)**

[Order 110B—Filed February 20, 1991, 3:07 p.m.]

Date of Adoption: January 17, 1991.

Purpose: To transfer rules from chapters 113-10 and 113-12 WAC to chapter 246-807 WAC.

Citation of Existing Rules Affected by this Order: See Recodification Section below.

Statutory Authority for Adoption: RCW 18.26.110.

Pursuant to notice filed as WSR 90-21-116 on October 22, 1990.

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

January 17, 1991

John W. Day D.C.

Chairman

**RECODIFICATION SECTION**

The following sections are being recodified as chapter 246-807 WAC:

Chapter 246-807 WAC

Chiropractic, doctors of—Chiropractic disciplinary board

**CODE OF ETHICS**

113-10-010	as	246-807-020
113-10-020	as	246-807-030
113-10-030	as	246-807-040
113-10-040	as	246-807-050
113-10-050	as	246-807-060
113-10-060	as	246-807-070
113-10-070	as	246-807-080
113-10-090	as	246-807-090
113-10-100	as	246-807-100
113-10-110	as	246-807-110

**BOARD RULES**

113-12-010	as	246-807-120
113-12-075	as	246-807-130
113-12-080	as	246-807-140
113-12-085	as	246-807-150
113-12-087	as	246-807-160
113-12-101	as	246-807-170
113-12-103	as	246-807-180
113-12-104	as	246-807-190
113-12-115	as	246-807-200
113-12-120	as	246-807-210
113-12-150	as	246-807-220
113-12-165	as	246-807-230
113-12-170	as	246-807-240
113-12-175	as	246-807-250
113-12-180	as	246-807-260
113-12-190	as	246-807-270
113-12-195	as	246-807-280
113-12-197	as	246-807-290
113-12-200	as	246-807-300
113-12-210	as	246-807-310
113-12-220	as	246-807-320
113-12-230	as	246-807-330
113-12-300	as	246-807-340
113-12-310	as	246-807-350
113-12-320	as	246-807-360
113-12-330	as	246-807-370
113-12-340	as	246-807-380
113-12-350	as	246-807-390

**WSR 91-05-096****NOTICE OF PUBLIC MEETINGS  
CLEMENCY AND PARDONS BOARD**

[Memorandum—February 20, 1991]

The Washington State Clemency and Pardons Board hereby files the following schedule of its regular meetings for 1991.

Clemency and Pardons Board meetings shall be held on Thursday, March 7, 1991, and thereafter on the second Friday of June, September and December 1991, at 9:00 a.m. in the Governor's Conference Room.

**WSR 91-05-097****NOTICE OF PUBLIC MEETINGS  
OFFICE OF MINORITY AND  
WOMEN'S BUSINESS ENTERPRISES**

[Memorandum—February 20, 1991]

This is to advise you of the Office of Minority and Women's Business Enterprises' (OMWBE) 1991 regular schedule of advisory committee meetings.

March 13, 1991  
June 12, 1991  
September 11, 1991  
December 11, 1991

All meetings will start at 10:00 a.m. until 12:00 noon, and shall be held at the OMWBE Conference Room, at 406 South Water, Olympia, WA 98504. If you have any questions, please don't hesitate to call Eleda Reyes at 3-9691.

**WSR 91-05-098****DEPARTMENT OF ECOLOGY**

[Filed February 20, 1991, 3:21 p.m.]

**DESIGNATION DECISION ON THE PROPOSED "WALLA  
WALLA GROUND WATER MANAGEMENT AREA"**

On January 18, 1991, The Washington State Department of Ecology gave notice of its intention to consider the designation of the "Walla Walla ground water management area" in accordance with chapter 173-100 WAC, Ground water management areas and programs. Walla Walla regional planning requested ecology to consider the area for designation as a ground water management area.

A public hearing was held at Walla Walla Community College on February 6, 1991. A public comment period on the proposal ended on February 12, 1991.

On February 12, 1991, the Board of County Commissioners for Walla Walla County issued a resolution (No. 91 068) requesting the Department of Ecology to terminate the designation process for the proposed Walla Walla ground water management area. They want an opportunity to complete preliminary investigations prior to being designated as a ground water management area.

Therefore, having considered the request from the Board of County Commissioners of Walla Walla County and having reviewed public comment and testimony, the proposed Walla Walla ground water management area will not be designated at this time. The area will not be added to general schedule at this time and the designation as a "probable" ground water management area is rescinded.

February 15, 1991  
Hedia R. Adelsman  
Program Manager  
Water Resources Program

**WSR 91-05-099****DEPARTMENT OF ECOLOGY**

[Filed February 20, 1991, 3:23 p.m.]

In the matter of the request for designation of the west Snohomish ground water management area pursuant to chapter 173-100 WAC.

Order pertaining to ground water management area No. 17, (west Snohomish ground water management area).

**BACKGROUND**

On January 30, 1991, the Department of Ecology (ecology) received a request from the Snohomish County planning department to identify the West Snohomish

area within Snohomish County as a probable ground water management area pursuant to chapter 173-100 WAC.

#### FINDINGS

1. On February 1, 1991, ecology accepted the request and appointed the Snohomish County planning department as lead agency, pursuant to WAC 173-100-050(6).

2. The department evaluated the request and placed the west Snohomish area number 17 on the 1989 general schedule for development of ground water management programs. The general schedule was adopted by order of the department on March 30, 1989, pursuant to WAC 173-100-060. There have been no additions to the general schedule since that time.

3. A public hearing on the requested designation of the west Snohomish area as a ground water management area was conducted by ecology at Everett, Washington on February 7, 1991. The comments submitted at the hearings and written comments submitted during the subsequent public comment period have been considered by the department in processing the request for designation submitted by Snohomish County planning department.

4. The general description of the planning boundary for the west Snohomish area ground water management area is as follows: The western boundary is Puget Sound, the northern boundary is the county line with Skagit County, and the southern boundary is the county line with King County. The eastern boundary generally follows bedrock - starting at the Skagit County line at a point approximately four miles east of State Route 9. It then trends southeast to just north of the Stillaguamish River where it turns east and parallels the river for approximately 20 miles. The boundary crosses the river in a southerly direction for about 2 miles and then turns west for approximately 20 miles before turning southeast. It generally parallels (1-2 miles to the east) the south fork of the Stillaguamish to just north of the town of Granite Falls where it turns east southeast paralleling the south fork of the Stillaguamish for approximately 15 miles. The boundary crosses the river in T30N, R9E (W.M.) and continues northeast along the river to Granite Falls. From Granite Falls, the boundary continues southeast crossing the Skykomish River approximately three miles east of the town of Gold Bar in T27N, R9E. The boundary then heads nearly due west to approximately one mile east and south of the town of Monroe in T27N, R7E, where it turns south to the King Snohomish County line, just east of the Snoqualmie River.

5. The Department of Ecology in cooperation with the lead agency and local government intends to appoint a ground water advisory committee for the development of a ground water management program for the area.

#### CONCLUSIONS

From the foregoing findings, the Department of Ecology concludes that it has complied with the requirements of RCW 90.44.400 and chapter 173-100 WAC relating to the designation of a ground water management area

within the west Snohomish area for program planning purposes.

#### ORDER

Based upon the foregoing, it is therefore ordered that the west Snohomish area be designated a ground water management area to be known as Ground Water Management Area No. 17, West Snohomish Ground Water Management Area for program planning purposes. This order is issued pursuant to RCW 90.44.400 and its implementing rules, chapter 173-100 WAC, and the general schedule previously adopted by the department.

This order is issued to the lead agency with copies to other affected state agencies, local governments, tribal governments and those parties recommended for ground water advisory committee membership.

February 15, 1991  
Hedia Adelsman  
Program Manager  
Water Resources Program

#### WSR 91-05-100

#### DEPARTMENT OF ECOLOGY

[Filed February 20, 1991, 3:25 p.m.]

In the matter of the adoption of the general schedule for designation of ground water management areas pursuant to WAC 173-100-060.

Order and determination to adopt general schedule.

#### INTRODUCTION

In 1985 the state legislature amended the State Ground Water Code, chapter 90.44 RCW, and directed the Department of Ecology (ecology) to establish a process for the designation of ground water management areas and the development of comprehensive ground water management programs. The legislature also directed ecology to adopt a general schedule for the designation of the ground water management areas. These processes are described in chapter 173-100 WAC, entitled "Ground water management areas and programs," which became effective on January 17, 1986.

A ground water management program is a comprehensive program developed to protect ground water quality and assure ground water quantity for current and future uses. Ground water management programs can be initiated and developed on the local level while at the same time be supported by state legislation and regulations. This coordinated approach to ground water management allows for issues, concerns and opportunities from all interested groups and agencies to be incorporated into the program in an effective and efficient manner.

One request for ground water management area designation was received by the Department of Ecology. The request was evaluated and accepted. An ad hoc review committee consisting of ecology staff members was formed to rank the area on the general schedule.

Those areas on the current general schedule retained their ranking. The west Snohomish area of Snohomish

County petitioned to be added to the list. A public hearing on this general schedule will be held in June 1991, in Lacey, Washington. The purposes of the hearing are to present the general schedule and to receive public comment.

#### FINDINGS

The Department of Ecology finds that it has complied with the requirements of chapter 173-100 WAC relating to the general schedule.

#### ORDER

Based upon the foregoing, it is ordered that the general schedule listed below be adopted by the Department of Ecology as the general schedule required by WAC 173-100-060.

1. Clover-Chambers Creek Basin
2. Island County
3. South King County
4. Vashon/Maury Islands
5. Gig Harbor Peninsula
6. Kitsap County
7. Redmond-Bear Creek
8. Issaquah Creek Valley
9. Clark County
10. North Thurston County
11. Deer Park Basin
12. Lummi Indian Reservation
13. Toppenish Creek Basin
14. East King County
15. Methow River Basin
16. Blaine
17. West Snohomish County

February 15, 1991  
Hedia Adelsman  
Program Manager  
Water Resources

**WSR 91-05-101**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**

[Filed February 20, 1991, 3:43 p.m.]

#### Original Notice.

Title of Rule: Flood mitigation standards for state agencies, WAC 236-100-001, 236-100-010, 236-100-011, 236-100-012, 236-100-013, 236-100-014, 236-100-015, and 236-100-016.

Purpose: To discourage state development on flood plains whenever there is a practical alternative, and to comply with state and federal flood plain requirements to obtain federal financial assistance and flood insurance when necessary. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

Statutory Authority for Adoption: Chapters 43.19 and 43.17 RCW.

Summary: The proposed WAC establishes flood mitigation standards when planning the location, acquisition

and/or construction of state-owned developments, structures or property, including standards for substantial improvements and new leases, when exposed to flood prone areas. Specifically, flood plains shall be avoided whenever feasible. If necessary to locate on flood plains, state-owned developments, new construction, substantial improvements, and new leases are required to adhere to the regulations of the National Flood Insurance Program.

Reasons Supporting Proposal: This proposed WAC establishes standards to protect the people and property of the state from floods; it complies with federal requirements of the National Flood Insurance Program (NFIP) which requires the state to have flood management regulations for its own property in order to obtain flood insurance or to have an approved self-insurance program, and such insurance is required in order for the state to obtain federal disaster relief funds for its own property in the event of flood damage; and the state's participation in the NFIP is a condition for the state to receive federal financial assistance for acquisition or construction purposes of state-owned properties.

Name of Agency Personnel Responsible for Drafting: Andy Merz, Department of General Administration, Division of Risk Management, 2420 Bristol Court, Mailstop FS-24, Olympia, WA 98504, 586-5835; Implementation and Enforcement: Department of General Administration, Division of Risk Management, and affected state agencies, 586-5835.

Name of Proponent: Department of General Administration, Division of Risk Management, governmental.

Rule is necessary because of federal law, 42 U.S.C. 4106(a); P.L. 93-288, as amended by P.L. 100-707, Section 311. Insurance; and 44 CFR Chapter 1, Subchapter A, Part 60, Subpart B, 60.11, 60.12, 60.13; Part 75, Subpart B, 75.11(6).

Explanation of Rule, its Purpose, and Anticipated Effects: Rule explanation: This proposed WAC encourages state agencies, including commissions, boards, and higher education, to locate state-owned properties outside of known flood plains and requires adherence to the National Flood Insurance Program regulations when state-owned properties are exposed or located within known flood plains. In addition, it establishes a more stringent height requirement than the minimum requirements of the NFIP. Specifically, structures, as defined by the WAC, are to be elevated one foot or more above the flood plain rather than at or above, the flood plain. Most counties in the state have adopted this more stringent height requirement, and the NFIP requires that any requirements that are more stringent shall take precedence. Exemptions are granted from the elevation requirements for certain facilities that are required to be built below the flood plain, including roads, bridges, and highway facilities. Purpose: Presently, the state does not have flood plain regulations for state-owned properties. Thus, the state is not eligible by federal law for flood insurance or disaster relief funds for the repair or reconstruction of flood damaged properties. The primary purpose of this proposed WAC is to meet these federal requirements, to establish reasonable standards to protect people and property of the state, and to ensure that state

business can be conducted without significant interruption when flooding occurs. Anticipated effects: This WAC will limit the destructive consequences of occupying and modifying flood plains, and will reduce the potential of financial loss to the state from flood damage by requiring all new construction and leases, as defined by the WAC, to be elevated above or outside the flood plain. This proposed WAC requires state agencies to determine the flood plain exposure and the fiscal impact of locating properties on known flood plains because of the increased cost of construction. Cost-estimating should be improved for projects that might be located on the flood plain.

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 General Administration, First Floor Auditorium, 218 General Administration Building, 11th and Columbia Street, Olympia, WA 98504-0622, on March 26, 1991, at 10:00 a.m.

Submit Written Comments to: Andy Merz, Division of Risk Management, 2420 Bristol Court, Mailstop FS-24, Olympia, WA 98504, by 5:00 p.m. on March 26, 1991.

Date of Intended Adoption: April 2, 1991.

February 1, 1991

Gary Alexander  
Assistant Director

#### Chapter 236-100 WAC

#### FLOOD MITIGATION STANDARDS FOR STATE AGENCIES

##### NEW SECTION

WAC 236-100-001 AUTHORITY. Pursuant to the authority granted by RCW 43.19.19361, 43.19.19368, and 43.17.060, the director of the department of general administration establishes the following risk management standards to be followed by all state agencies on flood mitigation.

##### NEW SECTION

WAC 236-100-010 PURPOSE. The purpose of these standards is to discourage state development on flood plains whenever there is a practical alternative. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

##### NEW SECTION

WAC 236-100-011 OBJECTIVES. The objectives of these flood mitigation standards are:

(1) To protect the people and the property of the state from unnecessary loss due to flood;

(2) To restore and preserve the natural and beneficial values served by flood plains;

(3) To minimize the impact of state development on wet lands and known flood plains;

(4) To comply with chapter 86.16 RCW, Flood plain management, in which the state of Washington has adopted the National Flood Insurance Program regulations of the Federal Emergency Management Agency for flood plain management. The participation of the state in this program allows flood insurance to be sold to both the private and public sector, and satisfies some of the conditions necessary for the state to be self-insured for flood coverage, under the National Flood Insurance Program;

(5) To comply with the requirements of the National Flood Insurance Program, thereby permitting state agencies to be eligible for federal financial assistance, including disaster relief funds for the replacement, permanent repair, or reconstruction of insurable state-owned properties damaged by the flood; and

(6) To ensure that the state of Washington and its agencies are eligible to obtain flood insurance, or to be approved for self-insurance by the Federal Insurance Administrator under the National Flood Insurance Program.

##### NEW SECTION

WAC 236-100-012 APPLICATION. These standards apply uniformly to:

(1) All state agencies;

(2) Projects and proposals for state-owned developments, new construction, and property undergoing substantial improvement; and

(3) New leases except for existing leases or renewed leases.

##### NEW SECTION

WAC 236-100-013 DEFINITIONS. (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate, including but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure, property, or properties.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC 236-100-001 through 236-100-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the assistant director of the division of risk management, department of general administration, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, that is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair 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.

##### NEW SECTION

WAC 236-100-014 RESPONSIBILITIES OF EACH STATE AGENCY. (1) Each state agency is responsible for reducing the liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial management and shall include a statement that the project or proposal meets the requirements of WAC 236-100-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

**NEW SECTION**

WAC 236-100-015 FLOOD MITIGATION STANDARDS. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then adhere to the regulations of the National Flood Insurance Program (44 CFR Ch. 1).

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

- (a) One foot above the one hundred-year flood elevation; or
- (b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC 236-100-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the division of risk management pursuant to WAC 236-100-016(2).

**NEW SECTION**

WAC 236-100-016 EXEMPTIONS. (1) Exemptions from the elevation requirements of WAC 236-100-015(3) are granted automatically for:

(a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);

(b) Roads, bridges, and highway facilities.

(2) All other exemptions must be granted by the department of general administration, division of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of General Administration, Division of Risk Management, Second Floor, 2420 Bristol Court SW, MS: FS-24, Olympia, Washington 98504. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of General Administration, 218 General Administration Building, MS: AX-22, Olympia, Washington 98504 within thirty days of the date of the denial letter.

**WSR 91-05-102****PROPOSED RULES****DEPARTMENT OF FISHERIES**

[Filed February 20, 1991, 4:25 p.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Amend commercial shellfish fishing rules.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: WAC 220-12-020, retitle "Dungeness or Pacific" as "Dungeness or Pacific crab"; retitle "Red crab" as "Red rock crab." This provides clarity and has no effect, as virtually everyone refers to these two species as Dungeness crab and red rock crab; WAC 220-52-020 and 220-52-030, change "licensed clam farm" to "registered aquaculture farms." Fisheries no longer licenses clam farms, but, instead, registers aquaculture farms. This will have no effect; WAC 220-52-040, delete harvesting of red rock crab by special permit. The provision for harvest of red rock crab was to see if there was commercial interest. As there is none, this becomes unnecessary. This proposal will have very little effect because of a lack of effort; WAC 220-52-046, add Area 25C to crab closure. This area in northern Hood Canal has identical conditions with the rest of the Canal, including limited recruitment and slow growing conditions. Management of crab stocks in this area precludes commercial harvest. There will be a limited effect, as only a small amount of commercial crab fishing occurs in this area; WAC 220-52-060, establish waters closed to commercial crawfish fishing, and add Padden, Samish, and Whatcom lakes to the closure list. Commercial crawfish harvest is incompatible with areas of high residential density and recreational usage. This provision disallows commercial harvest in certain waters. This will have some effect, as some of these waters are currently being used by commercial crawfish fishers; WAC 220-52-069, allow harvest of weathervane scallop for broodstock purposes only. There are insufficient numbers of weathervane scallops for commercial harvest, and these scallops should be treated the same as rock scallops, which are harvested for aquaculture broodstock only. This will have minimal effect, as there is no directed harvest of weathervane scallops due to low abundance; WAC 220-52-071, establish 1991-1994 sea cucumber seasons and provide for a limited number of divers in the water. The season setting is needed as the old seasons have expired. Limiting the effort will prolong the season and provide for the economic well-being of the industry. This will have a significant effect on fishers who were using multiple divers from a vessel; WAC 220-52-072, limit sea urchin harvest to one diver per vessel. Limiting the effort will prolong the season and provide for the economic well-being of the industry. This will have a significant effect on fishers who were using multiple divers from a vessel; and WAC 220-52-075, require use of harvest logs for octopus, sandshrimp and squid. Management of these shellfish is enhanced by use of harvest logs. This will have a minimal effect as these are not large participation fisheries.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Evan S. Jacoby, Mailstop AX-11, Olympia, Washington, 586-2429; Implementation: Judith Freeman, Mailstop AX-11, Olympia, Washington, 753-6749; and Enforcement: Dayna Matthews, Mailstop AX-11, Olympia, Washington, 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 Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

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

This proposal does not affect 10% of any of the businesses in any three-digit industrial classification nor 20% of all businesses.

Hearing Location: Auditorium, Office Building No. 2, 12th and Franklin, Olympia, Washington 98504, on March 26, 1991, at 1:00 p.m.

Submit Written Comments to: Hearings Officer, Fisheries, 115 General Administration Building, Olympia, Washington 98504, by March 26, 1991.

Date of Intended Adoption: April 2, 1991.

February 20, 1991  
Sally J. Hicks  
for Joseph R. Blum  
Director

**AMENDATORY SECTION** (Amending Order 88-28, filed 5/25/88, effective 8/22/88)

WAC 220-12-020 SHELLFISH—CLASSIFICATION. The following species are classified as shellfish under RCW 75.08.080 and are subject to the provisions of this title:

Abalone	
Red abalone	<i>Haliotis refescens</i>
Pinto abalone	<i>Haliotis kamtschatkana</i>
Mussel	
Blue mussel	<i>Mytilus edulis</i>
California mussel	<i>Mytilus californianus</i>
Scallops	
Pacific pink scallop	<i>Chlamys rubida</i>
Rock scallop	<i>Crassadoma gigantea</i>
Spiny scallop	<i>Chlamys hastata</i>
Weathervane scallop	<i>Patinopecten caurinus</i>
Clams	
Bent nose clam	<i>Macoma secta</i>
All other macoma clams	<i>Macoma spp.</i>
Butter clam	<i>Saxidomus giganteus</i>
Common cockle	<i>Clinocardium nuttalli</i>
Geoduck	<i>Panope abrupta</i>
Horse or Gaper clam	<i>Tresus nuttalli,</i> <i>Tresus capax</i>
Mud or soft shell clam	<i>Mya arenaria</i>
Manila clam	<i>Tapes philippinarum</i>
Piddock	<i>Zirfaea pilsbryi</i>
Razor clam	<i>Siliqua patula</i>
Rock or native little neck clam	<i>Protothaca staminea</i>
Oysters	
Eastern oyster	<i>Crassostrea virginica</i>
Olympia or native oyster	<i>Ostrea lurida</i>
Pacific oyster	<i>Crassostrea gigas</i>
Kumamoto oyster	<i>Crassostrea gigas (kumamoto)</i>
European oyster	<i>Ostrea edulis</i>
All other oysters	( <i>Ostreidae</i> )
Squid	
Pacific Coast squid	<i>Loligo opalescens</i>
Nail squid	<i>Onychoteuthis borealijaponica</i>
Flying squid	<i>Ommastrephes bartramai</i>
All other squid	<i>Sepioidea</i> or <i>Teuthoiden</i>
Octopus	
Octopus	<i>Octopus dofreni</i>
Barnacles	
Goose barnacle	<i>Pollicipes polymerus</i>
Shrimp	
Coonstripe shrimp	<i>Pandalus danae</i>
Coonstripe shrimp	<i>Pandalus hypsinotus</i>
Ghost or sand shrimp	<i>Callinassa spp.</i>
Humpy shrimp	<i>Pandalus goniurus</i>
Mud shrimp	<i>Upogebia pugettensis</i>
Ocean pink shrimp	<i>Pandalus jordani</i>
Pink shrimp	<i>Pandalus borealis</i>
Sidestripe shrimp	<i>Pandalopsis dispar</i>
Spot shrimp	<i>Pandalus platyceros</i>

Crab	
Dungeness or Pacific crab	<i>Cancer magister</i>
Red rock crab	<i>Cancer productus</i>
Tanner crab	<i>Chionoecetes tanneri</i>
Crawfish	
Crawfish	<i>Pacifastacus sp.</i>
Sea cucumber	
Sea cucumber	<i>Parastichopus californicus</i>
Sea cucumber	<i>Cucumaria miniata</i>
Sea urchin	
Green urchin	<i>Strongylocentrotus droebachiensis</i>
Red urchin	<i>Strongylocentrotus franciscanus</i>
Purple urchin	<i>Strongylocentrotus purpuratus</i>

**AMENDATORY SECTION** (Amending Order 84-24, filed 3/27/84)

WAC 220-52-020 CLAMS—PUGET SOUND—SEASONS AND AREAS. (1) It shall be unlawful to take, dig for or possess clams, cockles, borers, and mussels, not including geoduck clams, taken for commercial purposes from the tidelands of (~~the~~) registered aquaculture farms in Puget Sound except during the following seasons:

(a) Those tidelands lying west of the tip of Dungeness Spit from November 1 through March 31.

(b) Elsewhere on Puget Sound the entire year.

(2) It shall be unlawful to take, dig for or possess clams, cockles, borers and mussels except razor clams taken for commercial purposes from the tidelands of the state of Washington except from (~~the~~) registered aquaculture farms or by permit issued by the director.

**AMENDATORY SECTION** (Amending Order 84-24, filed 3/27/84)

WAC 220-52-030 CLAMS—COASTAL—SEASONS AND AREAS. (1) It shall be lawful to take, dig for or possess clams, cockles, borers and mussels taken for commercial purposes, not including razor clams, from the tidelands of (~~the~~) registered aquaculture farms in Grays Harbor and Willapa Harbor the entire year.

(2) It shall be unlawful to take, dig for or possess razor clams taken for commercial purposes from Washington waters except as provided for in subsection (3) of this section or during commercial razor clams opened by emergency rule.

(3) It shall be lawful to possess razor clams for commercial purposes for use within the state of Washington that are lawfully taken from within the boundaries of the Quinault Indian Reservation.

**AMENDATORY SECTION** (Amending Order 84-214, filed 12/7/84)

WAC 220-52-040 CRAB FISHERY—LAWFUL AND UNLAWFUL. (1) It is unlawful for any vessel geared or equipped with commercial net fishing gear to have aboard any quantity of crab while fishing with said gear or having commercially caught food fish or other species of shellfish aboard.

(2) Unless otherwise provided, it is unlawful to set, maintain, or operate any baited or unbaited shellfish pots or ring nets for taking crabs, for commercial purposes, in any area at any time when it is unlawful to take or fish for crabs for commercial purposes therein.

(3) It is unlawful to have in the water any baited or unbaited shellfish pots or ring nets for taking crabs for commercial purposes, in any area at any time when it is unlawful to take or fish for crabs for commercial purposes therein: **PROVIDED**, That following the close of a commercial crab season, permission may be granted by the director on a case-by-case basis for fishermen to recover shellfish pots that have become irretrievable due to extreme weather conditions. Fishermen must apply to fisheries patrol for such permission within twenty-four hours prior to the close of season.

(4) It is unlawful for any person to take, or possess for commercial purposes female Dungeness crabs, or male Dungeness crabs measuring less than 6-1/4 inches, caliper measurement, across the back immediately in front of the tips.

(5) It is unlawful for any person to take or fish for crabs for commercial purposes in the Puget Sound licensing district with more than 100 shellfish pots or ring nets in the aggregate, and it shall be unlawful for any group of persons using the same vessel to take or fish for crabs for commercial purposes in Puget Sound with more than 100 shellfish pots or ring nets in the aggregate, provided it shall be unlawful for any person, or group of persons using the same vessel, to take or fish for crabs for commercial purposes with more than 20 shellfish pots or ring nets in the aggregate within the waters of Dungeness Bay lying west of

a line projected from the new Dungeness Light southward to the outermost end of the abandoned dock at the Three Crabs Restaurant on the southern shore of Dungeness Bay.

(6) It is unlawful for any fisherman or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean during the first thirty days following the opening of a coastal crab season from any vessel which has not been issued a Washington crab vessel inspection certificate. The certificate will be issued to vessels made available for inspection in a Washington coastal port and properly licensed for commercial crab fishing if no Dungeness crabs are aboard. Inspections will be performed by authorized department of fisheries personnel not earlier than twelve hours prior to the opening of the coastal crab season and during the following thirty-day period.

(7) It is unlawful for any licensed fisherman to fish for or possess Dungeness crab taken for commercial purposes with shellfish pot gear from Puget Sound waters unless the fisherman has on his person a current Puget Sound crab pot/buoy brand certificate. The certificate shall contain space for: Vessel name; name of vessel operator(s); buoy brand(s) to be used; number of pots to be fished; Puget Sound endorsement number. The certificate may be obtained at a time and place specified by the director prior to the season opening upon inspection of all pots and buoys to be fished. It is unlawful for a fisherman to have aboard the fishing vessel or in the water more pots than the number shown on the certificate or to have buoys aboard the vessel with numbers other than those shown on the certificate. Upon inspection of gear, the certificate may be amended during the fishing season.

(8) ~~(It is unlawful for any person to take or possess for commercial purposes red rock crabs in the Puget Sound licensing district without having first obtained a license and permit to fish for red rock crabs for commercial purposes authorized by the director of the department of fisheries. The permit must accompany the fisherman at all times while fishing for red rock crabs for commercial purposes and must be made available for inspection by any authorized representative of the department of fisheries.~~

(9) It is unlawful to take or possess tanner crab taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59, or 60A without having in possession a permit issued by the director authorizing fishing activity for tanner crab.

#### AMENDATORY SECTION (Amending Order 87-08, filed 2/18/87)

WAC 220-52-046 CRAB FISHERY—SEASONS AND AREAS. It is unlawful to fish for or possess Dungeness crabs taken for commercial purposes except during the lawful open seasons and areas as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas except 25C, 27A, 27B, 27C, 28A, 28B, 28C, and 28D — open October 1 through April 15, provided that it is unlawful to set any crab gear prior to 9:00 a.m. on the opening day of the season.

(2) Coastal, Pacific Ocean, Grays Harbor, Willapa Harbor and Columbia River waters — open December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November 27.

#### AMENDATORY SECTION (Amending Order 87-187, filed 11/6/87)

WAC 220-52-060 CRAWFISH FISHERY. It is unlawful to fish for or possess crawfish taken for commercial purposes except as provided for in this section:

(1) General crawfish provisions:

(a) Crawfish may not be taken for commercial purposes with gear other than shellfish pots and no person may fish more than 400 pots.

(b) The open season for commercial crawfish fishing is first Monday in May through October 31, except in Washington waters of the Columbia River downstream from the mouth of the Walla Walla River crawfish may be taken from April 1 through October 31.

(c) The minimum commercial crawfish size is 3-1/4 inches in length from the tip of the rostrum (nose) to the tip of the tail and all under-size crawfish and female crawfish with eggs or young attached to the abdomen must be immediately returned unharmed to the waters from which taken. Fishermen must sort and return illegal crawfish to the waters from which taken immediately after the crawfish are removed

from the shellfish pot and prior to lifting additional pots from the water.

(d) Fishermen may not discard into any water of the state any crawfish bait.

(e) Crawfish fishing is not allowed within 1/4 mile of the shoreline of developed parks.

(f) The provisions of this section do not apply to the commercial culture of crawfish at a registered aquatic farm.

(2) It is unlawful to fish for crawfish for commercial purposes in the following waters:

#### CLALLAM

Anderson Lake  
Crescent Lake

#### CLARK

Battleground Lake

#### COWLITZ

Merrill Lake

#### GRANT

Deep Lake  
Potholes Res.  
Coulee Lake  
Soap Lakes  
Sun Lakes

#### GRAYS HARBOR

Sylvia Lake

#### ISLAND

Cranberry Lake

#### JEFFERSON

Anderson Lake

#### KING

Cedar Lake  
Elbow Lake  
Green Lake  
Green River  
Margaret Lake  
Sammamish Lake  
Sammamish River  
Sammamish Slough  
Walsh Lake

#### KITTITAS

Easton Lake

#### KLICKITAT

Horsethief Lake  
Roland Lake

#### LEWIS

Mineral Lake

#### OKANOGAN

Alta Lake  
Buffalo Lake  
Campbell Lake  
Conconully Lake  
Conconully Res.  
Crawfish Lake  
Omak Lake  
Osoyoos Lake  
Pearygin Lake

#### PACIFIC

Middle Nemah River  
North Nemah River  
Smith Creek

PEND OREILLE

- Browns Lake (on Brown Cr)
- Calispell Lake
- Cooks Lake
- Conklin Lake
- Davis Lake
- Half Moon Lake
- Mystic Lake
- No Name Lake
- Shearer Lake
- Vanee Lake

PIERCE

- Clear Lake
- Spanaway Lake
- Steilacoom Lake
- Wapato Lake

SKAGIT

- Beaver Lake
- Caskey Lake
- Cranberry Lake
- Everett Lake
- Minkler Lake
- Pass Lake
- Sixteen Lake
- Whistle Lake

SKAMANIA

- Goose Lake
- Mosquito Lake
- South Prairie Lake
- Stump (Tunnel) Lake

SNOHOMISH

- Ballinger Lake
- Chaplain Lake
- Flowing Lake
- Goodwin Lake
- Ki Lake
- Martha Lake
- Pass Lake
- Roesiger Lake
- Serene Lake
- Shoecraft Lake
- Silver Lake
- Stevens Lake
- Stickney Lake
- Storm Lake

THURSTON

- Deep Lake
- Hicks Lake
- Long Lake
- Patterson Lake
- Summit Lake
- Ward Lake

WHATCOM

- Budd Lake
- Bug Lake
- Caine Lake
- Fishtrap Creek
- Johnson Creek
- Padden Lake
- Toad or Emerald Lake

(3) It is lawful for an individual fisherman to fish for crawfish in the waters set out below with up to the number of pots shown.

Name of Lake, River, or Slough	County	Max. Pots Allowed
Alder Lake (Res.)	Pierce/Thurston	200
Aldwell Lake (Res.)	Clallam	100
Alkali Lake	Grant	100
Bachelor Slough	Clark	100

Name of Lake, River, or Slough	County	Max. Pots Allowed
Baker Lake	Whatcom	200
Banks Lake	Grant	200
Big Lake	Skagit	200
Black Lake	Thurston	200
Blue Lake	Grant	200
Bonaparte Lake	Okanogan	100
Buckmire Slough	Clark	100
Camas Slough	Clark	100
Campbell Lake	Skagit	100
Cassidy Lake	Snohomish	100
Cavanaugh Lake	Skagit	200
Chehalis River	Lewis/Grays Harbor	100
Chelan Lake	Chelan	200
Clear Lake	Skagit	100
Coal Creek Slough	Cowlitz	100
Columbia River	Clark, Cowlitz, etc.	200
Copalis River	Grays Harbor, etc.	100
Cowlitz River	Clark, Cowlitz, etc.	100
Curlew Lake	Ferry	200
Cushman Lake #1	Clark	100
Deep River	Wahkiakum	100
Deschutes River	Thurston	100
Diablo Lake	Whatcom	200
Drano Lake	Skamania	100
Elochoman River	Wahkiakum	100
Erie Lake	Skagit	100
Evergreen Reservoir	Grant	100
Fisher Island Slough	Cowlitz	100
Goose Lake (upper)	Grant	100
Grays River	Pacific	100
Harts Lake	Pierce	100
Hoquiam River	Grays Harbor	100
Humtulpis River	Grays Harbor	100
John's River	Grays Harbor	100
Kapowsin Lake	Pierce	200
Kalama River	Cowlitz, etc.	100
Klickitat	Klickitat	100
Lackamas Lake (Res.)	Clark	100
Lake River	Clark	100
Lawrence Lake	Thurston	100
Lenore Lake	Grant	200
Lewis River	Clark/Cowlitz	100
Loomis Lake	Pacific	100
Mayfield Lake	Lewis	200
McIntosh Lake	Thurston	100
McMurray Lake	Skagit	100
Merwin Lake	Clark/Cowlitz	200
Moses Lake	Grant	200
Naselle River	Pacific, etc.	100
Nisqually River	Pierce, etc.	100
Nooksack River	Whatcom	100
North River	Grays Harbor	100
<del>((Padden Lake</del>	<del>Whatcom</del>	<del>100))</del>
Palmer Lake	Okanogan	100
Patterson Lake (Res.)	Okanogan	100
Portage Bay	King	100
Rattlesnake Lake	King	100
Ross Lake (Res.)	Whatcom	200
Salmon Lake	Okanogan	100
<del>((Samish Lake</del>	<del>Whatcom</del>	<del>200))</del>
Satsop River	Grays Harbor	100
Shannon Lake (Res.)	Skagit	200
Sidley Lake	Okanogan	100
Silver Lake	Pierce	100
Silver Lake	Cowlitz	200
Skagit River	Skagit/Whatcom	200
Skamokawa River	Wahkiakum	100
Snake River	Franklin/Walla Walla	200
Snohomish River	Snohomish	100
St. Clair Lake	Thurston	100
Swift Lake (Res.)	Skamania	200
Terrell Lake	Whatcom	100
Toutle River	Cowlitz	100
Union Lake	King	200
Vancouver Lake	Clark	200
Warden Lake	Grant	100
Washington Lake	King	200
Washougal River	Clark/Skamania	100
<del>((Whatcom Lake</del>	<del>Whatcom</del>	<del>200))</del>
Whitestone Lake	Okanogan	100
Willapa River	Pacific	100
Wiser Lake	Whatcom	100
Wind River	Cowlitz	100
Wishkah River	Grays Harbor	100
Woodland Slough	Clark	100

Name of Lake, River, or Slough	County	Max. Pots Allowed
Wynoochee River	Grays Harbor	100
Yakima River	Kittitas	100
Yale Lake (Res.)	Clark/Cowlitz	200

(3) Commercial crawfish harvest permits will be issued to prescribe the number of allowable crawfish pots per fisherman per body of water in suitable crawfish harvest sites not listed in subsection (2) of this section as follows:

- (a) Under 20 acres - no commercial harvest.
- (b) 20 acres to 100 acres - 50 pots.
- (c) 101 acres to 400 acres - 100 pots.
- (d) Over 400 acres - 200 pots.
- (e) Permits will be issued only in waters where fishing will not conflict with high density residential or recreational areas, and no permit will be issued where developed parks encompass more than one-half of the water shoreline.
- (f) The department of fisheries shall fix the maximum number of pots to be permitted in any given body of water. Once the permitted maximum number of pots for any given body of water has been reached, no further permits will be issued. Permits will be issued on a first-come, first-serve basis consistent with all other regulations concerning issuance of commercial crawfish harvest permits.

**AMENDATORY SECTION** (Amending Order 87-69, filed 7/8/87)

WAC 220-52-069 SCALLOP FISHERY. (1) It is lawful at any time to take or fish for scallops for commercial purposes in coastal waters with otter trawl or beam trawl or scallop dredge gear. Minimum and maximum size for trawl gear are concurrent with sizes used in coastal shrimp fishing, see WAC 220-52-054. Scallop dredge gear may not exceed fifteen feet in width nor have a ring size of less than three inches inside diameter except as authorized under a permit issued by the director.

(2) It is lawful at any time to take or fish for scallops for commercial purposes in Puget Sound waters with scallop dredge gear not exceeding fifteen feet in width or having a ring size of not less than three inches inside diameter. It is lawful to take and possess scallops taken incidental to bottomfish trawl fishing as authorized under chapter 220-48 WAC. The taking of scallops with trawl gear at times or of size other than those authorized under chapter 220-48 WAC, with scallop dredge gear of a size other than that provided for in this section, or by shellfish diver gear is prohibited except as authorized under permit issued by the director.

(3) It is unlawful at any time to take or possess weather vane or rock scallops taken for commercial purposes from Puget Sound unless a person has first obtained a ((rock)) scallop ((aquaculture)) brood stock permit issued by the department. The permit will specify location, time, and quantity of ((rock)) scallops that can be taken for brood stock or culture purposes.

**AMENDATORY SECTION** (Amending Order 87-187, filed 11/6/87)

WAC 220-52-071 SEA CUCUMBERS. It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

- (1) Sea cucumber districts:
  - (a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:
    - (i) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island and south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.
    - (ii) Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.
    - (iii) Within one-quarter mile of Green Point on Spieden Island.
    - (iv) Within one-quarter mile of Gull Reef, located between Spieden Island and Johns Island.
  - (b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the

Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

- (2) Sea cucumber areas and seasons:
  - (a) District 1 open May 1 through October 31, ((1987)) 1991.
  - (b) District 2 open May 1 through October 31, ((1988)) 1992.
  - (c) District 3 open May 1 through October 31, ((1989)) 1993.
  - (d) District 4 open May 1 through October 31, ((1990)) 1994.
  - (e) Other areas and times as authorized by permit issued by the director.

(3) Shellfish diver gear:
 

- (a) ((Divers must have a permit issued by the director to take sea cucumbers for commercial purposes.

(b)) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

or  
 (b) Only two divers from each harvesting vessel are allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

(c) Divers may not take sea cucumbers from one-half hour before official sunset to official sunrise or 6:00 a.m. whichever is later, or on Sunday.

(d) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

(4) Trawl gear:
 

- (a) Trawl gear is limited to that gear and those times authorized under chapter 220-48 WAC, or otherwise as authorized by a permit issued by the director.

(b) Up to one hundred pounds of sea cucumbers may be taken without regard to other species aboard, but landings of more than one hundred pounds are lawful only if sea cucumbers represent no more than twenty percent of the total weight of fish on board. No trawl vessel may land more than two hundred fifty pounds of sea cucumbers in any one vessel trip except as authorized by permit issued by the director.

**AMENDATORY SECTION** (Amending Order 87-187, filed 11/6/87)

WAC 220-52-073 SEA URCHINS. It is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section.

- (1) Sea urchin districts:
  - (a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island. The following areas within Sea Urchin District 1 are closed to the harvest of sea urchins at all times:
    - (i) Those waters within one-quarter mile of Green Point on Spieden Island.
    - (ii) Those waters within one-quarter mile of Gull Reef, located between Spieden and Johns Island.
  - (b) Sea Urchin District 2 (Southern San Juan Islands and Port Townsend) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island and Areas 21A, 21B, 22B, 23B and 25A. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times:
    - (i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a

line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island; south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(c) Sea Urchin District 3 (Port Angeles) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C east of a line projected true north from Low Point, and Area 23D.

(d) Sea Urchin District 4 (Sekiu) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C west of a line projected true north from Low Point and those waters of Area 29 east of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock).

(e) Sea Urchin District 5 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 29 west of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock) and Areas 59A and 59B. Within Sea Urchin District 5, waters within one-quarter mile of Tatoosh Island are closed to the harvest of sea urchins at all times.

(2) Sea urchin areas, seasons, species, and sizes:

(a) District 2 is open October 1, 1987 through March 31, 1988 to harvest red sea urchins between 4.0 and 5.25 inches.

(b) District 5 is open October 1, 1987 through March 31, 1988 to harvest red sea urchins between 3.25 and 4.5 inches.

(c) District 1 is open October 1, 1988 through March 31, 1989 to harvest red sea urchins between 4.0 and 5.25 inches.

(d) District 4 is open October 1, 1988 through March 31, 1989 to harvest red sea urchins between 3.25 and 5.0 inches.

(e) District 3 is open October 1, 1989 through March 31, 1990 to harvest red sea urchins between 3.25 and 5.0 inches.

(f) Otherwise as authorized by a permit issued by the director.

(g) All sizes in this subsection are shell diameter exclusive of the spines.

(3) Shellfish diver gear:

(a) Divers may only use hand-operated equipment that does not penetrate the shell.

(b) Sea urchins may not be taken from water shallower than 10 feet below mean lower low water.

(c) Green and purple sea urchins may not be taken.

(d) Divers operating from a vessel must have a number assigned by the department, placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air and the number must be black on white no less than 18 inches high and of proportionate width.

(e) Divers may not take sea urchins from one-half hour after sunset to one-half hour before sunrise.

(f) No processing of sea urchins is permitted aboard the harvest vessel.

(g) Divers may not take sea urchins for use other than as human food.

(h) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvesting operation or when commercial quantities of sea urchins are aboard.

(i) Variance from any of the provisions of this subsection is only allowed if authorized by a permit issued by the director.

#### AMENDATORY SECTION (Amending Order 87-69, filed 7/8/87)

WAC 220-52-075 SHELLFISH HARVEST LOGS. It is unlawful for any vessel operator engaged in commercial crawfish, sea cucumber, sea urchin, scallop, shrimp, squid, ~~((or))~~ octopus, or sand shrimp fishing or operator of mechanical clam digging device to fail to obtain and accurately maintain the appropriate harvest log available from the Washington department of fisheries. The harvest log must be kept aboard the vessel while the vessel is engaged in harvest or has crawfish, sea cucumbers, sea urchins, shrimp, squid, octopus, scallops, ~~((or))~~ clams, or sand shrimp aboard. The vessel operator must submit the harvest logs ~~((book))~~ for inspection upon request by authorized department of fisheries representatives. The department's copies of the completed harvest log must be submitted to the department for each calendar month in which fishing activity occurs. State copies must be received within ten days following any calendar month in which fishing activity occurred, except that commercial sea cucumber harvest logs must be received for each month of the season provided for in WAC

220-52-072 regardless of whether harvest activity occurred during the month, and all shellfish harvesters must submit a log that must be received by the tenth day following the termination of commercial fishing activity showing that shellfish harvest has terminated for the year.

(1) Vessel operators engaged in commercial harvest of shrimp or crawfish with shellfish pot or ring net gear must record the vessel Washington department of fisheries boat registration number, number of pots or ring nets pulled, date pulled, soak time, and gear location before leaving the catch area where taken, and weights must be recorded upon landing or sale. In addition, vessel operators engaged in commercial harvest of shrimp in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, or 27C (Hood Canal) must record the total number of pots they have in the water and the total number of buoys attached to those pots, and the department's copy of the completed harvest log must be submitted weekly, postmarked no later than Friday and showing harvest activity for the period Thursday of the week previous to submission through Wednesday of the week the harvest log is submitted.

(2) Vessel operators engaged in commercial harvest of shrimp with beam trawl or shrimp trawl gear must record the vessel identity, date, location, duration and estimated weight of shrimp caught for each tow before leaving the catch area where taken.

(3) Vessel operators engaged in commercial harvest of sea urchins or sea cucumbers must record the vessel identity, date, location, and the approximate number of sea urchins or sea cucumbers before leaving the catch area where taken and the exact weight must be recorded upon landing or sale.

(4) Vessel operators engaged in commercial harvest of clams with mechanical digging devices must record the vessel identity, location, and date of harvest before the end of each day's fishing and the weights by clam species must be recorded upon landing or sale.

(5) Vessel operators engaged in commercial harvest of scallops with dredge or trawl gear must record the vessel identity, date, location, and duration of harvest and estimated weight of scallops caught for each tow before leaving the catch area where taken.

(6) Vessel operators engaged in commercial harvest of squid, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type, catch area, starting and ending time of fishing, and numbers of other species caught and returned. Weights of squid must be recorded on landing or sale.

(7) Vessel operators engaged in commercial harvest of octopus, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel WDF boat registration number, gear type and amount, catch area and hours fished. Weights of octopus must be recorded on landing or sale.

(8) Vessel operators engaged in commercial harvest of sand shrimp, except when taken incidental to any other lawful fishery, must record the location or identification number of the harvest tract, date of harvest, number of trenches pumped, average length and width of trenches (yards), total number of sand shrimp retained (dozens), total number of sand shrimp sold (dozens), and the name of the sand shrimp buyer.

**Table of WAC Sections Affected**

**KEY TO TABLE**

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an 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
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of 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.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
16-80-005	NEW-P	91-05-076	16-230-440	AMD-P	91-02-106	16-231-905	AMD-P	91-02-106
16-80-007	NEW-P	91-05-076	16-230-450	AMD-P	91-02-106	16-231-935	AMD-P	91-02-106
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16-80-015	NEW-P	91-05-076	16-230-470	AMD-P	91-02-106	16-231-950	REP-P	91-02-106
16-80-020	NEW-P	91-05-076	16-230-475	REP-P	91-02-106	16-232-001	AMD-P	91-02-106
16-80-025	NEW-P	91-05-076	16-230-605	AMD-P	91-02-106	16-232-100	AMD-P	91-02-106
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16-494-044	AMD-P 91-04-066	36-12-445	NEW-P 91-05-032	132B-120-170	AMD-P 91-05-033
16-494-045	NEW-P 91-04-066	36-12-450	AMD-P 91-05-032	132B-120-180	AMD-P 91-05-033
16-494-046	NEW-P 91-04-066	36-12-460	REP-P 91-05-032	132B-120-190	AMD-P 91-05-033
16-494-047	NEW-P 91-04-066	36-12-470	REP-P 91-05-032	132K-16-110	NEW-E 91-03-084
16-494-062	AMD-P 91-04-066	36-12-480	REP-P 91-05-032	132K-16-110	NEW-P 91-03-150
16-494-063	NEW-P 91-04-066	106-120-004	AMD 91-04-054	132K-16-120	NEW-E 91-03-084
16-494-064	NEW-P 91-04-066	106-120-005	AMD 91-04-054	132K-16-120	NEW-P 91-03-150
16-497-001	AMD-P 91-04-067	106-120-023	AMD 91-04-054	132K-16-130	NEW-E 91-03-084
16-497-005	NEW-P 91-04-067	106-120-024	AMD 91-04-054	132K-16-130	NEW-P 91-03-150
16-497-020	AMD-P 91-04-067	106-120-026	AMD 91-04-054	132K-16-140	NEW-E 91-03-084
16-497-030	AMD-P 91-04-067	106-120-027	AMD 91-04-054	132K-16-140	NEW-P 91-03-150
16-497-040	AMD-P 91-04-067	106-120-028	AMD 91-04-054	132K-16-150	NEW-E 91-03-084
16-497-050	AMD-P 91-04-067	106-120-033	AMD 91-04-054	132K-16-150	NEW-P 91-03-150
16-497-060	AMD-P 91-04-067	106-120-131	AMD 91-04-054	132K-16-160	NEW-E 91-03-084
16-528-105	NEW 91-05-065	106-120-132	AMD 91-04-054	132K-16-160	NEW-P 91-03-150
16-528-110	AMD 91-05-065	106-120-143	AMD 91-04-054	132K-16-170	NEW-E 91-03-084
16-528-150	AMD 91-05-065	113-10-010	DECOD 91-05-095	132K-16-170	NEW-P 91-03-150
16-528-170	NEW 91-05-065	113-10-020	DECOD 91-05-095	132K-16-180	NEW-E 91-03-084
16-603-010	NEW-P 91-04-076	113-10-030	DECOD 91-05-095	132K-16-180	NEW-P 91-03-150
16-752-300	AMD 91-03-045	113-10-040	DECOD 91-05-095	132K-16-190	NEW-E 91-03-084
16-752-305	AMD 91-03-045	113-10-050	DECOD 91-05-095	132K-16-190	NEW-P 91-03-150
16-752-310	RE-AD 91-03-045	113-10-060	DECOD 91-05-095	132K-16-200	NEW-E 91-03-084
16-752-315	AMD 91-03-045	113-10-070	DECOD 91-05-095	132K-16-200	NEW-P 91-03-150
16-752-320	RE-AD 91-03-045	113-10-090	DECOD 91-05-095	132K-16-210	NEW-E 91-03-084
16-752-325	REP 91-03-045	113-10-100	DECOD 91-05-095	132K-16-210	NEW-P 91-03-150
16-752-330	AMD 91-03-045	113-10-110	DECOD 91-05-095	132K-16-220	NEW-E 91-03-084
36-12	AMD-P 91-05-032	113-12-010	DECOD 91-05-095	132K-16-220	NEW-P 91-03-150
36-12-010	AMD-P 91-05-032	113-12-075	DECOD 91-05-095	132K-16-230	NEW-E 91-03-084
36-12-011	AMD-P 91-05-032	113-12-080	DECOD 91-05-095	132K-16-230	NEW-P 91-03-150
36-12-020	AMD-P 91-05-032	113-12-085	DECOD 91-05-095	132K-16-240	NEW-E 91-03-084
36-12-030	AMD-P 91-05-032	113-12-087	DECOD 91-05-095	132K-16-240	NEW-P 91-03-150
36-12-040	AMD-P 91-05-032	113-12-101	DECOD 91-05-095	132K-16-240	NEW-E 91-03-084
36-12-050	AMD-P 91-05-032	113-12-103	DECOD 91-05-095	132K-16-250	NEW-P 91-03-150
36-12-060	AMD-P 91-05-032	113-12-104	DECOD 91-05-095	132K-16-260	NEW-E 91-03-084
36-12-070	AMD-P 91-05-032	113-12-115	DECOD 91-05-095	132K-16-260	NEW-P 91-03-150
36-12-080	AMD-P 91-05-032	113-12-120	DECOD 91-05-095	132K-16-270	NEW-E 91-03-084
36-12-090	REP-P 91-05-032	113-12-150	DECOD 91-05-095	132K-16-270	NEW-P 91-03-150
36-12-100	AMD-P 91-05-032	113-12-165	DECOD 91-05-095	132K-16-280	NEW-E 91-03-084
36-12-110	AMD-P 91-05-032	113-12-170	DECOD 91-05-095	132K-16-280	NEW-P 91-03-150
36-12-120	AMD-P 91-05-032	113-12-175	DECOD 91-05-095	132K-16-290	NEW-E 91-03-084
36-12-130	AMD-P 91-05-032	113-12-180	DECOD 91-05-095	132K-16-290	NEW-P 91-03-150
36-12-150	AMD-P 91-05-032	113-12-190	DECOD 91-05-095	132K-16-300	NEW-E 91-03-084
36-12-160	AMD-P 91-05-032	113-12-195	DECOD 91-05-095	132K-16-300	NEW-P 91-03-150
36-12-170	AMD-P 91-05-032	113-12-197	DECOD 91-05-095	132K-16-310	NEW-E 91-03-084
36-12-180	AMD-P 91-05-032	113-12-200	DECOD 91-05-095	132K-16-310	NEW-P 91-03-150
36-12-190	AMD-P 91-05-032	113-12-210	DECOD 91-05-095	132K-16-320	NEW-E 91-03-084
36-12-195	NEW-P 91-05-032	113-12-220	DECOD 91-05-095	132K-16-320	NEW-P 91-03-150
36-12-200	AMD-P 91-05-032	113-12-230	DECOD 91-05-095	132K-16-330	NEW-E 91-03-084
36-12-220	AMD-P 91-05-032	113-12-300	DECOD 91-05-095	132K-16-330	NEW-P 91-03-150
36-12-230	REP-P 91-05-032	113-12-310	DECOD 91-05-095	132K-16-340	NEW-E 91-03-084
36-12-240	AMD-P 91-05-032	113-12-320	DECOD 91-05-095	132K-16-340	NEW-P 91-03-150
36-12-250	AMD-P 91-05-032	113-12-330	DECOD 91-05-095	132K-16-350	NEW-E 91-03-084
36-12-260	AMD-P 91-05-032	113-12-340	DECOD 91-05-095	132K-16-350	NEW-P 91-03-150
36-12-270	AMD-P 91-05-032	113-12-350	DECOD 91-05-095	132K-16-360	NEW-E 91-03-084
36-12-280	AMD-P 91-05-032	114-12-011	DECOD 91-05-026	132K-16-360	NEW-P 91-03-150
36-12-290	AMD-P 91-05-032	114-12-021	DECOD 91-05-026	132K-16-370	NEW-E 91-03-084
36-12-300	AMD-P 91-05-032	114-12-031	DECOD 91-05-026	132K-16-370	NEW-P 91-03-150
36-12-310	AMD-P 91-05-032	114-12-041	DECOD 91-05-026	132K-16-380	NEW-E 91-03-084
36-12-320	AMD-P 91-05-032	114-12-115	DECOD 91-05-026	132K-16-380	NEW-P 91-03-150



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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
132K-16-390	NEW-E	91-03-084	173-19-3208	AMD	91-03-148	173-340-450	NEW	91-04-019
132K-16-390	NEW-P	91-03-150	173-19-3209	AMD	91-04-070	173-340-700	AMD	91-04-019
132K-16-400	NEW-E	91-03-084	173-19-3210	AMD	91-04-071	173-340-702	NEW	91-04-019
132K-16-400	NEW-P	91-03-150	173-19-350	AMD-P	91-03-143	173-340-704	NEW	91-04-019
132K-16-410	NEW-E	91-03-084	173-19-360	AMD	91-04-072	173-340-705	NEW	91-04-019
132K-16-410	NEW-P	91-03-150	173-19-360	AMD-P	91-05-063	173-340-706	NEW	91-04-019
132K-16-420	NEW-E	91-03-084	173-19-4205	AMD-P	91-04-079	173-340-707	NEW	91-04-019
132K-16-420	NEW-P	91-03-150	173-160-040	AMD-E	91-04-073	173-340-708	NEW	91-04-019
132K-16-430	NEW-E	91-03-084	173-166	AMD-C	91-02-099	173-340-710	NEW	91-04-019
132K-16-430	NEW-P	91-03-150	173-166	AMD	91-03-081	173-340-720	NEW	91-04-019
132K-16-440	NEW-E	91-03-084	173-166-010	AMD	91-03-081	173-340-730	NEW	91-04-019
132K-16-440	NEW-P	91-03-150	173-166-020	AMD	91-03-081	173-340-740	NEW	91-04-019
132K-16-450	NEW-E	91-03-084	173-166-030	AMD	91-03-081	173-340-745	NEW	91-04-019
132K-16-450	NEW-P	91-03-150	173-166-040	AMD	91-03-081	173-340-750	NEW	91-04-019
132K-16-460	NEW-E	91-03-084	173-166-050	AMD	91-03-081	173-340-760	NEW	91-04-019
132K-16-460	NEW-P	91-03-150	173-166-060	AMD	91-03-081	173-340-830	AMD	91-04-019
132K-16-470	NEW-E	91-03-084	173-166-070	AMD	91-03-081	173-360-220	NEW-W	91-04-022
132K-16-470	NEW-P	91-03-150	173-166-080	NEW	91-03-081	173-360-230	NEW-W	91-04-022
132K-16-480	NEW-E	91-03-084	173-166-090	NEW	91-03-081	173-360-620	NEW-W	91-04-022
132K-16-480	NEW-P	91-03-150	173-166-100	NEW	91-03-081	173-400-010	AMD	91-05-064
132K-16-490	NEW-E	91-03-084	173-166-110	NEW	91-03-081	173-400-020	AMD	91-05-064
132K-16-490	NEW-P	91-03-150	173-166-120	NEW	91-03-081	173-400-030	AMD	91-05-064
132K-16-500	NEW-E	91-03-084	173-166-130	NEW	91-03-081	173-400-040	AMD	91-05-064
132K-16-500	NEW-P	91-03-150	173-166-140	NEW	91-03-081	173-400-050	AMD	91-05-064
132K-16-510	NEW-E	91-03-084	173-204	NEW-C	91-03-094	173-400-060	AMD	91-05-064
132K-16-510	NEW-P	91-03-150	173-224-015	AMD-P	91-03-080	173-400-070	AMD	91-05-064
132K-16-520	NEW-E	91-03-084	173-224-030	AMD-P	91-03-080	173-400-075	AMD	91-05-064
132K-16-520	NEW-P	91-03-150	173-224-040	AMD-P	91-03-080	173-400-100	AMD	91-05-064
132K-16-530	NEW-E	91-03-084	173-224-050	AMD-P	91-03-080	173-400-105	AMD	91-05-064
132K-16-530	NEW-P	91-03-150	173-224-090	AMD-P	91-03-080	173-400-110	AMD	91-05-064
132K-16-540	NEW-E	91-03-084	173-270-010	NEW-P	91-04-091	173-400-115	AMD	91-05-064
132K-16-540	NEW-P	91-03-150	173-270-020	NEW-P	91-04-091	173-400-120	AMD	91-05-064
132K-16-550	NEW-E	91-03-084	173-270-030	NEW-P	91-04-091	173-400-131	NEW	91-05-064
132K-16-550	NEW-P	91-03-150	173-270-040	NEW-P	91-04-091	173-400-136	NEW	91-05-064
132K-16-560	NEW-E	91-03-084	173-270-050	NEW-P	91-04-091	173-400-141	NEW	91-05-064
132K-16-560	NEW-P	91-03-150	173-270-060	NEW-P	91-04-091	173-400-151	NEW	91-05-064
132S-30-036	AMD-P	91-02-101	173-270-070	NEW-P	91-04-091	173-400-161	NEW	91-05-064
132Y-400-010	NEW	91-05-012	173-270-080	NEW-P	91-04-091	173-400-171	NEW	91-05-064
132Y-400-020	NEW	91-05-012	173-270-090	NEW-P	91-04-091	173-400-180	NEW	91-05-064
132Y-400-030	NEW	91-05-012	173-270-100	NEW-P	91-04-091	173-400-190	NEW	91-05-064
132Y-400-040	NEW	91-05-012	173-305-010	REP-E	91-03-139	173-400-200	NEW	91-05-064
143-06-130	AMD-P	91-04-090	173-305-01001	NEW-E	91-03-139	173-400-205	NEW	91-05-064
154-300-005	NEW-P	91-02-098	173-305-015	REP-E	91-03-139	173-400-210	NEW	91-05-064
154-300-005	NEW	91-05-084	173-305-01501	NEW-E	91-03-139	173-400-220	NEW	91-05-064
154-300-010	NEW-P	91-02-098	173-305-020	REP-E	91-03-139	173-400-230	NEW	91-05-064
154-300-010	NEW	91-05-084	173-305-02001	NEW-E	91-03-139	173-400-240	NEW	91-05-064
154-300-020	NEW-P	91-02-098	173-305-030	REP-E	91-03-139	173-400-250	NEW	91-05-064
154-300-020	NEW	91-05-084	173-305-03001	NEW-E	91-03-139	173-400-260	NEW	91-05-064
154-300-030	NEW-P	91-02-098	173-305-040	REP-E	91-03-139	173-403-010	REP	91-05-064
154-300-030	NEW	91-05-084	173-305-04001	NEW-E	91-03-139	173-403-020	REP	91-05-064
154-300-040	NEW-P	91-02-098	173-305-050	REP-E	91-03-139	173-403-030	REP	91-05-064
154-300-040	NEW	91-05-084	173-305-05001	NEW-E	91-03-139	173-403-050	REP	91-05-064
154-300-050	NEW-P	91-02-098	173-305-060	REP-E	91-03-139	173-403-060	REP	91-05-064
154-300-050	NEW	91-05-084	173-305-06001	NEW-E	91-03-139	173-403-070	REP	91-05-064
154-300-060	NEW-P	91-02-098	173-305-070	REP-E	91-03-139	173-403-075	REP	91-05-064
154-300-060	NEW	91-05-084	173-305-07001	NEW-E	91-03-139	173-403-080	REP	91-05-064
154-300-070	NEW-P	91-02-098	173-305-080	REP-E	91-03-139	173-403-090	REP	91-05-064
154-300-070	NEW	91-05-084	173-305-090	REP-E	91-03-139	173-403-100	REP	91-05-064
154-300-080	NEW-P	91-02-098	173-331-010	NEW	91-05-020	173-403-110	REP	91-05-064
154-300-080	NEW	91-05-084	173-331-100	NEW	91-05-020	173-403-120	REP	91-05-064
154-300-090	NEW-P	91-02-098	173-331-200	NEW	91-05-020	173-403-130	REP	91-05-064
154-300-090	NEW	91-05-084	173-331-210	NEW	91-05-020	173-403-141	REP	91-05-064
154-300-100	NEW-P	91-02-098	173-331-220	NEW	91-05-020	173-403-145	REP	91-05-064
154-300-100	NEW	91-05-084	173-331-300	NEW	91-05-020	173-403-150	REP	91-05-064
154-300-110	NEW-P	91-02-098	173-331-400	NEW	91-05-020	173-403-160	REP	91-05-064
154-300-110	NEW	91-05-084	173-331-410	NEW	91-05-020	173-403-170	REP	91-05-064
154-300-120	NEW-P	91-02-098	173-331-500	NEW	91-05-020	173-403-180	REP	91-05-064
154-300-120	NEW	91-05-084	173-331-600	NEW	91-05-020	173-403-190	REP	91-05-064
173-16-064	NEW-P	91-04-069	173-340-120	AMD	91-04-019	173-405-012	AMD	91-05-064
173-16-064	NEW-W	91-05-042	173-340-200	AMD	91-04-019	173-405-021	AMD	91-05-064
173-19-120	AMD-W	91-02-112	173-340-210	AMD	91-04-019	173-405-033	AMD	91-05-064
173-19-2207	AMD-P	91-03-144	173-340-300	AMD	91-04-019	173-405-035	AMD	91-05-064
173-19-230	AMD	91-03-145	173-340-350	AMD	91-04-019	173-405-040	AMD	91-05-064
173-19-250	AMD	91-03-149	173-340-360	AMD	91-04-019	173-405-041	REP	91-05-064
173-19-280	AMD-P	91-03-141	173-340-420	AMD	91-04-019	173-405-045	AMD	91-05-064
173-19-3203	AMD	91-03-147	173-340-430	AMD	91-04-019	173-405-061	AMD	91-05-064
173-19-3205	AMD	91-03-146	173-340-440	NEW	91-04-019	173-405-072	AMD	91-05-064

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
173-405-077	AMD	91-05-064	182-18-005	NEW-P	91-05-079	220-56-250	AMD-P	91-03-153
173-405-078	AMD	91-05-064	182-18-010	NEW-P	91-05-079	220-56-282	AMD-P	91-03-153
173-405-086	AMD	91-05-064	182-18-020	NEW-P	91-05-079	220-56-350	AMD-P	91-03-153
173-405-087	AMD	91-05-064	182-18-030	NEW-P	91-05-079	220-56-380	AMD-P	91-03-153
173-405-091	AMD	91-05-064	182-18-040	NEW-P	91-05-079	220-57-195	AMD-P	91-03-151
173-410-012	AMD	91-05-064	182-18-050	NEW-P	91-05-079	220-57-205	AMD-P	91-03-151
173-410-021	AMD	91-05-064	182-18-060	NEW-P	91-05-079	220-57-210	AMD-P	91-03-151
173-410-035	AMD	91-05-064	182-18-070	NEW-P	91-05-079	220-57-265	AMD-P	91-03-151
173-410-040	AMD	91-05-064	182-18-080	NEW-P	91-05-079	220-57-290	AMD-P	91-03-153
173-410-042	REP	91-05-064	182-18-090	NEW-P	91-05-079	220-57-313	NEW-P	91-03-153
173-410-045	AMD	91-05-064	182-18-100	NEW-P	91-05-079	220-57-340	AMD-P	91-03-153
173-410-062	AMD	91-05-064	182-18-110	NEW-P	91-05-079	220-57-385	AMD-P	91-03-153
173-410-067	AMD	91-05-064	182-18-120	NEW-P	91-05-079	220-57-425	AMD-P	91-03-153
173-410-071	AMD	91-05-064	182-18-130	NEW-P	91-05-079	220-57-425	AMD-P	91-03-151
173-410-086	AMD	91-05-064	182-18-140	NEW-P	91-05-079	220-57-430	AMD-P	91-03-151
173-410-087	AMD	91-05-064	182-18-150	NEW-P	91-05-079	220-57-435	AMD-P	91-03-151
173-410-100	NEW	91-05-064	182-18-160	NEW-P	91-05-079	220-57-450	AMD-P	91-03-153
173-415-010	AMD	91-05-064	192-12-300	AMD-E	91-03-054	220-57-450	AMD-P	91-03-151
173-415-020	AMD	91-05-064	192-12-305	REP-E	91-03-054	220-57-455	AMD-P	91-03-151
173-415-030	AMD	91-05-064	192-12-310	REP-E	91-03-054	220-57-460	AMD-P	91-03-153
173-415-040	AMD	91-05-064	192-12-320	AMD-E	91-03-054	220-57-465	AMD-P	91-03-151
173-415-041	REP	91-05-064	192-12-330	AMD-E	91-03-054	220-57-470	AMD-P	91-03-151
173-415-045	AMD	91-05-064	192-12-370	NEW-E	91-03-054	220-57-490	AMD-P	91-03-151
173-415-050	AMD	91-05-064	196-24-095	AMD-P	91-05-078	220-57-497	AMD-P	91-03-153
173-415-051	AMD	91-05-064	196-24-097	NEW-P	91-05-078	220-57A-035	AMD-P	91-03-153
173-415-060	AMD	91-05-064	196-24-098	PREP	91-05-041	220-69-260	AMD	91-05-015
173-415-070	AMD	91-05-064	204-53-010	NEW	91-05-019	220-69-262	AMD	91-05-015
173-415-080	AMD	91-05-064	212-12-010	AMD-W	91-05-043	220-69-264	AMD	91-05-015
173-490-010	AMD	91-05-064	220-12-020	AMD-P	91-05-102	220-69-26401	AMD	91-05-015
173-490-020	AMD	91-05-064	220-16-055	REP-P	91-03-151	230-02-240	NEW-P	91-03-062
173-490-025	AMD	91-05-064	220-16-220	AMD-P	91-03-153	230-02-505	NEW-P	91-03-062
173-490-030	AMD	91-05-064	220-16-257	AMD-P	91-03-153	230-04-022	AMD-P	91-03-062
173-490-040	AMD	91-05-064	220-20-010	AMD-P	91-03-153	230-04-120	AMD-P	91-03-062
173-490-070	REP	91-05-064	220-20-01700A	NEW-E	91-03-108	230-04-187	NEW-P	91-03-062
173-490-071	REP	91-05-064	220-32-05100D	REP-E	91-04-031	230-04-190	AMD-P	91-03-062
173-490-080	AMD	91-05-064	220-32-05100E	NEW-E	91-04-031	230-04-201	AMD-P	91-03-062
173-490-090	AMD	91-05-064	220-32-05700F	NEW-E	91-03-083	230-12-100	NEW-P	91-03-062
173-490-120	REP	91-05-064	220-33-01000V	NEW-E	91-05-005	230-12-305	AMD-P	91-03-062
173-490-130	REP	91-05-064	220-33-01000V	REP-E	91-05-036	230-20-380	AMD-C	91-03-049
173-490-135	REP	91-05-064	220-33-01000W	NEW-E	91-05-036	230-20-380	AMD-W	91-05-044
173-490-140	REP	91-05-064	220-40-030	AMD-P	91-03-153	230-20-699	REP	91-03-063
173-490-150	REP	91-05-064	220-40-031	AMD-P	91-03-153	230-25-110	AMD-P	91-03-062
173-490-200	AMD	91-05-064	220-44-050	AMD-P	91-03-152	230-25-265	AMD-C	91-03-049
173-490-201	AMD	91-05-064	220-48-01500E	NEW-E	91-05-037	230-25-265	AMD	91-05-047
173-490-202	AMD	91-05-064	220-49-063	AMD-P	91-02-108	230-25-330	NEW-P	91-03-062
173-490-203	AMD	91-05-064	220-49-063	AMD	91-05-016	230-30-075	AMD-C	91-03-049
173-490-204	AMD	91-05-064	220-52-020	AMD-P	91-05-102	230-30-075	AMD-C	91-05-046
173-490-205	AMD	91-05-064	220-52-030	AMD-P	91-05-102	230-30-080	AMD-C	91-03-049
173-490-207	AMD	91-05-064	220-52-040	AMD-P	91-05-102	230-30-080	AMD-P	91-05-045
173-490-208	AMD	91-05-064	220-52-046	AMD-P	91-05-102	230-30-080	AMD	91-05-047
173-491-010	NEW-P	91-02-107	220-52-060	AMD-P	91-05-102	230-40-125	AMD-C	91-03-049
173-491-015	NEW-P	91-02-107	220-52-069	AMD-P	91-05-102	230-40-125	AMD	91-05-047
173-491-020	NEW-P	91-02-107	220-52-071	AMD-P	91-05-102	230-50-030	AMD	91-03-063
173-491-030	NEW-P	91-02-107	220-52-073	AMD-P	91-05-102	232-12-004	AMD-P	91-03-131
173-491-040	NEW-P	91-02-107	220-52-07300I	REP-E	91-04-029	232-12-007	AMD-P	91-03-133
173-491-050	NEW-P	91-02-107	220-52-07300J	NEW-E	91-04-029	232-12-055	AMD-P	91-03-137
173-500-080	NEW-E	91-04-080	220-52-075	AMD-P	91-05-102	232-12-017	AMD	91-03-082
173-548-050	AMD-E	91-04-073	220-55-055	AMD-P	91-03-153	232-28-022	AMD-P	91-03-130
180-44-050	AMD-P	91-05-068	220-55-065	AMD-P	91-03-153	232-28-226	NEW-P	91-03-138
180-55-005	AMD	91-04-015	220-55-070	AMD-P	91-03-153	232-28-215	REP-W	91-02-113
180-55-015	AMD	91-04-015	220-55-075	AMD-P	91-03-153	232-28-224	NEW-W	91-02-113
180-79-003	AMD	91-04-016	220-55-080	AMD-P	91-03-153	232-28-226	NEW-P	91-03-138
180-79-080	AMD	91-04-016	220-55-086	AMD-P	91-03-153	232-28-227	NEW-P	91-03-135
180-79-230	AMD	91-05-056	220-55-125	AMD-P	91-03-153	232-28-228	NEW-P	91-03-134
180-79-236	NEW	91-05-056	220-56-100	AMD-P	91-03-153	232-28-61810	REP-P	91-03-136
180-79-241	NEW	91-05-056	220-56-105	AMD-P	91-03-153	232-28-61811	NEW-W	91-03-066
180-85-005	AMD	91-04-016	220-56-115	AMD-P	91-03-153	232-28-61813	NEW	91-05-002
180-85-045	AMD	91-04-016	220-56-128	AMD-P	91-03-153	232-28-61815	NEW	91-05-001
180-86-100	AMD-P	91-05-024	220-56-175	AMD-P	91-03-153	232-28-61817	NEW-P	91-03-136
182-12-127	REP-P	91-04-086	220-56-180	AMD-P	91-03-153	236-12-290	AMD-P	91-04-081
182-12-210	REP-P	91-04-086	220-56-185	AMD-P	91-03-153	236-12-300	AMD-P	91-04-081
182-12-215	NEW-P	91-04-086	220-56-190	AMD-P	91-03-153	236-100-001	NEW-P	91-05-101
182-16-010	NEW-P	91-04-087	220-56-205	AMD-P	91-03-153	236-100-010	NEW-P	91-05-101
182-16-020	NEW-P	91-04-087	220-56-232	NEW-P	91-03-152	236-100-011	NEW-P	91-05-101
182-16-030	NEW-P	91-04-087	220-56-235	AMD-P	91-03-153	236-100-012	NEW-P	91-05-101
182-16-040	NEW-P	91-04-087	220-56-23500F	NEW-E	91-04-030	236-100-013	NEW-P	91-05-101
182-16-050	NEW-P	91-04-087	220-56-240	AMD-P	91-03-153	236-100-014	NEW-P	91-05-101



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250-76	NEW-C 91-03-087	296-52-465	AMD 91-03-044	296-155-675	AMD-P 91-04-077
251-08-112	AMD-E 91-05-052	296-52-489	AMD 91-03-044	296-155-682	AMD 91-03-044
251-12-085	AMD-C 91-05-055	296-52-493	AMD 91-03-044	296-155-688	AMD 91-03-044
251-12-085	AMD-C 91-05-060	296-52-497	AMD 91-03-044	296-155-689	AMD 91-03-044
251-19-120	AMD-C 91-05-055	296-56-60073	AMD-P 91-04-077	296-155-694	AMD-P 91-04-077
251-19-120	AMD-C 91-05-060	296-56-60229	AMD-P 91-04-077	296-155-700	AMD 91-03-044
251-19-155	NEW-C 91-05-054	296-62-07314	AMD 91-03-044	296-155-705	AMD 91-03-044
251-19-155	AMD-C 91-05-059	296-62-07329	AMD 91-03-044	296-155-720	AMD 91-03-044
251-19-156	NEW-C 91-05-054	296-62-07515	AMD-P 91-04-077	296-155-730	AMD-P 91-04-077
251-19-156	AMD-C 91-05-059	296-62-07540	AMD-P 91-04-077	296-155-950	AMD 91-03-044
251-19-157	NEW-C 91-05-054	296-62-07544	AMD-P 91-04-077	296-305-06009	AMD-P 91-04-077
251-19-157	AMD-C 91-05-059	296-62-07715	AMD 91-03-044	296-305-110	AMD 91-03-044
251-19-158	NEW-C 91-05-054	296-62-07719	NEW 91-03-044	296-306-260	AMD-P 91-04-077
251-19-158	AMD-C 91-05-059	296-62-07721	AMD 91-03-044	296-306-265	AMD-P 91-04-077
251-19-160	AMD-C 91-05-055	296-62-07725	AMD 91-03-044	296-306-27095	AMD-P 91-04-077
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251-24-030	AMD-C 91-05-054	296-62-07733	AMD 91-03-044	296-306-320	AMD-P 91-04-077
251-24-030	AMD-C 91-05-059	296-62-07755	NEW 91-03-044	308-14-135	NEW-W 91-03-065
260-36-190	NEW 91-03-033	296-62-09007	AMD-P 91-04-077	308-20-010	AMD-P 91-05-080
260-36-200	NEW 91-03-033	296-62-11011	AMD-P 91-04-077	308-20-020	AMD-P 91-05-080
260-60-060	AMD-W 91-03-064	296-62-14503	AMD-P 91-04-077	308-20-030	AMD-P 91-05-080
275-16-030	AMD-P 91-04-034	296-62-3050	AMD-P 91-04-077	308-20-040	AMD-P 91-05-080
275-16-030	AMD-E 91-04-037	296-62-3090	AMD-P 91-04-077	308-20-050	AMD-P 91-05-080
284-14-010	REP-P 91-04-057	296-99-050	AMD-P 91-04-077	308-20-070	AMD-P 91-05-080
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284-44-400	REP-P 91-04-057	296-115-015	AMD 91-03-044	308-20-095	NEW-P 91-05-080
284-46-010	REP-P 91-04-057	296-115-025	AMD 91-03-044	308-20-105	AMD-P 91-05-080
292-10-010	NEW 91-04-060	296-115-035	AMD 91-03-044	308-20-110	AMD-P 91-05-080
292-10-020	NEW 91-04-060	296-115-060	AMD 91-03-044	308-20-140	AMD-P 91-05-080
292-10-030	NEW 91-04-060	296-115-070	AMD 91-03-044	308-20-175	NEW-P 91-05-080
292-10-040	NEW 91-04-060	296-115-100	AMD 91-03-044	308-31-001	DECOD 91-03-095
292-10-050	NEW 91-04-060	296-116-185	AMD-P 91-03-075	308-31-010	DECOD 91-03-095
292-10-060	NEW 91-04-060	296-127	AMD-C 91-03-113	308-31-010	AMD-P 91-05-089
292-10-070	NEW 91-04-060	296-155-205	AMD-P 91-04-077	308-31-020	DECOD 91-03-095
296-20-1103	AMD-P 91-03-114	296-155-225	REP 91-03-044	308-31-020	AMD-P 91-05-089
296-21-013	AMD-W 91-02-114	296-155-230	REP 91-03-044	308-31-025	DECOD 91-03-095
296-22-053	AMD-W 91-02-114	296-155-24501	NEW 91-03-044	308-31-025	AMD-P 91-05-089
296-22-082	AMD-W 91-02-114	296-155-24503	NEW 91-03-044	308-31-030	DECOD 91-03-095
296-22-205	AMD-W 91-02-114	296-155-24505	NEW 91-03-044	308-31-030	AMD-P 91-05-089
296-23-07907	AMD-W 91-02-114	296-155-24510	NEW 91-03-044	308-31-040	DECOD 91-03-095
296-23A-340	AMD-W 91-02-114	296-155-24515	NEW 91-03-044	308-31-040	AMD-P 91-05-089
296-24-020	AMD 91-03-044	296-155-24520	NEW 91-03-044	308-31-050	DECOD 91-03-095
296-24-065	AMD 91-03-044	296-155-24521	NEW 91-03-044	308-31-050	AMD-P 91-05-089
296-24-084	AMD 91-03-044	296-155-24525	NEW 91-03-044	308-31-055	DECOD 91-05-029
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296-24-11005	AMD-P 91-04-077	296-155-375	AMD-P 91-04-077	308-31-060	DECOD 91-03-095
296-24-11007	AMD-P 91-04-077	296-155-480	AMD 91-03-044	308-31-060	AMD-P 91-05-089
296-24-11009	AMD-P 91-04-077	296-155-485	AMD 91-03-044	308-31-100	DECOD 91-03-095
296-24-11011	AMD-P 91-04-077	296-155-48529	AMD 91-03-044	308-31-100	AMD-P 91-05-089
296-24-11013	AMD-P 91-04-077	296-155-48531	AMD 91-03-044	308-31-110	DECOD 91-03-095
296-24-11015	AMD-P 91-04-077	296-155-48533	AMD 91-03-044	308-31-110	AMD-P 91-05-089
296-24-11017	AMD-P 91-04-077	296-155-500	AMD 91-03-044	308-31-120	DECOD 91-03-095
296-24-119	AMD-P 91-04-077	296-155-505	AMD 91-03-044	308-31-120	AMD-P 91-05-089
296-24-12002	AMD-P 91-04-077	296-155-50501	REP 91-03-044	308-31-210	DECOD 91-03-095
296-24-150	AMD 91-03-044	296-155-50503	AMD 91-03-044	308-31-210	AMD-P 91-05-089
296-24-15001	AMD 91-03-044	296-155-525	AMD 91-03-044	308-31-220	DECOD 91-03-095
296-24-15003	AMD 91-03-044	296-155-530	AMD 91-03-044	308-31-220	AMD-P 91-05-089
296-24-16531	AMD 91-03-044	296-155-620	AMD 91-03-044	308-31-230	DECOD 91-03-095
296-24-19505	AMD 91-03-044	296-155-625	AMD 91-03-044	308-31-230	AMD-P 91-05-089
296-24-19509	AMD 91-03-044	296-155-650	AMD 91-03-044	308-31-240	DECOD 91-03-095
296-24-200	AMD 91-03-044	296-155-655	AMD 91-03-044	308-31-240	AMD-P 91-05-089
296-24-23023	AMD 91-03-044	296-155-65505	REP 91-03-044	308-31-250	DECOD 91-03-095
296-24-23027	AMD 91-03-044	296-155-657	NEW 91-03-044	308-31-250	AMD-P 91-05-089
296-24-233	AMD-C 91-03-043	296-155-660	REP 91-03-044	308-31-260	DECOD 91-03-095
296-24-23303	NEW-C 91-03-043	296-155-66005	REP 91-03-044	308-31-260	AMD-P 91-05-089
296-24-23533	NEW 91-03-044	296-155-66103	NEW 91-03-044	308-31-270	DECOD 91-03-095
296-24-450	AMD 91-03-044	296-155-66105	NEW 91-03-044	308-31-270	AMD-P 91-05-089
296-24-68203	AMD 91-03-044	296-155-66109	NEW 91-03-044	308-31-280	DECOD 91-03-095
296-24-75009	AMD 91-03-044	296-155-664	NEW 91-03-044	308-31-280	AMD-P 91-05-089
296-24-75011	AMD 91-03-044	296-155-665	REP 91-03-044	308-31-500	DECOD 91-03-095
296-24-76555	AMD 91-03-044	296-155-66501	REP 91-03-044	308-31-500	AMD-P 91-05-089
296-24-87035	NEW 91-03-044	296-155-66502	REP 91-03-044	308-31-510	DECOD 91-03-095
296-24-95611	AMD 91-03-044	296-155-66503	REP 91-03-044	308-31-510	AMD-P 91-05-089
296-30-190	NEW-W 91-04-027	296-155-66504	REP 91-03-044	308-31-520	DECOD 91-03-095

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308-31-530	DECOD	91-03-095	308-122-220	DECOD	91-04-020	308-171-010	AMD-P	91-05-088
308-31-530	AMD-P	91-05-089	308-122-225	DECOD	91-04-020	308-171-020	DECOD	91-05-027
308-31-540	DECOD	91-03-095	308-122-230	DECOD	91-04-020	308-171-020	AMD-P	91-05-088
308-31-540	AMD-P	91-05-089	308-122-235	DECOD	91-04-020	308-171-040	DECOD	91-05-027
308-31-550	DECOD	91-03-095	308-122-275	DECOD	91-05-028	308-171-041	DECOD	91-05-027
308-31-550	AMD-P	91-05-089	308-122-280	DECOD	91-04-020	308-171-041	AMD-P	91-05-088
308-31-560	DECOD	91-03-095	308-122-350	DECOD	91-04-020	308-171-045	DECOD	91-05-027
308-31-560	AMD-P	91-05-089	308-122-360	DECOD	91-04-020	308-171-100	DECOD	91-05-027
308-31-570	DECOD	91-03-095	308-122-360	AMD	91-04-021	308-171-101	DECOD	91-05-027
308-31-570	AMD-P	91-05-089	308-122-370	DECOD	91-04-020	308-171-102	DECOD	91-05-027
308-42-075	AMD	91-05-004	308-122-380	REP	91-04-021	308-171-103	DECOD	91-05-027
308-52-135	AMD-E	91-04-033	308-122-390	REP	91-04-021	308-171-103	AMD-P	91-05-088
308-52-135	AMD-P	91-04-055	308-122-400	REP	91-04-021	308-171-104	DECOD	91-05-027
308-53	DECOD-C	91-03-116	308-122-410	REP	91-04-021	308-171-200	DECOD	91-05-027
308-54-315	AMD-P	91-05-025	308-122-420	REP	91-04-021	308-171-201	DECOD	91-05-027
308-56A-090	NEW	91-03-088	308-122-430	DECOD	91-04-020	308-171-202	DECOD	91-05-027
308-56A-150	AMD	91-04-024	308-122-440	DECOD	91-04-020	308-171-300	DECOD	91-05-027
308-56A-460	AMD	91-04-025	308-122-450	DECOD	91-04-020	308-171-301	DECOD	91-05-027
308-57-005	NEW	91-04-026	308-122-500	REP	91-04-021	308-171-302	DECOD	91-05-027
308-57-010	NEW	91-04-026	308-122-505	DECOD	91-04-020	308-171-310	DECOD	91-05-030
308-57-020	NEW	91-04-026	308-122-510	DECOD	91-04-020	308-171-320	DECOD	91-05-027
308-57-030	NEW	91-04-026	308-122-515	DECOD	91-04-020	308-171-330	DECOD	91-05-027
308-57-110	NEW	91-04-026	308-122-515	AMD	91-04-021	314-16-125	AMD-P	91-05-085
308-57-120	NEW	91-04-026	308-122-520	DECOD	91-04-020	314-20-020	AMD-P	91-05-086
308-57-130	NEW	91-04-026	308-122-520	AMD	91-04-021	314-52-015	AMD-C	91-03-007
308-57-140	NEW	91-04-026	308-122-525	DECOD	91-04-020	314-52-015	AMD-W	91-04-085
308-57-210	NEW	91-04-026	308-122-530	DECOD	91-04-020	315-06-120	AMD	91-03-036
308-57-220	NEW	91-04-026	308-122-535	DECOD	91-04-020	315-11-200	REP	91-03-034
308-57-230	NEW	91-04-026	308-122-540	DECOD	91-04-020	315-11-201	REP	91-03-034
308-57-240	NEW	91-04-026	308-122-545	DECOD	91-04-020	315-11-202	REP	91-03-034
308-57-310	NEW	91-04-026	308-122-600	DECOD	91-04-020	315-11-210	REP	91-03-034
308-57-320	NEW	91-04-026	308-122-610	DECOD	91-04-020	315-11-211	REP	91-03-034
308-57-410	NEW	91-04-026	308-122-620	DECOD	91-04-020	315-11-212	REP	91-03-034
308-57-420	NEW	91-04-026	308-122-630	DECOD	91-04-020	315-11-220	REP	91-03-034
308-57-430	NEW	91-04-026	308-122-640	DECOD	91-04-020	315-11-221	REP	91-03-034
308-57-440	NEW	91-04-026	308-122-650	DECOD	91-04-020	315-11-222	REP	91-03-034
308-58-010	AMD	91-04-025	308-122-660	DECOD	91-04-020	315-11-230	REP	91-03-034
308-58-020	AMD	91-04-025	308-122-660	AMD	91-04-021	315-11-231	REP	91-03-034
308-66-152	AMD	91-03-019	308-122-670	DECOD	91-04-020	315-11-232	REP	91-03-034
308-66-156	NEW	91-03-092	308-122-670	AMD	91-04-021	315-11-240	REP	91-03-034
308-77-080	REP	91-03-018	308-122-680	DECOD	91-04-020	315-11-241	REP	91-03-034
308-77-100	AMD	91-03-018	308-122-690	DECOD	91-04-020	315-11-242	REP	91-03-034
308-77-250	AMD	91-03-017	308-122-695	DECOD	91-04-020	315-11-250	REP	91-03-034
308-91-030	AMD-E	91-02-109	308-122-700	DECOD	91-04-020	315-11-251	REP	91-03-034
308-91-030	AMD-P	91-02-110	308-122-710	DECOD	91-04-020	315-11-252	REP	91-03-034
308-91-090	AMD-E	91-02-109	308-122-720	DECOD	91-04-020	315-11-260	REP	91-03-034
308-91-090	AMD-P	91-02-110	308-124A-430	AMD-P	91-03-047	315-11-261	REP	91-03-034
308-91-095	NEW-E	91-02-109	308-124H-010	AMD-P	91-03-047	315-11-262	REP	91-03-034
308-91-095	NEW-P	91-02-110	308-124H-025	AMD-P	91-03-047	315-11-270	REP	91-03-034
308-91-150	AMD-E	91-02-109	308-124H-540	AMD-P	91-03-047	315-11-271	REP	91-03-034
308-91-150	AMD-P	91-02-110	308-125-010	NEW	91-04-074	315-11-272	REP	91-03-034
308-93-670	NEW	91-03-089	308-125-020	NEW	91-04-074	315-11-280	REP	91-03-034
308-94-035	AMD-P	91-03-142	308-125-030	NEW	91-04-074	315-11-281	REP	91-03-034
308-96A-046	AMD	91-04-025	308-125-040	NEW	91-04-074	315-11-282	REP	91-03-034
308-96A-056	AMD	91-04-025	308-125-050	NEW	91-04-074	315-11-290	REP	91-03-034
308-96A-070	AMD	91-04-025	308-125-060	NEW	91-04-074	315-11-291	REP	91-03-034
308-96A-073	NEW	91-04-025	308-125-070	NEW	91-04-074	315-11-292	REP	91-03-034
308-96A-074	NEW	91-04-025	308-125-080	NEW	91-04-074	315-11-300	REP	91-03-034
308-96A-075	AMD	91-04-025	308-125-090	NEW	91-04-074	315-11-301	REP	91-03-034
308-96A-345	AMD	91-04-024	308-125-100	NEW	91-04-074	315-11-302	REP	91-03-034
308-96A-350	AMD	91-04-024	308-125-110	NEW	91-04-074	315-11-310	REP	91-03-034
308-96A-380	AMD	91-04-024	308-125-120	NEW	91-04-074	315-11-311	REP	91-03-034
308-96A-505	NEW	91-03-091	308-125-130	NEW	91-04-074	315-11-312	REP	91-03-034
308-96A-510	NEW	91-03-091	308-125-140	NEW	91-04-074	315-11-320	REP	91-03-034
308-96A-520	NEW	91-03-091	308-125-150	NEW	91-04-074	315-11-321	REP	91-03-034
308-96A-530	NEW	91-03-091	308-125-160	NEW	91-04-074	315-11-322	REP	91-03-034
308-96A-540	NEW	91-03-091	308-125-170	NEW	91-04-074	315-11-330	REP	91-03-034
308-96A-550	NEW	91-03-091	308-125-180	NEW	91-04-074	315-11-331	REP	91-03-034
308-96A-560	NEW	91-03-091	308-125-190	NEW	91-04-074	315-11-332	REP	91-03-034
308-122-001	DECOD	91-04-020	308-125-200	NEW	91-04-074	315-11-340	REP	91-03-034
308-122-005	DECOD	91-04-020	308-125-210	NEW	91-04-074	315-11-341	REP	91-03-034
308-122-006	DECOD	91-04-020	308-138-055	REP-P	91-03-117	315-11-342	REP	91-03-034
308-122-060	DECOD	91-04-020	308-171-001	DECOD	91-05-027	315-11-350	REP	91-03-034
308-122-200	DECOD	91-04-020	308-171-001	AMD-P	91-05-088	315-11-351	REP	91-03-034
308-122-200	AMD	91-04-021	308-171-002	DECOD	91-05-027	315-11-352	REP	91-03-034
308-122-211	DECOD	91-04-020	308-171-003	DECOD	91-05-027	315-11-360	REP	91-03-034

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315-11-361	REP	91-03-034	365-90-090	AMD	91-04-017	371-12-120	REP	91-03-028
315-11-362	REP	91-03-034	371-08	AMD-C	91-03-027	371-12-130	REP	91-03-028
315-11-370	REP	91-03-034	371-08-001	NEW	91-03-028	388-14-385	AMD-P	91-04-002
315-11-371	REP	91-03-034	371-08-002	NEW	91-03-028	388-14-385	AMD-E	91-04-003
315-11-372	REP	91-03-034	371-08-005	AMD	91-03-028	388-14-415	AMD-P	91-04-002
315-11-380	REP	91-03-034	371-08-010	AMD	91-03-028	388-14-415	AMD-E	91-04-003
315-11-381	REP	91-03-034	371-08-015	REP	91-03-028	388-14-435	NEW-P	91-04-002
315-11-382	REP	91-03-034	371-08-020	AMD	91-03-028	388-14-435	NEW-E	91-04-003
315-11-390	REP	91-03-034	371-08-030	AMD	91-03-028	388-14-440	NEW-P	91-04-002
315-11-391	REP	91-03-034	371-08-031	REP	91-03-028	388-14-440	NEW-E	91-04-003
315-11-392	REP	91-03-034	371-08-032	AMD	91-03-028	388-14-445	NEW-P	91-04-002
315-11-590	AMD	91-03-036	371-08-033	NEW	91-03-028	388-14-445	NEW-E	91-04-003
315-11-591	AMD	91-03-036	371-08-035	AMD	91-03-028	388-14-450	NEW-P	91-04-002
315-11-610	NEW	91-03-036	371-08-040	AMD	91-03-028	388-14-450	NEW-E	91-04-003
315-11-611	NEW	91-03-036	371-08-045	REP	91-03-028	388-15-208	AMD-S	91-04-039
315-11-611	AMD-P	91-03-112	371-08-065	AMD	91-03-028	388-15-209	AMD-S	91-04-039
315-11-612	NEW	91-03-036	371-08-071	AMD	91-03-028	388-15-212	AMD-S	91-04-039
315-11-620	NEW-P	91-03-112	371-08-075	AMD	91-03-028	388-15-215	AMD-S	91-04-039
315-11-621	NEW-P	91-03-112	371-08-080	AMD	91-03-028	388-15-216	AMD-S	91-04-039
315-11-622	NEW-P	91-03-112	371-08-085	AMD	91-03-028	388-24-050	AMD-E	91-04-042
315-11-630	NEW-P	91-03-112	371-08-095	REP	91-03-028	388-24-050	AMD-P	91-04-043
315-11-631	NEW-P	91-03-112	371-08-100	AMD	91-03-028	388-44-145	AMD-C	91-03-039
315-11-632	NEW-P	91-03-112	371-08-102	REP	91-03-028	388-44-145	AMD-C	91-04-047
315-12-140	REP	91-03-035	371-08-104	AMD	91-03-028	388-49-020	AMD-P	91-05-074
315-12-145	NEW	91-03-036	371-08-105	REP	91-03-028	388-49-190	AMD-P	91-05-073
352-12-010	AMD-P	91-03-142	371-08-106	NEW	91-03-028	388-49-330	AMD-P	91-05-075
352-12-020	AMD-P	91-03-142	371-08-110	REP	91-03-028	388-49-410	AMD-P	91-05-071
352-12-030	AMD-P	91-03-142	371-08-115	REP	91-03-028	388-49-420	AMD-P	91-05-071
352-32-010	AMD-P	91-03-142	371-08-120	REP	91-03-028	388-49-480	AMD-P	91-05-072
352-32-035	AMD-P	91-03-142	371-08-125	AMD	91-03-028	388-49-505	AMD-P	91-04-035
352-32-045	AMD-P	91-03-142	371-08-130	AMD	91-03-028	388-49-505	AMD-E	91-04-036
352-32-200	AMD-P	91-03-140	371-08-131	REP	91-03-028	388-76-030	AMD-P	91-05-070
352-32-210	AMD-P	91-03-140	371-08-132	REP	91-03-028	388-76-040	AMD-P	91-05-070
352-32-250	AMD-P	91-03-142	371-08-135	REP	91-03-028	388-76-087	AMD-P	91-05-070
352-32-252	AMD-P	91-03-142	371-08-140	AMD	91-03-028	388-77-010	AMD	91-04-041
352-32-270	AMD-P	91-03-142	371-08-144	AMD	91-03-028	388-77-010	AMD	91-05-010
356-06-040	AMD-C	91-03-068	371-08-146	NEW	91-03-028	388-77-010	AMD	91-05-058
356-06-040	AMD-W	91-05-081	371-08-147	NEW	91-03-028	388-77-230	REP	91-04-041
356-10-050	AMD	91-03-070	371-08-148	NEW	91-03-028	388-77-230	REP	91-05-010
356-15-020	AMD-P	91-04-046	371-08-155	AMD	91-03-028	388-77-230	REP	91-05-058
356-15-080	AMD	91-03-069	371-08-156	AMD	91-03-028	388-77-320	AMD	91-04-041
356-15-130	AMD	91-05-083	371-08-160	REP	91-03-028	388-77-320	AMD	91-05-010
356-18-112	AMD-C	91-05-082	371-08-162	NEW	91-03-028	388-77-320	AMD	91-05-058
356-22-130	AMD	91-03-071	371-08-163	REP	91-03-028	388-77-500	AMD	91-04-041
356-22-230	AMD-C	91-03-068	371-08-165	AMD	91-03-028	388-77-500	AMD	91-05-010
356-22-230	AMD-W	91-05-081	371-08-175	REP	91-03-028	388-77-500	AMD	91-05-058
356-30-260	AMD-C	91-05-082	371-08-180	AMD	91-03-028	388-77-515	AMD	91-04-041
356-30-305	AMD-C	91-05-082	371-08-183	AMD	91-03-028	388-77-515	AMD	91-05-010
360-10-030	AMD-P	91-05-091	371-08-184	NEW	91-03-028	388-77-515	AMD	91-05-058
360-10-050	AMD-P	91-05-091	371-08-186	AMD	91-03-028	388-77-520	AMD	91-04-041
360-10-060	AMD-P	91-05-091	371-08-187	AMD	91-03-028	388-77-520	AMD	91-05-010
360-17-010	AMD-W	91-05-049	371-08-188	AMD	91-03-028	388-77-520	AMD	91-05-058
360-17-040	AMD-W	91-05-049	371-08-189	AMD	91-03-028	388-77-530	REP	91-04-041
360-17-070	AMD-W	91-05-049	371-08-190	REP	91-03-028	388-77-530	REP	91-05-010
360-17-075	NEW-W	91-05-049	371-08-195	AMD	91-03-028	388-77-530	REP	91-05-058
360-17-095	NEW-W	91-05-049	371-08-196	AMD	91-03-028	388-77-555	AMD	91-04-041
360-17-100	AMD-W	91-05-049	371-08-200	AMD	91-03-028	388-77-555	AMD	91-05-010
360-35-010	NEW	91-04-056	371-08-201	REP	91-03-028	388-77-555	AMD	91-05-058
360-35-020	NEW	91-04-056	371-08-205	REP	91-03-028	388-77-600	AMD	91-04-041
360-35-030	NEW	91-04-056	371-08-210	REP	91-03-028	388-77-600	AMD	91-05-010
360-35-040	NEW	91-04-056	371-08-215	AMD	91-03-028	388-77-600	AMD	91-05-058
360-35-050	NEW	91-04-056	371-08-220	AMD	91-03-028	388-77-610	AMD	91-04-041
360-35-060	NEW	91-04-056	371-08-230	AMD	91-03-028	388-77-610	AMD	91-05-010
360-35-070	NEW	91-04-056	371-08-240	AMD	91-03-028	388-77-610	AMD	91-05-058
360-35-080	NEW	91-04-056	371-08-245	REP	91-03-028	388-77-615	AMD	91-04-041
360-35-090	NEW	91-04-056	371-12	REP-C	91-03-027	388-77-615	AMD	91-05-010
360-35-100	NEW	91-04-056	371-12-010	REP	91-03-028	388-77-615	AMD	91-05-058
360-35-110	NEW	91-04-056	371-12-020	REP	91-03-028	388-83-041	NEW-P	91-05-008
360-49-050	NEW-P	91-05-090	371-12-030	REP	91-03-028	388-83-041	NEW-E	91-05-009
360-52-120	NEW-P	91-05-092	371-12-040	REP	91-03-028	388-84-105	AMD	91-05-011
365-90-010	AMD	91-04-017	371-12-050	REP	91-03-028	388-86-00901	AMD-P	91-04-040
365-90-020	AMD	91-04-017	371-12-060	REP	91-03-028	388-86-00901	AMD-E	91-04-044
365-90-030	REP	91-04-017	371-12-070	REP	91-03-028	388-92-045	AMD-P	91-05-008
365-90-040	AMD	91-04-017	371-12-080	REP	91-03-028	388-92-045	AMD-E	91-05-009
365-90-050	REP	91-04-017	371-12-090	REP	91-03-028	388-95-320	AMD-P	91-05-034
365-90-070	AMD	91-04-017	371-12-100	REP	91-03-028	388-95-320	AMD-E	91-05-035
365-90-080	AMD	91-04-017	371-12-110	REP	91-03-028	388-95-380	AMD-P	91-05-008

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388-95-380	AMD-E	91-05-009	392-115-040	NEW-P	91-03-001	392-127-715	NEW	91-03-129
388-99-040	AMD-P	91-05-008	392-115-045	NEW-P	91-03-001	392-127-720	NEW	91-03-129
388-99-040	AMD-E	91-05-009	392-115-050	NEW-P	91-03-001	392-127-725	NEW	91-03-129
388-150-005	AMD-P	91-03-127	392-115-055	NEW-P	91-03-001	392-127-730	NEW	91-03-129
388-150-005	AMD-E	91-03-128	392-115-060	NEW-P	91-03-001	392-127-735	NEW	91-03-129
388-150-100	AMD-P	91-03-127	392-115-065	NEW-P	91-03-001	392-127-740	NEW	91-03-129
388-150-100	AMD-E	91-03-128	392-115-070	NEW-P	91-03-001	392-127-745	NEW	91-03-129
388-150-180	AMD-P	91-03-127	392-115-075	NEW-P	91-03-001	392-127-750	NEW	91-03-129
388-150-180	AMD-E	91-03-128	392-115-080	NEW-P	91-03-001	392-127-755	NEW	91-03-129
388-150-210	AMD-P	91-03-127	392-115-085	NEW-P	91-03-001	392-127-760	NEW	91-03-129
388-150-210	AMD-E	91-03-128	392-115-090	NEW-P	91-03-001	392-127-765	NEW	91-03-129
388-150-280	AMD-P	91-03-127	392-115-095	NEW-P	91-03-001	392-127-770	NEW	91-03-129
388-150-280	AMD-E	91-03-128	392-115-100	NEW-P	91-03-001	392-127-775	NEW	91-03-129
388-150-390	AMD-P	91-03-127	392-115-105	NEW-P	91-03-001	392-127-780	NEW	91-03-129
388-150-390	AMD-E	91-03-128	392-115-110	NEW-P	91-03-001	392-127-785	NEW	91-03-129
388-150-450	AMD-P	91-03-127	392-115-115	NEW-P	91-03-001	392-127-790	NEW	91-03-129
388-150-450	AMD-E	91-03-128	392-115-120	NEW-P	91-03-001	392-127-795	NEW	91-03-129
388-155	NEW-C	91-03-038	392-115-125	NEW-P	91-03-001	392-127-800	NEW	91-03-129
388-155-005	NEW	91-04-048	392-115-130	NEW-P	91-03-001	392-127-805	NEW	91-03-129
388-155-010	NEW	91-04-048	392-115-135	NEW-P	91-03-001	392-127-810	NEW	91-03-129
388-155-020	NEW	91-04-048	392-115-140	NEW-P	91-03-001	392-127-815	NEW	91-03-129
388-155-040	NEW	91-04-048	392-115-145	NEW-P	91-03-001	392-127-820	NEW	91-03-129
388-155-050	NEW	91-04-048	392-115-150	NEW-P	91-03-001	392-127-825	NEW	91-03-129
388-155-060	NEW	91-04-048	392-115-155	NEW-P	91-03-001	392-127-830	NEW	91-03-129
388-155-070	NEW	91-04-048	392-121-108	AMD	91-02-096	392-140-257	AMD-P	91-04-089
388-155-080	NEW	91-04-048	392-121-133	AMD	91-02-096	392-140-340	NEW	91-02-094
388-155-090	NEW	91-04-048	392-121-136	AMD	91-02-096	392-140-341	NEW	91-02-094
388-155-100	NEW	91-04-048	392-121-182	AMD	91-02-096	392-140-342	NEW	91-02-094
388-155-110	NEW	91-04-048	392-121-184	NEW-P	91-04-088	392-140-343	NEW	91-02-094
388-155-120	NEW	91-04-048	392-121-265	AMD	91-02-097	392-140-345	NEW	91-02-094
388-155-130	NEW	91-04-048	392-121-268	AMD	91-02-097	392-140-346	NEW	91-02-094
388-155-140	NEW	91-04-048	392-121-269	NEW	91-02-097	392-140-347	NEW	91-02-094
388-155-150	NEW	91-04-048	392-121-270	AMD	91-02-097	392-140-348	NEW	91-02-094
388-155-160	NEW	91-04-048	392-121-272	AMD	91-02-097	392-140-349	NEW	91-02-094
388-155-165	NEW	91-04-048	392-121-280	AMD	91-02-097	392-140-350	NEW	91-02-094
388-155-170	NEW	91-04-048	392-121-295	AMD	91-02-097	392-140-351	NEW	91-02-094
388-155-180	NEW	91-04-048	392-121-297	REP	91-02-097	392-140-352	NEW	91-02-094
388-155-190	NEW	91-04-048	392-121-299	AMD	91-02-097	392-140-353	NEW	91-02-094
388-155-200	NEW	91-04-048	392-122-010	AMD	91-03-118	392-140-354	NEW	91-02-094
388-155-210	NEW	91-04-048	392-122-100	AMD	91-03-118	392-140-355	NEW	91-02-094
388-155-220	NEW	91-04-048	392-122-106	AMD	91-03-118	392-140-356	NEW	91-02-094
388-155-230	NEW	91-04-048	392-122-107	AMD	91-03-118	392-140-357	NEW	91-02-094
388-155-240	NEW	91-04-048	392-122-110	AMD	91-03-118	392-140-358	NEW	91-02-094
388-155-250	NEW	91-04-048	392-122-115	REP	91-03-118	392-140-359	NEW	91-02-094
388-155-260	NEW	91-04-048	392-122-120	AMD	91-03-118	392-140-360	NEW	91-02-094
388-155-270	NEW	91-04-048	392-122-125	REP	91-03-118	392-140-361	NEW	91-02-094
388-155-280	NEW	91-04-048	392-122-145	AMD	91-03-118	392-140-362	NEW	91-02-094
388-155-290	NEW	91-04-048	392-122-165	NEW	91-03-118	392-140-363	NEW	91-02-094
388-155-295	NEW	91-04-048	392-122-200	AMD	91-03-118	392-140-364	NEW	91-02-094
388-155-310	NEW	91-04-048	392-122-206	NEW	91-03-118	392-140-365	NEW	91-02-094
388-155-320	NEW	91-04-048	392-122-210	AMD	91-03-118	392-140-366	NEW	91-02-094
388-155-330	NEW	91-04-048	392-122-215	REP	91-03-118	392-140-367	NEW	91-02-094
388-155-340	NEW	91-04-048	392-122-230	AMD	91-03-118	392-140-368	NEW	91-02-094
388-155-350	NEW	91-04-048	392-122-235	AMD	91-03-118	392-140-369	NEW	91-02-094
388-155-360	NEW	91-04-048	392-122-240	REP	91-03-118	392-140-370	NEW	91-02-094
388-155-370	NEW	91-04-048	392-122-245	REP	91-03-118	392-140-371	NEW	91-02-094
388-155-380	NEW	91-04-048	392-122-250	REP	91-03-118	392-140-372	NEW	91-02-094
388-155-390	NEW	91-04-048	392-122-270	AMD	91-03-118	392-140-373	NEW	91-02-094
388-155-400	NEW	91-04-048	392-122-600	AMD	91-03-118	392-140-374	NEW	91-02-094
388-155-410	NEW	91-04-048	392-122-605	AMD	91-03-118	392-140-375	NEW	91-02-094
388-155-420	NEW	91-04-048	392-122-610	AMD	91-03-118	392-140-376	NEW	91-02-094
388-155-430	NEW	91-04-048	392-122-700	AMD	91-03-118	392-140-377	NEW	91-02-094
388-155-440	NEW	91-04-048	392-122-800	AMD	91-03-118	392-140-378	NEW	91-02-094
388-155-450	NEW	91-04-048	392-122-805	AMD	91-03-118	392-140-379	NEW	91-02-094
388-155-460	NEW	91-04-048	392-122-910	NEW	91-03-118	392-140-380	NEW	91-02-094
388-155-470	NEW	91-04-048	392-125-014	NEW-P	91-03-050	392-140-381	NEW	91-02-094
388-155-480	NEW	91-04-048	392-125-015	AMD-P	91-03-050	392-140-390	NEW	91-02-094
388-155-490	NEW	91-04-048	392-125-020	AMD-P	91-03-050	392-140-391	NEW	91-02-094
388-155-500	NEW	91-04-048	392-125-025	AMD-P	91-03-050	392-140-392	NEW	91-02-094
391-101-015	NEW	91-02-095	392-125-026	NEW-P	91-03-050	392-140-393	NEW	91-02-094
392-115-005	NEW-P	91-03-001	392-125-027	NEW-P	91-03-050	392-145-015	AMD-P	91-03-074
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392-115-015	NEW-P	91-03-001	392-125-085	AMD-P	91-03-050	392-202-003	AMD	91-03-119
392-115-020	NEW-P	91-03-001	392-127-700	NEW	91-03-129	400-12	PREP	91-05-066
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392-115-030	NEW-P	91-03-001	392-127-705	NEW	91-03-129	415-100-045	NEW	91-03-013
392-115-035	NEW-P	91-03-001	392-127-710	NEW	91-03-129	415-100-051	NEW	91-03-013



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415-100-055	NEW	91-03-013	448-12-250	REP-S	91-03-123	460-31A-495	REP	91-04-012
415-104-201	NEW	91-03-014	448-12-260	REP-S	91-03-123	460-31A-500	REP	91-04-012
415-104-205	NEW	91-03-014	448-12-270	REP-S	91-03-123	460-31A-505	REP	91-04-012
415-104-211	NEW	91-03-014	448-12-280	REP-S	91-03-123	460-31A-510	REP	91-04-012
415-104-215	NEW	91-03-014	448-12-290	REP-S	91-03-123	460-31A-515	REP	91-04-012
415-108-320	NEW	91-03-015	448-12-300	REP-S	91-03-123	460-31A-520	REP	91-04-012
415-108-322	NEW	91-03-015	448-12-320	REP-S	91-03-123	460-31A-525	REP	91-04-012
415-108-324	NEW	91-03-015	448-12-330	REP-S	91-03-123	460-31A-530	REP	91-04-012
415-108-326	NEW	91-03-015	448-12-340	REP-S	91-03-123	460-31A-535	REP	91-04-012
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415-112-725	NEW	91-03-016	448-13-030	NEW-S	91-03-123	460-31A-550	REP	91-04-012
415-112-727	NEW	91-03-016	448-13-040	NEW-S	91-03-123	460-31A-555	REP	91-04-012
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419-18-050	AMD-P	91-03-106	448-13-120	NEW-S	91-03-123	460-31A-595	REP	91-04-012
419-18-060	AMD-P	91-03-106	448-13-130	NEW-S	91-03-123	460-31A-600	REP	91-04-012
419-18-070	AMD-P	91-03-106	448-13-140	NEW-S	91-03-123	460-31A-605	REP	91-04-012
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434-42-915	NEW-P	91-03-125	448-13-210	NEW-S	91-03-123	460-31A-640	REP	91-04-012
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434-42-925	NEW-E	91-03-126	448-15-010	NEW-P	91-03-124	460-31A-665	REP	91-04-012
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460-36A-160	REP	91-04-012	480-09-120	AMD-P	91-02-105	490-100-130	AMD-E	91-03-037
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460-36A-170	REP	91-04-012	480-09-440	AMD-P	91-02-105	490-100-135	NEW-E	91-03-037
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460-36A-180	REP	91-04-012	480-09-510	AMD-P	91-02-105	490-100-140	AMD-E	91-03-037
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460-36A-190	REP	91-04-012	480-09-610	AMD-P	91-02-105	490-100-150	AMD-E	91-03-037
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