

MARCH 4, 1992

OLYMPIA, WASHINGTON

ISSUE 92-05



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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE (Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of March 1992 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 1992 pursuant to RCW 63.14.130(1)(a) is eleven point seven five percent (11.75%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is ten point two five percent (10.25%) for the second calendar quarter of 1992.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is ten point zero percent (10.00%) for the first calendar quarter of 1992.

WASHINGTON STATE REGISTER

(ISSN 0164-6389) is published twice each month by the Statute Law Committee, Office of the Code Reviser, Olympia, WA 98504, pursuant to RCW 34.08.020. Subscription rate is \$161.85 per year, sales tax included, postpaid to points in the United States. Second-class postage paid at Olympia, Washington.

POSTMASTER: SEND ADDRESS CHANGES TO:

WASHINGTON STATE REGISTER
Code Reviser's Office
Legislative Building
Olympia, WA 98504

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

Raymond W. Haman
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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.

1991 – 1992

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing on or after
91-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
91-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
91-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
91-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
91-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
91-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
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92-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22
92-24	Nov 4	Nov 18	Dec 2	Dec 16	Jan 5, 1993

¹All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

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

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

WSR 92-05-001
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed February 5, 1992, 2:00 p.m.]

Continuance of WSR 92-02-080.

Title of Rule: WAC 480-146-091 relating to an annual report containing affiliated transactions. This notice is a continuation of that notice filed under WSR 92-02-080 on December 31, 1991, Docket No. UT-911389.

Purpose: This rule would create a uniform affiliated interest reporting format which will consolidate all reporting requirements of previously approved transactions for gas, electrical, and local exchange companies.

Statutory Authority for Adoption: RCW 80.01.040.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary and Utilities Staff, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization as reflected in RCW 80.01.040.

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

Proposal does not change existing rules.

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

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, on February 12, 1992, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, by January 27, 1992.

Date of Intended Adoption: February 12, 1992.

February 5, 1992

Paul Curl
Secretary

WSR 92-05-002
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed February 5, 1992, 3:28 p.m.]

Date of Adoption: January 31, 1992.

Purpose: Changes reservation system at Fort Worden in compliance with management study.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-25002.

Statutory Authority for Adoption: RCW 43.51.040(2).

Pursuant to notice filed as WSR 92-01-038 on December 9, 1991.

Changes Other than Editing from Proposed to Adopted Version: Reduced reservation fee from \$100 to \$35 total. No comments received from public or interest groups.

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

January 31, 1992

Jack Shreve
Chairman

AMENDATORY SECTION (Amending Order 98, filed 11/24/86)

WAC 352-32-25002 CAMPSITE AND RALLY AREA RESERVATIONS—FORT WORDEN STATE PARK. (1) Advance individual campsite reservations will be available at Fort Worden State Park. They may be made throughout the year for no more than ten consecutive nights within the current and first succeeding calendar month, except that a continuous reservation may carry from the end of the first succeeding month into the beginning of the next succeeding month. Reservations may be made by mail, or in person, at Fort Worden State Park, and will require a completed application, the first night's camping fee and the nonrefundable reservation fee provided for in WAC 352-32-035. ~~((All reservations will be processed at 8:30 a.m. on the first day of the month. Mail-in reservation requests postmarked the twentieth day of the preceding month or later will be held at the park until processed in order of arrival.))~~ Mail-in reservations will be processed in the order that they are received. Reservation requests postmarked earlier than the twentieth day of the preceding month will be returned to the sender. ~~((Tentative reservations may be made by telephone, but must be followed by a mailing containing the first night's camping fee, the reservation fee and completed application postmarked within five days of the tentative telephone reservation to become a confirmed reservation.))~~ Reservation of campsites will not be accepted by telephone. Walk-in reservations will be accepted beginning the first day of the current month for the current month and the first succeeding month. During the period from the Friday before Memorial Day through Labor Day an individual may reserve no more than ten campsites for use at the same time, and, may reserve campsites for no more than ten nights in each calendar month. Other state parks are subject to continuous occupancy rules provided for in WAC 352-32-030(6).

(2) Reservations for a specific campsite will not be guaranteed.

A refund of the first night's camping fee will be issued for any reservation which is not used, provided a cancellation request is made in person, by mail, or by telephone prior to 5:00 p.m. on the first day of the reservation. Campers will be declared no-show and, in addition to the nonrefundable reservation fee, will forfeit their reservation as well as the first night's camping fee if they have not cancelled and if the reservation is not claimed by 8:00 a.m. on the day after the confirmed arrival date.

(3) Campers who arrive at the park without a reservation may use unreserved campsites for up to ten consecutive nights during the period from May 1 through September 30 and fifteen consecutive nights during the

period from October 1 through April 30, beginning the day of arrival, on a first-come-first-served basis, without paying a reservation fee.

(4) Advance reservations will be available for groups of self-contained recreational vehicles in the Fort Worden State Park rally area. The group must have a minimum of ~~((twenty-five))~~ ten recreational vehicles and may not exceed two hundred recreational vehicles. The nonrefundable reservation fee for the rally area will be \$2.00 per recreational vehicle, or ~~((~~\$100.00~~))~~ \$35.00 total, whichever is greater. The rally area camping fee is \$4.00 per night. Rally area reservations may be made by contacting Fort Worden State Park.

WSR 92-05-003
RULES COORDINATOR
MARITIME COMMISSION
[Filed February 6, 1992, 4:45 p.m.]

This is to advise that Richard W. Buchanan continues to be the designated rules coordinator for the Washington State Maritime Commission during 1992.

Hal Schuyler
Chairman

WSR 92-05-004
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 92-05—Filed February 6, 1992, 4:58 p.m., effective February 16, 1992, 6:00 p.m.]

Date of Adoption: February 6, 1992.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700I and 220-33-01000D; and 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: Harvestable numbers of spring chinook salmon are available in the Columbia River. This rule is consistent with the actions of the January 29, 1992, meeting of the Columbia River Compact. The sturgeon repealer is needed because of superseding rule.

Effective Date of Rule: February 16, 1992, 6:00 p.m.

February 6, 1992
Judith Freeman
for Joseph R. Blum
Director

NEW SECTION

WAC 220-33-01000E COLUMBIA RIVER SALMON SEASONS BELOW BONNEVILLE. Notwithstanding the provisions of WAC 220-33-010, 220-33-020, and 220-33-030, 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 SCMRA 1D downstream from Kelly Point at the mouth of the Willamette River, except as provided in the following subsections.

FISHING PERIODS

(1) 6:00 p.m. February 16 to Noon February 21, 1992.

6:00 p.m. February 23 to Noon February 28, 1992.

GEAR

(2) It is unlawful to fish for salmon, shad and sturgeon with gill net gear that:

(a) exceeds 1,500 feet in length along the corkline;

(b) is constructed of monofilament webbing;

(c) has webbing with a mesh size of less than 8 inches;

or

(d) has lead or weight on the leadline that exceeds two pounds in any one fathom, measurement to be taken along the corkline of the net.

(3) It is unlawful to gaff a sturgeon.

SANCTUARIES

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

(a) Grays Bay

(b) Elokomin-A

(c) Kalama-A

(d) Lewis-A

(e) Cowlitz

(f) Gnat Creek

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-32-05700I COLUMBIA RIVER STURGEON SEASONS ABOVE BONNEVILLE. (92-01)

WAC 220-33-01000D COLUMBIA RIVER SALMON SEASONS BELOW BONNEVILLE. (91-131)

WSR 92-05-005
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed February 7, 1992, 11:17 a.m.]

Original Notice.

Title of Rule: WAC 388-28-575 Disregard of income and resources.

Purpose: Update Washington Administrative Code to reflect correct references to federal public laws, and current federal regulations.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: This rule amendment removes obsolete 1990 federal census demonstration project information, updates public law references for Indian tribes, volunteer compensation, and the Disaster Relief Act of 1974.

Reasons Supporting Proposal: Updates WAC to reflect current federal regulations and public laws.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy JAMES, Division of Income Assistance, 438-8313.

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

Rule is necessary because of federal law, 45 CFR Part 233, Public Laws 91-646, 93-113, 96-420, 97-458, 98-64, 100-50, 100-201, 100-241, and 100-707.

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 24, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by March 24, 1992.

Date of Intended Adoption: April 7, 1992.

February 7, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3191, filed 6/18/91, effective 7/19/91)

WAC 388-28-575 DISREGARD OF INCOME AND RESOURCES. (1) For aid to families with dependent children (AFDC), the department shall disregard as income and as a resource the following payments:

(a) The income of a Supplemental Security Income recipient;

(b) The monthly child support incentive payment from the office of support enforcement;

(c) AFDC benefits resulting from a court order modifying a department policy;

(d) ~~(Wages earned during the 1990 Federal Census Demonstration Project by a temporary census worker eligible for the exclusion;~~

~~(e))~~ Title IV-E, state and/or local foster care maintenance payments; and

~~((f))~~ (e) Adoption support payments if the adopted child is excluded from the assistance unit.

(2) For AFDC and general assistance ~~((GA))~~-unemployable (GA-U), the department shall disregard as income and as a resource the following ~~((payments))~~:

(a) Bonafide loans as specified in WAC 388-28-480(4). The department shall consider loans bonafide when the loan is a debt the borrower has an obligation to repay;

(b) Grants, loans, or work study to a student under Title IV-A of the Higher Education Amendments or Bureau of Indian Affairs (Public Law (P.L.) 99-498 amended by P.L. 100-50), or the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-

391), for attendance costs as identified by the institution. For a student attending school:

(i) At least half-time, attendance costs include tuition, fees, books, supplies, transportation, and miscellaneous personal expenses; or

(ii) Less than half-time, attendance costs include tuition and fees.

(c) Grants or loans to an undergraduate student insured by the commissioner of education;

(d) Any remaining grants, work study, scholarships, or fellowships as allowed under WAC 388-28-578;

(e) ~~((Apply))~~ The earned income disregards in WAC 388-28-570(6) for AFDC and WAC 388-37-025 for GA-U to any work study earnings received and not excluded in subsection (2)(b), (c), and (d) of this section;

(f) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(g) The food coupon allotment under Food Stamp Act of 1977;

(h) Compensation to volunteers ~~((in ACTION programs established by Titles I, H, and III of))~~ under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(i) Benefits under women, infants and children program (WIC);

(j) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(k) Energy assistance payments;

(l) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian Tribe, including but not limited to funds issued pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);

~~((m))~~ Per capita judgment funds under ~~((Public Law (P.L.))~~ P.L. ~~((92-254))~~ 97-408 to members of the:

(i) ~~((Blackfoot))~~ Blackfoot Tribe of the ~~((Blackfoot))~~ Blackfeet Indian ~~((Reservation))~~ Community, Montana; ~~((and))~~

(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and

~~((iii))~~ Assiniboine Tribe of the Fort Belknap Indian Community.

~~((m))~~ Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;

(n) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134, 94-114, 97-458, or 98-64, limited to the extent the per capita shares do not exceed two thousand dollars per individual. In addition:

(i) Real or personal property purchased directly with funds from the per capita payment up to the amount of the funds from the per capita payment hereafter referred to as the initial investments.

(ii) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling valued as specified for the applicable program in WAC 388-28-430 (2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-450(2) for GA-U. The department shall determine appreciation in value at the time of eligibility review.

(iv) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(o) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act ~~((or under P.L. 98-64; (o)))~~ (P.L. 92-203 and 100-241).

(p) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

~~((p))~~ (q) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

~~((q))~~ (r) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

~~((r))~~ (s) A previous underpayment of assistance under WAC 388-33-195;

~~((s))~~ (t) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989~~((:))~~ (P.L. 101-41), made to a Puyallup Tribe member upon reaching twenty-one years of age.

(i) Real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment hereafter referred to as the initial investments.

(ii) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling value as specified for the applicable program in WAC 388-28-430 (2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-450(2) for GA-U. The department shall determine appreciation in value at the time of eligibility review.

(iv) Proceeds from the transfer of the initial investments are treated according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-440 (3) and (4) for GA-U.

~~((tt))~~ (u) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

~~((tt))~~ (v) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). ~~((Under P.L. 101-201,))~~ The effective date of the disregard is retroactive to January 1, 1989;

~~((tt))~~ (w) Payments made under the ~~((federal major))~~ Disaster ~~((and emergency assistance program provided to persons and families under))~~ Relief Act of 1974 (P.L. 93-288~~((The Robert T. Stafford))~~) as amended by Disaster Relief and Emergency Assistance ~~((Act))~~ amendments of 1988 (P.L. 100-707). This ~~((includes))~~ applies to assistance ~~((under the individual and family grant (IFG), temporary (emergency) housing assistance, and disaster unemployment (DUA) programs))~~ issued by federal, state, or local governments or by a disaster assistance organization;

~~((tt))~~ (x) Payments from the Radiation Exposure Compensation ~~((Act))~~ Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents;

(y) Income specifically excluded by any other federal statute from consideration as income or resource.

WSR 92-05-006
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 7, 1992, 11:21 a.m.]

Original Notice.

Title of Rule: WAC 388-83-041 Income—Eligibility.

Purpose: To ensure compliance between state and federal rules. Clients are required to apply for any other benefits to which they may be titled [entitled].

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: This WAC change is necessary to ensure compliance between state and federal rules. This rule requires clients to apply for any other benefits to which they may be entitled.

Reasons Supporting Proposal: 42 CFR Chapter IV 435.603.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Hornby, Medical Assistance Administration, 753-7462.

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

Rule is necessary because of federal law, 42 CFR Chapter IV, 435.603.

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 24, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by March 24, 1992.

Date of Intended Adoption: April 7, 1992.

February 7, 1992
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3132, filed 4/9/91, effective 5/10/91)

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 noncash 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 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 or real estate contracts as described under WAC 388-92-045(2) as unearned income(-);

(g) Require clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so. Annuities, pensions, retirement, and disability benefits include, but are not limited to, veteran's compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation;

(h) Allow child care expenses paid by the client as an income deduction; and

(i) 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.

WSR 92-05-007
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 7, 1992, 11:23 a.m.]

Date of Adoption: February 7, 1992.

Purpose: This rule amendment ensures compliance between state and federal rules. Clients are required to apply for any other benefits to which they may be entitled.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-041.

Statutory Authority for Adoption: RCW 74.08.090.

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

Reasons for this Finding: 42 CFR Chapter IV, 435.603.

Effective Date of Rule: February 8, 1992, 12:01 a.m.

February 7, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3132, filed 4/9/91, effective 5/10/91)

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 noncash 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 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 or real estate contracts as described under WAC 388-92-045(2) as unearned income((-));

(g) Require clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so. Annuities, pensions, retirement, and disability benefits include, but are not limited to, veteran's compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation;

(h) Allow child care expenses paid by the client as an income deduction; and

(i) 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.

WSR 92-05-008

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed February 7, 1992, 11:25 a.m.]

Date of Adoption: February 6, 1992.

Purpose: Update Washington Administrative Code to reflect correct references to federal public laws, and current federal regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-575 Disregard of income and resources.

Statutory Authority for Adoption: RCW 74.04.050.

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

Reasons for this Finding: The amendment of this rule updates WAC to reflect current federal regulations and public laws.

Effective Date of Rule: February 8, 1992, 12:01 a.m.

February 7, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3191, filed 6/18/91, effective 7/19/91)

WAC 388-28-575 DISREGARD OF INCOME AND RESOURCES. (1) For aid to families with dependent children (AFDC), the department shall disregard as income and as a resource the following payments:

(a) The income of a Supplemental Security Income recipient;

(b) The monthly child support incentive payment from the office of support enforcement;

(c) AFDC benefits resulting from a court order modifying a department policy;

(d) ~~((Wages earned during the 1990 Federal Census Demonstration Project by a temporary census worker eligible for the exclusion;~~

~~((e)))~~ Title IV-E, state and/or local foster care maintenance payments; and

~~((f)))~~ (e) Adoption support payments if the adopted child is excluded from the assistance unit.

(2) For AFDC and general assistance (~~((GA)))~~-unemployable (GA-U), the department shall disregard as income and as a resource the following (~~((payments)))~~:

(a) Bonafide loans as specified in WAC 388-28-480(4). The department shall consider loans bonafide when the loan is a debt the borrower has an obligation to repay;

(b) Grants, loans, or work study to a student under Title IV-A of the Higher Education Amendments or Bureau of Indian Affairs (Public Law (P.L.) 99-498 amended by P.L. 100-50), or the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-391), for attendance costs as identified by the institution. For a student attending school:

(i) At least half-time, attendance costs include tuition, fees, books, supplies, transportation, and miscellaneous personal expenses; or

(ii) Less than half-time, attendance costs include tuition and fees.

(c) Grants or loans to an undergraduate student insured by the commissioner of education;

(d) Any remaining grants, work study, scholarships, or fellowships as allowed under WAC 388-28-578;

(e) ~~((Apply)))~~ The earned income disregards in WAC 388-28-570(6) for AFDC and WAC 388-37-025 for GA-U to any work study earnings received and not excluded in subsection (2)(b), (c), and (d) of this section;

(f) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(g) The food coupon allotment under Food Stamp Act of 1977;

(h) Compensation to volunteers (~~in ACTION programs established by Titles I, II, and III of~~) under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(i) Benefits under women, infants and children program (WIC);

(j) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(k) Energy assistance payments;

(l) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian Tribe, including but not limited to funds issued pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);

(m) Per capita judgment funds under (~~Public Law~~) P.L. (~~92-254~~) 97-408 to members of the:

(i) (~~Blackfoot~~) Blackfeet Tribe of the (~~Blackfoot~~) Blackfeet Indian (~~Reservation~~) Community, Montana;
(~~and~~)

(ii) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and

(iii) Assiniboine Tribe of the Fort Belknap Indian Community.

(~~(m) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;~~)

(n) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134, 94-114, 97-458, or 98-64, limited to the extent the per capita shares do not exceed two thousand dollars per individual. In addition:

(i) Real or personal property purchased directly with funds from the per capita payment up to the amount of the funds from the per capita payment hereafter referred to as the initial investments.

(ii) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling valued as specified for the applicable program in WAC 388-28-430 (2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-450(2) for GA-U. The department shall determine appreciation in value at the time of eligibility review.

(iv) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(o) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act (~~or under P.L. 98-64, (o)~~) (P.L. 92-203 and 100-241).

(p) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(~~(p)~~) (q) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(~~(q)~~) (r) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(~~(r)~~) (s) A previous underpayment of assistance under WAC 388-33-195;

(~~(s)~~) (t) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989(~~;~~) (P.L. 101-41), made to a Puyallup Tribe member upon reaching twenty-one years of age.

(i) Real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment hereafter referred to as the initial investments.

(ii) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling value as specified for the applicable program in WAC 388-28-430 (2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-450(2) for GA-U. The department shall determine appreciation in value at the time of eligibility review.

(iv) Proceeds from the transfer of the initial investments are treated according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-440 (3) and (4) for GA-U.

(~~(t)~~) (u) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

(~~(u)~~) (v) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). (~~Under P.L. 101-201;~~) The effective date of the disregard is retroactive to January 1, 1989;

(~~(v)~~) (w) Payments made under the (~~federal major~~) Disaster (~~and emergency assistance program provided to persons and families under~~) Relief Act of 1974 (P.L. 93-288(~~, The Robert T. Stafford~~)) as amended by Disaster Relief and Emergency Assistance (~~Act~~) amendments of 1988 (P.L. 100-707). This (~~includes~~) applies to assistance (~~under the individual and family grant (IFG), temporary (emergency) housing assistance, and disaster unemployment (DUA) programs~~) issued by federal, state, or local governments or by a disaster assistance organization;

(~~(w)~~) (x) Payments from the Radiation Exposure Compensation (~~Act~~) Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents;

(y) Income specifically excluded by any other federal statute from consideration as income or resource.

WSR 92-05-009
EMERGENCY RULES
COLUMBIA RIVER
GORGE COMMISSION

[Filed February 7, 1992, 2:21 p.m.]

I hereby certify that the copy shown below is a true, full and correct copy of temporary rule(s) adopted on January 28, 1992, by the Columbia River Gorge Commission to become effective upon filing through April 30, 1992.

The within matter having come before the Columbia River Gorge Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises.

Now therefore, it is hereby ordered that the following action be taken: Adopting chapter 350-40 as administrative rules of the Columbia River Gorge Commission.

Dated this 4th day of February, 1992.

Gayle Rothrock
 Acting Executive Director

Statutory Authority: RCW 43.97.015, chapter 499, Laws of 1987.

For Further Information Contact: Jan Brending, Rules Coordinator, (509) 493-3323.

Summary: The rule sets out the procedures a county must follow in order to prepare an application for an urban area revision.

Statement of Need: The process for submitting an application for an urban area revision is not described in the National Scenic Act; each county that is affected needs guidance as soon as possible to prepare the requisite applications; a delay in adoption of the rule will holdup the entire process and cause more work at more cost to build up; and an emergency rule will allow the process to begin and at the same time allow for modification when the permanent rule is adopted.

Authority: 16 USC § 544 et seq., ORS 196.150 to ORS 196.165, and RCW 43.97.015 to 49.97.035 [43.97.035].

Documents Relied Upon: The Columbia River Gorge national scenic area final draft management plan and Gorge Commission deliberations on November 19, 1991, December 17, 1991, and January 14 and 28, 1992.

Fiscal Impact: The rule should expedite the urban area revision process and therefore, reduce costs.

Emergency Findings: The urban area revision rule should be adopted on an emergency basis because the Gorge Commission has good cause based on the following findings: Immediate adoption is necessary for the preservation of the general welfare; observing the traditional time requirements of notice and opportunity to comment on adoption of a permanent rule would be contrary to the public interest; the opportunity to comment on adoption of a permanent rule will still come up

at a later date; the emergency rule is necessary to immediately clarify the urban area revision process so each county can proceed with its application; the emergency rule should reduce costs by promoting clarity, defining terms and offering guidance on legally mandated standards contained in the National Scenic Act; and failure to act promptly is contrary to the public interest and the needs of each county in the national scenic area.

EMERGENCY RULE

Chapter 350

Division 40

Revision of Urban Area Boundaries

350-40-001. Purpose.

The division specifies the process that will be used by the Columbia River Gorge Commission (Commission) when it considers minor revisions to the boundaries of any Urban Area.

350-40-002. Definitions.

The definitions in Chapter 350, Division 20, Section 002 shall apply to this division.

350-40-003. Authority.

The Commission may make "minor revisions" to the boundaries of an Urban Area [Scenic Area Act, Section 4(f)]. Such revisions must comply with procedural requirements and criteria in the Scenic Area Act.

Three procedural requirements are included in Section 4(f)(1) of the Scenic Area Act:

(1) Requests to revise an Urban Area boundary must be submitted to the Commission by a county government;

(2) The Commission must consult the Secretary of Agriculture before revising an Urban Area boundary; and

(3) Two-thirds of the Commission members, including a majority of the members appointed from each state, must approve any revision of an Urban Area boundary. In the event of recusal, the doctrine of necessity shall apply.

Section 4(f)(2) of the Scenic Area Act allows the Commission to revise the boundaries of an Urban Area only if the following criteria are satisfied:

(1) A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan;

(2) Revision of Urban Area boundaries would be consistent with the standards established in Section 6 and the purposes of the Scenic Area Act;

(3) Revision of Urban Area boundaries would result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

(4) Revision of Urban Area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

Reviser's note: The brackets and enclosed material in the text of the above material occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-40-004. Application for Revision.

Applications to revise the boundaries of any Urban Area shall contain the following information:

(1) A statement from the county sponsoring the Urban Area boundary revision, signed by the county commissioners.

(2) A statement that the senior-elected or appointed official(s) of any affected municipality or special district have been notified.

(3) A statement that explains why the proposed Urban Area boundary revision is needed. The statement shall describe the anticipated land uses that would occur in the affected area and demonstrates how the proposed revision complies with the criteria in the Scenic Area Act.

(4) A map of the area that would be added to the existing Urban Area. The map shall be drawn to scale and shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. It shall include the following elements:

(a) North arrow;

(b) Map scale;

(c) Boundaries of all parcels within the subject area, with labels showing the name of each property owner and the size of each parcel;

(d) Current municipal zoning designations, where applicable;

(e) Significant terrain features or landforms;

(f) Bodies of water and watercourses;

(g) Existing roads and railroads;

(h) Existing dwellings and other structures; and

(i) Location of existing services, including water systems, sewage systems, and power and telephone lines.

(5) For incorporated areas, a map of the current boundary of the municipality.

(6) A map of adopted land use designations and zoning for the existing Urban Area.

(7) For Oregon applications, a map of currently approved urban growth boundaries.

(8) An analysis based on criteria in the Scenic Area Act. (For guidance see Urban Areas Boundary Revisions Handbook, Gorge Commission 1992).

350-40-005. Processing of Application.

Each application to revise the boundaries of an Urban Area will be reviewed according to the priorities established by the Commission in the Management Plan [see Part IV, Chapter 1, section Revision of Urban Area Boundaries, Policy 5]. Within priority categories established in the Management Plan, applications will be reviewed in the order received.

Reviser's note: The brackets and enclosed material in the text of the above material occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

350-40-006. Submission and Acceptance of Application.

(1) Applications to revise the boundaries of an Urban Area shall be submitted directly to the office of the Commission by a county government. An original and fifteen copies of each application are required. Only two copies of the large scale maps are required.

(2) Within ten (10) working days of receiving an application, the Director shall review the application for completeness and adequacy. No application shall be accepted as complete until all omissions and deficiencies noted by the Director have been corrected by the applicant.

350-40-007. Notice of Application.

(1) Public notice of the completed application will be posted at Commission and U.S. Forest Service offices and shall be made available for posting at the applicable county or city planning office(s).

(2) Copies of the complete application will be available for inspection at the Commission office during normal office hours.

(3) Interested persons shall have twenty (20) working days from the date the notice was posted to submit written comments to the Director. Written comments should address whether the proposed Urban Area boundary revision would be consistent with the criteria in the Scenic Area Act.

350-40-008. Report of the Director.

The Director will prepare a report, which may include recommendations, within thirty (30) working days of the date an application has been accepted as complete. Upon application of the Director, the Commission may extend the time for submission of the report. The report will analyze the proposed Urban Area boundary revision based on the criteria in 350-20-004.

350-40-009. Hearings.

(1) The Commission will conduct hearings on every application accepted as complete by the Director.

(2) A general hearing on all current applications for the year, to consider public testimony and opinion on applications, may be set by the Commission. Any person may comment on the applications within time limits set by the Commission.

(3) A separate hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the application in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on an Urban Area boundary revision application pursuant to 350-40-007(3) may participate in the Urban Area boundary revision hearing by filing a Notice of Intervention with the Director within 20 working days of the date the Director's report is prepared, pursuant to 350-40-008. The Notice of Intervention shall also be served by mail upon the applicable county. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed boundary revision. The applicant shall be afforded an opportunity for rebuttal argument. The length of the hearing will vary depending on the complexity of the application.

(4) The Commission may seek additional information from any applicant before and during the hearing.

Reviser's note: The brackets and enclosed material in the text of the above material occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 92-05-010

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 237—Filed February 7, 1992, 2:45 p.m., effective February 19, 1992]

Date of Adoption: January 31, 1992.

Purpose: Amend WACs to implement HB 2037, remove outdated language and correct obsolete WAC references.

Citation of Existing Rules Affected by this Order: Amending WAC 246-926-020 General provisions; 246-926-030 Mandatory reporting; 246-926-040 Health care institutions; 246-926-060 Professional liability carriers; 246-926-070 Courts; 246-926-080 State and federal agencies; 246-926-090 Cooperation with investigations; 246-926-110 Diagnostic radiologic technologist—Alternative training; 246-926-120 Therapeutic radiologic technologist—Alternative training; 246-926-130 Nuclear medicine technologist—Alternative training; 246-926-150 Certification designation; 246-926-160 Certification renewal registration date; 246-926-170 Reinstatement fee assessment; 246-926-190 State examination/examination waiver/examination application deadline; 246-926-200 AIDS prevention and information education requirements; and 246-926-990 Fees—Radiologic technologists.

Statutory Authority for Adoption: WAC 246-926-020, 246-926-030, 246-926-040, 246-926-060, 246-926-070, 246-926-080, 246-926-090 and 246-926-200 is RCW 18.84.040; WAC 246-926-110, 246-926-120, 246-926-130, 246-926-150, and 246-926-190 is RCW 18.84.080; WAC 246-926-160 and 246-926-170 is RCW 18.84.110; and WAC 246-926-990 is RCW 18.84.100.

Statute Being Implemented: WAC 246-926-020, 246-926-030, 246-926-040, 246-926-060, 246-926-070, 246-926-080, and 246-926-090 is RCW 18.130.070; WAC 246-926-110, 246-926-120, 246-926-130, 246-926-150, 246-926-160, 246-926-170, 246-926-190, and 246-926-990 is RCW 18.84.040; and WAC 246-926-200 is RCW 70.24.270.

Pursuant to notice filed as WSR 91-21-114 on October 22, 1991.

Changes Other than Editing from Proposed to Adopted Version: Requirements for reinstating lapsed certificates have been clarified in WAC 246-926-160 and 246-926-170.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: In accordance with RCW 34.05.380, the effective date shall be February 19, 1992, to implement state law. These rules will be effective upon the expiration of emergency rules published as WSR 91-21-119.

Effective Date of Rule: February 19, 1992.

January 31, 1992
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-020 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, whose address is:)~~) health.

~~((Department of Licensing
Professional Programs Management Division
P.O. Box 9012
Olympia, Washington 98504-8001))~~

(5) "Radiological technologist" means a person certified pursuant to chapter 18.84 RCW.

(6) "Registered x-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner.

(7)(a) "Immediate supervision" means the appropriate licensed practitioner is in audible or visual range of the patient and the person treating the patient.

(b) "Direct supervision" means the appropriate licensed practitioner is on the premises, is quickly and easily available.

(c) "Indirect supervision" means the appropriate licensed practitioner is on site no less than half-time.

(8) "Mentally or physically disabled (~~(radiological technologist)~~)" means a radiological technologist or x-ray technician who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice (~~(radiological technology)~~) with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-030 MANDATORY REPORTING. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

(2) A report should contain the following information if known:

(a) The name, profession, address, and telephone number of the person making the report.

(b) The name and address and telephone numbers of the radiological technologist or x-ray technician being reported.

(c) The case number of any client 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.

(3) Mandatory reports shall be exempt from public inspection and copying to the extent permitted under RCW 42.17.310 or to the extent that public inspection or copying of the report or any portion of the report would invade or violate a person's right to privacy as set forth in RCW 42.17.255.

(4) A person is immune from civil liability, whether direct or derivative, for providing information to the department pursuant to RCW 18.130.070.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-040 HEALTH CARE INSTITUTIONS. The chief administrator or executive officer or their designee of any hospital or nursing home shall report to the department when any radiological technologist's or x-ray technician's services are terminated or are restricted based on a determination that the radiological technologist or x-ray technician has either committed an act or acts which may constitute unprofessional conduct or that the radiological technologist or x-ray technician may be unable to practice with reasonable skill or safety to clients by reason of a mental or physical condition.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-060 PROFESSIONAL LIABILITY CARRIERS. Every institution or organization providing professional liability insurance directly or indirectly to radiological technologists or x-ray technicians shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured radiological technologist's or x-ray technician's incompetency or negligence in the practice of radiology technology. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the radiological technologist's or x-ray technician's alleged incompetence or negligence.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-070 COURTS. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of ((certified)) radiological technologists or x-ray technicians, other than minor traffic violations.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-080 STATE AND FEDERAL AGENCIES. The department requests the assistance of

executive officers of any state or federal program operating in the state of Washington, under which a radiological technologist or x-ray technician is employed to provide client care services, to report to the department whenever such a radiological technologist or x-ray technician has been judged to have demonstrated his/her incompetency or negligence in the practice of radiological technology, or has otherwise committed unprofessional conduct, or is a mentally or physically disabled radiological technologist. These requirements do not supersede any federal or state law.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-090 COOPERATION WITH INVESTIGATION. (1) A certificant or registrant must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the ((director)) secretary of the department of ((licensing)) health by submitting the requested items within fourteen calendar days of receipt of the request by either the certificant, registrant or their attorney, whichever is first. If the certificant or registrant fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

(2) Investigators may extend the time for response if the request for extension does not exceed seven calendar days. Any other requests for extension of time may be granted by the ((director)) secretary or the ((director's)) secretary's designee.

(3) If the certificant or registrant fails to comply with the request within three business days after receiving the reminder, a subpoena will be served to obtain the requested items. A statement of charges may be issued pursuant to RCW 18.130.180(8) for failure to cooperate. If there is sufficient evidence to support additional charges, those charges may be included in the statement of charges.

(4) If the certificant or registrant complies with the request after the issuance of the statement of charges, the ((director)) secretary or the ((director's)) secretary's designee will decide if the charges will be prosecuted or settled. If the charges are to be settled the settlement proposal will be negotiated by the ((director's)) secretary's designee. Settlements are not considered final until the ((director)) secretary signs the settlement agreement.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-110 DIAGNOSTIC RADIOLOGIC TECHNOLOGIST—ALTERNATIVE TRAINING. An individual must possess the following alternative training qualifications to be certified as a diagnostic radiologic technologist.

(1) Have obtained a high school diploma or GED equivalent, a minimum of four clinical years supervised practice experience in radiography, and completed the course content areas outlined in subsection (2) of this section; or have obtained an associate or higher degree

in an allied health care profession or meets the requirements for certification as a therapeutic radiologic technologist or nuclear medicine technologist, have obtained a minimum of three clinical years supervised practice experience in radiography, and completed course content areas outlined in subsection (2) of this section.

(2) The following course content areas of training may be obtained directly by supervised clinical practice experience: Introduction to radiography, medical ethics and law, medical terminology, methods of patient care, radiographic procedures, radiographic film processing, evaluation of radiographs, radiographic pathology, introduction to quality assurance, and introduction to computer literacy. Clinical practice experience must be verified by the approved clinical evaluators.

The following course content areas of training must be obtained through formal education: Human anatomy and physiology – 100 contact hours; principles of radiographic exposure – 45 contact hours; imaging equipment – 40 contact hours; radiation physics, principles of radiation protection, and principles of radiation biology – 40 contact hours.

(3) Must satisfactorily pass an examination approved or administered by the ((director)) secretary.

(4) Individuals who are registered as a diagnostic radiologic technologist with the American Registry of Radiologic Technologists shall be considered to have met the alternative education and training requirements.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-120 THERAPEUTIC RADIOLOGIC TECHNOLOGIST—ALTERNATIVE TRAINING. An individual must possess the following alternative training qualifications to be certified as a therapeutic radiologic technologist.

(1) Have obtained a baccalaureate or associate degree in one of the physical, biological sciences, or allied health care professions, or meets the requirements for certification as a diagnostic radiologic technologist or nuclear medicine technologist; have obtained a minimum of five clinical years supervised practice experience in therapeutic radiologic technology; and completed course content areas outlined in subsection (2) of this section.

(2) The following course content areas of training may be obtained by supervised clinical practice experience: Orientation to radiation therapy technology, medical ethics and law, methods of patient care, computer applications, and medical terminology. At least fifty percent of the clinical practice experience must have been in operating a linear accelerator. Clinical practice experience must be verified by the approved clinical evaluators.

The following course content areas of training must be obtained through formal education: Human anatomy and physiology – 100 contact hours; oncologic pathology – 22 contact hours; radiation oncology – 22 contact hours; radiobiology, radiation protection, and radiographic imaging – 73 contact hours; mathematics (college level algebra or above) – 55 contact hours; radiation physics – 66 contact hours; radiation oncology technique – 77 contact hours; clinical dosimetry – 150 contact

hours; quality assurance – 12 contact hours; and hyperthermia – 4 contact hours.

(3) Must satisfactorily pass an examination approved or administered by the ((director)) secretary.

(4) Individuals who are registered as a therapeutic radiologic technologist by the American Registry of Radiologic Technologists shall be considered to have met the alternative education and training requirements.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-130 NUCLEAR MEDICINE TECHNOLOGIST—ALTERNATIVE TRAINING. An individual must possess the following alternative training qualifications to be certified as a nuclear medicine technologist.

(1) Have obtained a baccalaureate or associate degree in one of the physical, biological sciences, allied health care professions, or meets the requirements for certification as a diagnostic radiologic technologist or a therapeutic radiologic technologist; have obtained a minimum of four clinical years supervised practice experience in nuclear medicine technology; and completed course content areas outlined in subsection (2) of this section.

(2) The following course content areas of training may be obtained by supervised clinical practice experience: Methods of patient care, computer applications, department organization and function, nuclear medicine in-vivo and in-vitro procedures, and radionuclide therapy. Clinical practice experience must be verified by the approved clinical evaluators.

The following course content areas of training must be obtained through formal education: Radiation safety and protection – 10 contact hours; radiation biology – 10 contact hours; nuclear medicine physics and radiation physics – 80 contact hours; nuclear medicine instrumentation – 22 contact hours; statistics – 10 contact hours; radionuclide chemistry and radiopharmacology – 22 contact hours.

(3) Must satisfactorily pass an examination approved or administered by the ((director)) secretary.

(4) Individuals who are registered as a nuclear medicine technologist with the American Registry of Radiologic Technologists or with the nuclear medicine technology certifying board shall be considered to have met the alternative education and training requirements.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-150 CERTIFICATION DESIGNATION. A certificate shall be designated in a particular field of radiologic technology by:

(1) The educational program completed; diagnostic radiologic technologist – radiography program; therapeutic radiologic technologist – radiation therapy technology program; and nuclear medicine technologist – nuclear medicine technology program; or

(2) By meeting the alternative training requirements established in WAC ((308-183-100, 308-183-110, or 308-183-120)) 246-926-100, 246-926-110, 246-926-120, or 246-926-130.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-160 ((CERTIFICATION)) RENEWALS ((REGISTRATION DATE)). (1) Certification renewal.

(a) Individuals receiving initial certification will be issued a certificate to expire on their next birth anniversary date.

((2)) (b) Certifications shall be renewed upon a biennial basis on or before the ((individual's)) birth anniversary date. Certifications not renewed on or before the ((individual's biennial birth)) expiration date shall expire immediately((Any representation engaged in after a certification has expired shall be deemed unauthorized representation)) and are considered lapsed.

(c) Lapsed certificates may be renewed in accordance with WAC 246-926-170.

(d) Illegal practice - Any person practicing as a radiologic technologist during the time that such individual's certificate has lapsed shall be considered an illegal practitioner and may be subjected to the penalties provided for violators under the provisions of RCW 18.130.190, unless such practitioner maintains a current valid registration as an x-ray technician.

(2) Initial registration x-ray technician.

(a) All persons applying ionizing radiation on human beings as outlined in chapter 18.84 RCW must complete the application process by January 1, 1992.

(b) Individuals receiving initial registration will be issued a registration to expire on their next birth anniversary date.

(c) Applicants who are registered before January 1, 1992, will be selected randomly for either an annual or a biennial renewal. For those selected for annual renewal, consecutive renewals shall be upon a biennial basis. Registrations placed on the one time annual renewal will be charged one-half the biennial renewal fee.

(d) Individuals applying for registration after January 1, 1992, will be issued an initial registration to expire on the next birth anniversary date and consecutive registrations will be renewed on a biennial basis.

(3) Registration renewal.

(a) Registrations not renewed on or before the expiration date shall expire immediately and are considered lapsed.

(b) Upon payment of the renewal and late fee a lapsed registration may be renewed.

(c) Illegal practice - Any person practicing as an x-ray technician during the time that such registration has lapsed shall be considered an illegal practitioner and may be subjected to the penalties provided for violators under the provisions of RCW 18.130.190.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-170 REINSTATEMENT ((FEE ASSESSMENT)). (1) A certificate which has lapsed for ((three)) less than two years may be reinstated by ((paying a reinstatement fee and demonstrating competence by the standards established by the director. A single reinstatement fee shall be assessed for the lapsed

certification period)) submitting the renewal and late fee.

(2) A certificate which has lapsed for two years but not more than three years may be reinstated by submitting a reinstatement application, application fee and late renewal penalty fee.

(3) A certificate which has lapsed for three years or more may be reinstated by demonstrating competence to the standards established by the secretary, submitting a reinstatement application, renewal fee and late penalty.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-190 STATE EXAMINATION/EXAMINATION WAIVER/EXAMINATION APPLICATION DEADLINE. (1) The American Registry of Radiologic Technologists certification examinations for radiography, radiation therapy technology, and nuclear medicine technology shall be the state examinations for certification as a radiologic technologist.

(a) The examination for certification as a radiologic technologist shall be conducted three times a year in the state of Washington, in March, July, and October.

(b) The examination shall be conducted in accordance with the American Registry of Radiologic Technologists security measures and contract.

(c) Examination candidates shall be advised of the results of their examination in writing.

(2) Applicants taking the state examination must submit the application, supporting documents, and fees to the department of ((licensing)) health no later than the fifteenth day of December, for the March examination; the fifteenth day of April, for the July examination; and the fifteenth day of July, for the October examination.

(3) A scaled score of seventy-five is required to pass the examination.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-200 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 certification. Effective January 1, 1989)) Persons applying for certification or registration shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection ((4)) (3) of this section.

(3) ((1989 Renewal of certificate. Effective for the 1989 renewal period beginning January 1, 1989 all persons making application for certification renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4). Those persons who must renew during

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

~~(4)) AIDS education and training.~~

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

~~(b) ((Implementation. Effective January 1, 1989, the requirement for certification, renewal, or reinstatement of any certificate on lapsed, inactive, or disciplinary status shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (a)).~~

~~(c)) Documentation. The applicant shall:~~

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

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

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

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

~~WAC 246-926-990 CERTIFICATION AND REGISTRATION FEES((=RADIOLOGIC TECHNOLOGISTS)). ((The figures below are the fees to be charged radiologic technologists to cover the costs of the program:~~

Application	\$ 50.00
Duplicate license	15.00
Verification/certification	25.00
Renewal	50.00
Late renewal penalty	25.00))

~~The following fees shall be charged by the professional licensing division of the department of health:~~

<u>Title of Fee</u>	<u>Fee</u>
<u>Application - certification</u>	<u>\$50.00</u>
<u>Exam fee - certification</u>	<u>30.00</u>
<u>Application - registration</u>	<u>35.00</u>
<u>Certification renewal</u>	<u>50.00</u>
<u>Registration renewal</u>	<u>35.00</u>

<u>Title of Fee</u>	<u>Fee</u>
<u>Late renewal penalty</u>	<u>30.00</u>
<u>Verification</u>	<u>15.00</u>
<u>Duplicate</u>	<u>15.00</u>

**WSR 92-05-011
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Order 240—Filed February 7, 1992, 2:49 p.m.]

Date of Adoption: January 31, 1992.

Purpose: To regulate mammography by establishing and enforcing standards of machine performance, quality assurance and operator training.

Statutory Authority for Adoption: RCW 70.98.050.

Pursuant to notice filed as WSR 91-21-033 on October 10, 1991.

Changes Other than Editing from Proposed to Adopted Version: Exempt presently installed machines from requirement for mAs meter; modify requirement for masking devices on viewbox so that intent is clear; and under operator qualifications, make reference to chapter 18.84 RCW.

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

January 31, 1992

Kristine Gebbie
Secretary

NEW SECTION

WAC 246-225-160 MAMMOGRAPHY. (1) The use of a special purpose x-ray machine designed and used solely for mammography is required. Exempted from this requirement shall be general purpose x-ray equipment used for xerography that meets these regulations. This exemption is in effect until January 1, 1994.

(2) All mammographic calibration, service, and quality control actions shall be documented in writing and maintained at the facility for a three-year period. Records must be easily accessible to operators of these x-ray units.

(3) All tests requiring the use of a breast phantom shall employ a phantom similar to or identical to the one required by the American College of Radiology for its mammography accreditation program.

(4) Machine requirements:

(a) Mammography x-ray machines must be calibrated on a yearly basis. Calibration shall document (but is not limited to) half-value layer (HVL), kVP accuracy, reproducibility, timer accuracy, resolution achieved with film in use at the facility, mA linearity, light versus x-ray field alignment, and patient exposures (glandular tissue dose) following the measurement protocol in NCRP Report No. 85 (using a breast phantom). This requirement shall include initial acceptance testing upon the x-ray system's installation prior to human use.

(b) The half-value layer (HVL) for film/screen mammography shall be at least 0.30 mm of aluminum (and shall not exceed 0.40 mm) as measured at 30 kVP. The half-value layer for xerography shall be at least 1.2

mm of aluminum as measured at 50 kVP. The HVL shall include the contribution to filtration made by the compression device.

(c) Exposure reproducibility: Manual techniques. See WAC 246-225-090.

(d) Exposure reproducibility: Photo-timed techniques. A breast phantom shall be used to obtain a series of four photo-timed radiographs (all selectable machine parameters shall be held constant). Optical density (O.D.) of a selected area on the image in the range of 1.0-2.0 O.D. shall be analyzed and the measurements for these films shall be within 0.10 O.D. of each other.

(e) Radiographic timers. See WAC 246-225-070.

(f) kVP accuracy: The kVP accuracy published by the x-ray machine manufacturer shall be maintained at the specified level. For determination of actual versus indicated kVP, the manufacturer's recommendations for testing shall be followed.

(g) mA linearity. See WAC 246-225-040(10).

(h) All special purpose x-ray machines designed solely for mammography and installed after January 1, 1992, shall be equipped with a milli-ampere-second (mAs) read-out device, registering after each phototimed exposure. Alternatively, a means of determining mAs after each exposure shall be provided.

(i) Beam limitation:

(i) Mammographic systems shall be provided with means to limit the useful beam such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor at any designed SID except the edge of the image receptor designed to be adjacent to the chest wall where the x-ray field may not extend beyond such edge by more than two percent of the SID.

(ii) Beam limiting devices consisting of an assortment of fixed, removable cones sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed shall have clear and permanent markings to indicate the image receptor size and SID for which it is designed.

(iii) When the beam limiting device and image receptor support device are designed to be used to immobilize the breast during a mammographic procedure and the SID may vary, the SID indication specified in WAC 246-225-060 (4)(c)(i) and (ii) shall be the maximum SID for which the beam limiting device or aperture is designed.

(iv) In the absence of a visually defined x-ray field each image receptor support shall have clear and permanent markings to indicate the maximum image receptor size for which it is designed.

(j) The combination of source-to-image distance, magnification, and focal spot size shall result in a radiographic resolution of at least 12 line pairs per millimeter. This standard applies to the routine, single emulsion film being used at the facility.

(k) The x-ray machine shall be equipped with a means of immobilizing and compressing the breast with a force of at least twenty-five pounds but no greater than fifty pounds.

(l) Dedicated mammographic x-ray units are exempted from the requirements of WAC 246-225-030

(5)(b)(i) provided that appropriate operator shielding is employed (as defined by NCRP Report 49).

(m) Transmission limit for image receptor supporting devices used for mammography. For x-ray systems manufactured after September 5, 1978, which are designed only for mammography, the transmission of the primary beam through any image receptor support provided with the system shall be limited such that the exposure 5 centimeters from any accessible surface beyond the plane of the image receptor supporting device does not exceed 0.1 milliroentgen (25.8 nC/kg) for each activation of the tube. Exposure shall be measured with the system operated at the minimum SID for which it is designed. Compliance shall be determined at the maximum rated peak tube potential for the system and at the maximum rated product of tube current and exposure time (mAs) for that peak tube potential. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(n) Maximum glandular doses. Glandular tissue dose for a cranio-caudal view of a 4.5 cm compressed breast using dose calculation methods found in NCRP Report # 85 shall not exceed the following:

Screen-film:

No grid = 100 millirads/projection

Grid = 300 millirads/projection

Xerox = 400 millirads/projection

(5) A quality control program shall be written and implemented for all mammographic facilities. This shall include (but shall not be limited to) tests performed, testing frequency, testing protocol, control limits for each test, corrective actions taken, and equipment maintenance/service. Program requirements include:

(a) Daily tests:

Film processor control charts using a sensitometric/densitometric based measurement system shall be required for each day the mammographic machine is in operation. Single emulsion mammographic film shall be used for this evaluation.

Parameters in daily film processor tests shall include:

(i) Speed index:

Control limits \pm 0.15 optical density

(ii) Contrast index:

Control limits \pm 0.15 optical density

(iii) Base + fog:

Maximum density shall not exceed 0.20 optical density.

(iv) Solution temperatures:

Control limits \pm 1.0 F

(b) Monthly tests:

(i) Chemical replenishment rates.

(ii) Breast phantom imaging shall visualize a minimum of four fibers, three masses, and three speck groups, or the minimum acceptability standard of the American College of Radiology in its accreditation program, whichever is more restrictive.

(c) Quarterly tests:

(i) Film/screen contact for all cassettes.

(ii) Analyses of reject/repeat films.

(d) Yearly tests: See WAC 246-225-160 (4)(a) (Calibration).

- (e) Cassette screens must be cleaned at least weekly.
- (f) Records shall be maintained for quality control test equipment which requires calibration, and such calibrations shall be performed in accordance with recommendations of the manufacturer of the test equipment.
- (g) Film processing. See WAC 246-225-150.
- (6) Operator competency:
 - (a) A mammographic machine operator shall be licensed, certified, or registered by the department as either:
 - (i) A health care practitioner, licensed under Title 18 RCW, if performing mammography is within the person's authorized scope of practice; or
 - (ii) A diagnostic radiologic technologist certified in accordance with chapter 18.84 RCW; or
 - (iii) An x-ray technician registered in accordance with chapter 18.84 RCW, with two or more years' experience in performing mammography and satisfactory completion of two or more classes in mammography approved by the department.
 - (b) A mammographic machine operator shall complete at least one mammography class per calendar year; the class is subject to approval by the department.
 - (c) A mammographic machine operator shall meet the requirements of WAC 246-225-020 (2)(b) and 246-225-99920.
- (7) Masking devices shall be made available to block extraneous light from the viewer's eye when the illuminated surface of the viewbox is larger than the image area.
- (8) Additional requirement for mobile mammography services:

The daily film processor performance testing required in subsection (5)(a) of this section shall apply to all film processors used by the mobile service. No processor shall be used unless it meets the control limits specified by subsection (5)(a)(i) through (iv) of this section.

WSR 92-05-012
PERMANENT RULES
DEPARTMENT OF HEALTH
(Dental Disciplinary Board)

[Order 243B—Filed February 7, 1992, 2:53 p.m.]

Date of Adoption: January 18, 1992.
 Purpose: To update references to WAC numbers, agency name, etc. Housekeeping changes only.
 Citation of Existing Rules Affected by this Order: Amending chapter 246-816 WAC.
 Statutory Authority for Adoption: RCW 18.32.640 and 18.130.050.
 Pursuant to notice filed as WSR 91-24-021 on November 25, 1991.
 Effective Date of Rule: Thirty-one days after filing.
 January 18, 1992
 Ann-Marie Monson D.M.D.
 Vice-Chair

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-050 RECORDING REQUIREMENTS FOR ALL PRESCRIPTION DRUGS. An accurate record of (~~the~~ ~~any~~ ~~medication(s)~~) any medication(s) prescribed or dispensed will be clearly indicated on the patient history. 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.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-201 PURPOSE. The purpose of (~~this chapter~~) WAC 246-816-201 through 246-816-260 is to establish guidelines on delegation of duties to persons who are not licensed to practice dentistry. The dental laws of Washington state authorized the delegation of certain duties to nondentist personnel and prohibit the delegation of certain other duties. By statute, the duties that may be delegated to a person not licensed to practice dentistry may be performed only under the supervision of a licensed dentist. The degree of supervision required to assure that treatment is appropriate and does not jeopardize the systemic or oral 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 dentist is ultimately responsible for the services performed in his or her office and this responsibility cannot be 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 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-210 DEFINITIONS FOR WAC 246-816-201 THROUGH 246-816-260. (1) "Dental disciplinary board" shall mean the board created by RCW 18.32.560.

(2) "Dental examining board" shall mean the board created by RCW 18.32.035.

(3) "~~(Director)~~ Secretary" shall mean the (~~director~~) secretary of the department of (~~licensing~~) health.

(4) "Close supervision" shall mean that a licensed dentist whose patient is being treated has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. A dentist shall be physically present in the treatment facility while the procedures are performed. Close supervision does not require a dentist to be physically present in the operatory; however, an attending dentist must be in the treatment facility and be capable of responding immediately in the event of an emergency.

(5) "Treatment facility" means a dental office or connecting suite of offices, dental clinic, room or area with equipment to provide dental 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) "General supervision" means supervision of dental procedures based on examination and diagnosis of the patient and subsequent instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist in the treatment facility during the performance of those procedures.

(7) "Unlicensed person" means a person who is neither a dentist duly licensed pursuant to the provisions of chapter 18.32 RCW nor a dental hygienist duly licensed pursuant to the provisions of chapter 18.29 RCW.

(8) "Oral prophylaxis" means the preventive dental procedure of scaling and polishing which includes complete removal of calculus, soft deposits, plaque, stains and the smoothing of unattached tooth surfaces. The objective of this treatment shall be creation of an environment in which hard and soft tissues can be maintained in good health by the patient.

(9) "Coronal polishing" means a procedure limited to the removal of plaque and stain from exposed tooth surfaces, utilizing an appropriate rotary instrument with rubber cap or brush and a polishing agent.

This procedure shall not be intended or interpreted as an oral prophylaxis as defined in WAC ((~~308-38-110(8)~~)) 246-816-210 a procedure specifically reserved to performance by a licensed dentist or dental hygienist. Coronal polishing may, however, be performed by dental assistants under close supervision as a portion of the oral prophylaxis. In all instances, however, a licensed dentist shall determine that the teeth need to be polished and are free of calculus or other extraneous material prior to performance of coronal polishing by a dental assistant.

(10) "Root planing" means the process of instrumentation by which the unattached surfaces of the root are made smooth by the removal of calculus and/or deposits.

(11) "Periodontal soft tissue curettage" means the closed removal of tissue lining the periodontal pocket, not involving the reflection of a flap.

(12) "Debridement at the periodontal surgical site" means curettage and/or root planing after reflection of a flap by the supervising dentist. This does not include cutting of osseous tissues.

(13) "Luxation" is defined as an integral part of the surgical procedure of which the end result is extraction of a tooth. Luxation is not a distinct procedure in and of itself. It is the dislocation or displacement of a tooth or of the temporomandibular articulation.

(14) "Incising" is defined as part of the surgical procedure of which the end result is removal of oral tissue. Incising, or the making of an incision, is not a separate and distinct procedure in and of itself.

(15) "Elevating soft tissues" is defined as part of a surgical procedure involving the use of the periosteal elevator to raise flaps of soft tissues. Elevating soft tissue is not a separate and distinct procedure in and of itself.

(16) "Suturing" is defined as the readaption of soft tissue by means of stitches as a phase of an oral surgery procedure. Suturing is not a separate and distinct procedure in and of itself.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-230 ACTS THAT MAY NOT BE PERFORMED BY UNLICENSED PERSONS. No dentist 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 removal of or addition to the hard or soft natural tissue of the oral cavity.

(2) Any placing of permanent or semi-permanent restorations in natural teeth.

(3) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure.

(4) Any administration of general or injected local anesthetic of any nature in connection with a dental operation.

(5) Any oral prophylaxis, except coronal polishing as a part of oral prophylaxis as defined in WAC ((~~308-38-110(9)~~ and ~~308-38-120(8)~~)) 246-816-210 and 246-816-220(8).

(6) Any scaling procedure.

(7) The taking of any impressions of the teeth or jaws, or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliances, or prosthesis. Not prohibited are the taking of impressions solely for diagnostic and opposing models or taking wax bites solely for study casts.

(8) Intra-orally adjust occlusal of inlays, crowns, and bridges.

(9) Intra-orally finish margins of inlays, crowns, and bridges.

(10) Cement or recement, permanently, any cast restoration or stainless steel crown.

(11) Incise gingiva or other soft tissue.

(12) Elevate soft tissue flap.

(13) Luxate teeth.

(14) Curette to sever epithelial attachment.

(15) Suture.

(16) Establish occlusal vertical dimension for dentures.

(17) Try-in of dentures set in wax.

(18) Insertion and post-insertion adjustments of dentures.

(19) Endodontic treatment — open, extirpate pulp, ream and file canals, establish length of tooth, and fill root canal.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-250 ACTS THAT MAY BE PERFORMED BY LICENSED DENTAL HYGIENISTS UNDER CLOSE SUPERVISION. In addition to the acts performed under ((section)) WAC ((~~308-38-120~~)) 246-816-220, a dentist may allow a dental hygienist duly licensed pursuant to the provisions of chapter 18.29 RCW to perform the following acts under the dentist's close supervision:

(1) Perform soft-tissue curettage.

(2) Give injections of a local anesthetic.

(3) Place restorations into the cavity prepared by the dentist, and thereafter could carve, contour, and adjust contacts and occlusion of the restoration.

(4) Administer nitrous oxide analgesia.

(5) Apply sealants.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-260 ACTS THAT MAY NOT BE PERFORMED BY DENTAL HYGIENISTS. No dentist shall allow a dental hygienist duly licensed pursuant to the provisions of chapter 18.29 RCW 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 surgical removal of tissue of the oral cavity, except for soft-tissue curettage, as defined in WAC ((308-38-110)) 246-816-210(11).

(2) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician.

(3) Any diagnosis for treatment or treatment planning.

(4) The taking of any impression of the teeth or jaw, or the relationship of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliances, or prosthesis. Not prohibited are the taking of impressions solely for diagnostic and opposing models or taking wax bites solely for study casts.

(5) Intra-orally adjust occlusal of inlays, crowns, and bridges.

(6) Intra-orally finish margins of inlays, crowns, and bridges.

(7) Cement or recement, permanently, any cast restorations or stainless steel crowns.

(8) Incise gingiva or other soft tissue.

(9) Elevate soft tissue flap.

(10) Luxate teeth.

(11) Curette to sever epithelial attachment.

(12) Suture.

(13) Establish occlusal vertical dimension for dentures.

(14) Try-in of dentures set in wax.

(15) Insertion and post-insertion adjustments of dentures.

(16) Endodontic treatment—open, extirpate pulp, ream and file canals, establish length of tooth, and fill root canal.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-301 PURPOSE. The purpose of ((this chapter)) WAC 246-816-301 through 246-816-410 is to govern the administration of sedation and general anesthesia by dentists licensed in the state of Washington in settings other than hospitals as defined in WAC ((248-18-001(29))) 246-318-010(31) and ambulatory surgical facilities as defined in WAC ((248-19-220)) 246-310-010(5), pursuant to the board's authority in RCW 18.32.640(2).

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-310 DEFINITIONS FOR WAC 246-816-301 THROUGH 246-816-410. (1) Analgesia is the diminution of pain in the conscious patient.

(2) Local anesthesia is the elimination of sensations especially pain, in one part of the body by the topical application or regional injection of a drug.

(3) Conscious sedation is a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and/or verbal command, produced by a pharmacologic method, and that carries a margin of safety wide enough to render unintended loss of protective reflexes unlikely.

(4) General anesthesia (to include deep sedation) is a controlled state of depressed consciousness or unconsciousness, accompanied by partial or complete loss of protective reflexes, including the ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or combination thereof.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-360 CONSCIOUS SEDATION WITH PARENTERAL OR MULTIPLE ORAL AGENTS. Conscious sedation with parenteral or multiple oral agents includes the prescription or administration of more than one oral agent to be used concurrently for the purposes of sedation either as a combined regimen or in association with nitrous oxide-oxygen. For purposes of this section, oral agents shall include any nonparenteral agents regardless of route of delivery. This would also include the parenteral administration of medications for the purpose of conscious sedation of dental patients.

(1) Training requirements: In order to administer conscious sedation with parenteral or multiple oral agents, the dentist must have successfully completed a postdoctoral course(s) of sixty clock hours or more which includes training in basic conscious sedation, physical evaluation, venipuncture, technical administration, recognition and management of complications and emergencies, monitoring, and supervised experience in providing conscious sedation to fifteen or more patients.

(2) Procedures for administration: Multiple oral sedative agents can be administered in the treatment setting or prescribed for patient dosage prior to the appointment. In the treatment setting, a patient receiving conscious parenteral sedation must have that sedation administered by a person qualified under this chapter. Only a dentist meeting the above criteria for administration of conscious parenteral sedation may utilize the services of a nurse licensed pursuant to chapter 18.88 RCW to administer conscious parenteral sedation under the close supervision of the dentist as defined in WAC ((308-38-110)) 246-816-210(4). An intravenous infusion should be maintained during the administration of a parenteral agent. The person administering the medications must

be continuously assisted by at least one individual experienced in monitoring sedated patients.

In the treatment setting, a patient experiencing conscious sedation with parenteral or multiple oral agents should have visual and tactile observation as well as continual monitoring of pulse, respiration, and blood pressure and/or blood oxygen saturation. Unless prevented by the patient's physical or emotional condition, these vital sign parameters must be noted and recorded whenever possible prior to the procedure. In all cases these vital sign parameters must be noted and recorded at the conclusion of the procedure. Blood oxygen saturation must be continuously monitored and recorded at appropriate intervals throughout any period of time in which purposeful response of the patient to verbal command cannot be maintained. The patient's level of consciousness shall be recorded prior to the dismissal of the patient and individuals receiving these forms of sedation must be accompanied by a responsible individual upon departure from the treatment facility. When verbal contact cannot be maintained during the procedure, continuous monitoring of blood oxygen saturation is required.

(3) Equipment and emergency medications: All offices in which parenteral or multiple oral sedation is administered or prescribed must comply with the following recordkeeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Dosage and forms of medications dispensed shall be noted.

(b) Office facilities and equipment shall include:

(i) Suction equipment capable of aspirating gastric contents from the mouth and pharynx.

(ii) Portable oxygen delivery system including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen-enriched patient ventilation and oral and nasal pharyngeal airways of appropriate size.

(iii) A blood pressure cuff (sphygmomanometer) of appropriate size and stethoscope; or equivalent monitoring devices.

(iv) An emergency drug kit with minimum contents of:

- Sterile needles, syringes, and tourniquet
- Narcotic antagonist
- A and B adrenergic stimulant
- Vasopressor
- Coronary vasodilator
- Antihistamine
- Parasympatholytic
- Intravenous fluids, tubing, and infusion set
- Sedative antagonists for drugs used if available.

(4) Continuing education: A dentist who administers conscious parenteral or multi-agent oral sedation must participate in eighteen hours of continuing education or equivalent every three years. The education must include instruction in one or more of the following areas: Venipuncture, intravenous sedation, physiology, pharmacology, nitrous oxide analgesia, patient evaluation, patient monitoring, medical emergencies, basic life support (BLS), or advanced cardiac life support (ACLS).

(5) Permit of authorization: Required.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-370 GENERAL ANESTHESIA (INCLUDING DEEP SEDATION). Deep sedation and general anesthesia must be administered by an individual qualified to do so under this chapter.

(1) Training requirements for dentists: In order to administer deep sedation or general anesthesia, the dentist must have current and documented proficiency in advanced cardiac life support. One method of demonstrating such proficiency is to hold a valid and current ACLS certificate or equivalent. Additionally, a dentist must meet one or more of the following criteria:

(a) Have completed a minimum of one year's advanced training in anesthesiology or related academic subjects, or its equivalent beyond the undergraduate dental school level, in a training program as outlined in Part 2 of Teaching the Comprehensive Control of Pain and Anxiety in an Advanced Education Program, published by the American Dental Association, Council on Dental Education, dated May, 1987.

(b) Is a fellow of the American Dental Society of Anesthesiology.

(c) Is a diplomate of the American Board of Oral and Maxillofacial Surgery, or is eligible for examination by the American Board of Oral and Maxillofacial Surgery pursuant to the July 1, 1989, standards.

(d) Is a fellow of the American Association of Oral and Maxillofacial Surgeons.

Only a dentist meeting the above criteria for administration of deep sedation or general anesthesia may utilize the services of a nurse licensed pursuant to chapter 18.88 RCW to administer deep sedation or general anesthesia under the close supervision of the dentist as defined in WAC ((308-38-110)) 246-816-210(4).

(2) Training requirements for monitoring personnel: In addition to those individuals necessary to assist the practitioner in performing the procedure, a trained individual must be present to monitor the patient's cardiac and respiratory functions. The individual monitoring patients receiving deep sedation or general anesthesia must have received a minimum of fourteen hours of documented training in a course specifically designed to include instruction and practical experience in use of all equipment required in WAC ((308-39-170)) 246-816-370. This must include, but not be limited to, the following equipment:

- (a) Sphygmomanometer
- (b) Pulse oximeter
- (c) Electrocardiogram
- (d) Bag-valve-mask resuscitation equipment
- (e) Oral and nasopharyngeal airways
- (f) Defibrillator
- (g) Intravenous fluid administration set.

A course, or its equivalent, may be presented by an individual qualified under WAC ((308-39-170)) 246-816-370 or sponsored by an accredited school, medical or dental association or society, or dental speciality association.

(3) Procedures for administration: Patients receiving deep sedation or general anesthesia must have continual

monitoring of their heart rate, blood pressure, and respiration. In so doing, the licensee must utilize electrocardiographic monitoring and pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded at least every five minutes. During deep sedation or general anesthesia, the person administering the anesthesia and the person monitoring the patient, may not leave the immediate area.

During the recovery phase, the patient must be monitored continually by an individual trained to monitor patients recovering from general anesthesia or deep sedation. A discharge entry shall be made in the patient's record indicating the patient's condition upon discharge and the responsible party to whom the patient was discharged.

(4) Equipment and emergency medications: All offices in which general anesthesia (including deep sedation) is administered must comply with the following record-keeping and equipment standards:

(a) Dental records must contain appropriate medical history and patient evaluation. Anesthesia records shall be recorded during the procedure in a timely manner and must include: Blood pressure, heart rate, respiration, blood oxygen saturation, drugs administered including amounts and time administered, length of procedure, any complications of anesthesia.

(b) Office facilities and equipment shall include:

(i) An operating theater large enough to adequately accommodate the patient on a table or in an operating chair and permit an operating team consisting of at least three individuals to freely move about the patient.

(ii) An operating table or chair which permits the patient to be positioned so the operating team can maintain the airway, quickly alter patient position in an emergency, and provide a firm platform for the administration of basic life support.

(iii) A lighting system which is adequate to permit evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit conclusion of any operation underway at the time of general power failure.

(iv) Suction equipment capable of aspirating gastric contents from the mouth and pharyngeal cavities. A backup suction device must be available.

(v) An oxygen delivery system with adequate full face masks and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate portable backup system.

(vi) A recovery area that has available oxygen, adequate lighting, suction, and electrical outlets. The recovery area can be the operating theater.

(vii) Ancillary equipment which must include the following:

(A) Laryngoscope complete with adequate selection of blades, spare batteries, and bulb.

(B) Endotracheal tubes and appropriate connectors.

(C) Oral airways.

(D) Tonsillar or pharyngeal suction tip adaptable to all office outlets.

(E) Endotracheal tube forceps.

(F) Sphygmomanometer and stethoscope.

(G) Adequate equipment to establish an intravenous infusion.

(H) Pulse oximeter.

(I) Electrocardiographic monitor.

(J) Synchronized defibrillator available on premises.

(c) Drugs. Emergency drugs of the following types shall be maintained:

(i) Vasopressor.

(ii) Corticosteroid.

(iii) Bronchodilator.

(iv) Muscle relaxant.

(v) Intravenous medications for treatment of cardiac arrest.

(vi) Narcotic antagonist. Sedative antagonist, if available.

(vii) Antihistaminic.

(viii) Anticholinergic.

(ix) Antiarrhythmic.

(x) Coronary artery vasodilator.

(xi) Antihypertensive.

(xii) Anticonvulsant.

(5) Continuing education: A dentist granted a permit to administer general anesthesia (including deep sedation) under this chapter, must participate in eighteen hours of continuing education every three years. A dentist granted a permit must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years. The education must be provided by organizations approved by the dental disciplinary board and must be in one or more of the following areas: General anesthesia, conscious sedation, physical evaluation, medical emergencies, monitoring and use of monitoring equipment, pharmacology of drugs and agents used in sedation and anesthesia, or basic life support (BLS), or advanced cardiac life support (ACLS).

(6) Permit of authorization: Required.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-390 APPLICATIONS—PERMITS—RENEWALS FOR THE ADMINISTRATION OF CONSCIOUS SEDATION WITH MULTIPLE ORAL OR PARENTERAL AGENTS OR GENERAL ANESTHESIA (INCLUDING DEEP SEDATION). (1) In order to administer conscious sedation with parenteral or multiple oral agents or general anesthesia (including deep sedation), a dentist must first meet the requirements of this chapter (except for the effective date of the educational requirements in WAC ((308-38-200)) 246-816-410), possess and maintain a current license pursuant to chapter 18.32 RCW and obtain a permit of authorization from the board through the department of health. Application forms for permits, which may be obtained from the department, shall be fully completed and any application fee paid.

(2) In order to renew a permit of authorization, which shall be valid for three years from the date of issuance, a permit holder shall fully and timely complete a renewal application form and:

(a) Demonstrate continuing compliance with this chapter.

(b) Produce satisfactory evidence of eighteen hours of continuing education as required by this chapter. The dentist must maintain records that can be audited and must submit course titles, instructors, dates attended, sponsors, and number of hours for each course every three years as required by this chapter.

(c) Pay any applicable renewal fee.

(3) Prior to the issuance or renewal of a permit for the use of general anesthesia, the board may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, licentiate, and the procedures utilized by such licentiate. Every person issued a permit under this article shall have an onsite inspection at least once in every five-year period. An onsite inspection performed by a public or private organization may be accepted by the board in satisfaction of the requirements of this section.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-410 EFFECTIVE DATE. With the exception of the educational requirements in WAC ((308-39-150(1), 308-39-160(1), and 308-39-170(1))) 246-816-350, 246-816-360, and 246-816-370, the rules in this chapter shall become effective on October 1, 1990. Educational requirements in WAC ((308-39-150(1), 308-39-160(1), and 308-39-170(1))) 246-816-350, 246-816-360, and 246-816-370 must be met by October 1, 1991. A person may be issued a temporary permit until they can supply proof of meeting the educational requirements; however, proof must be supplied by October 1, 1991. Failure to do so will result in the immediate cancellation of this permit.

AMENDATORY SECTION (Amending Order 106B, filed 12/27/90, effective 1/31/91)

WAC 246-816-510 TERMS USED IN WAC ((308-25-320 THROUGH 308-25-330)) 246-816-501 THROUGH 246-816-530. (1) "Approved substance abuse monitoring program" or "approved monitoring program" is a program the board has determined meets the requirements of the law and the criteria established by the board in the Washington Administrative Code which enters into a contract with dentists who have substance abuse problems regarding the required components of the dentist's recovery activity and oversees the dentist's compliance with these requirements. Substance abuse monitoring programs may provide evaluation and/or treatment to participating dentists.

(2) "Contract" is a comprehensive, structured agreement between the recovering dentist and the approved monitoring program wherein the dentist consents to comply with the monitoring program and the required components for the dentist's recovery activity.

(3) "Approved treatment facility" is a facility approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 18.130.175.

(4) "Substance abuse" means the impairment, as determined by the board, of a dentist's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(5) "Aftercare" is that period of time after intensive treatment that provides the dentist or the dentist's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups, and ongoing continued support of treatment and/or monitoring program staff.

(6) "Dentist support group" is a group of dentists and/or other health professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced facilitator in which participants may safely discuss drug diversion, licensure issues, return to work, and other professional issues related to recovery.

(7) "Twelve-steps groups" are groups such as Alcoholics Anonymous, Narcotics Anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, peer group association, and self-help.

(8) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in bodily fluids collected under observation which are performed at irregular intervals not known in advance by the person to be tested.

WSR 92-05-013

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 7, 1992, 4:36 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-13-032 Licensing examination and 308-13-040 Review of examinations; and repealing WAC 308-13-041 Appeal of examination score and 308-13-042 Board procedure on examination grading appeals.

Purpose: To adopt any examination prepared by the Council of Landscape Architectural Registration Boards (CLARB). To clarify the procedure for reviewing failed examinations. To repeal two sections that are not longer relevant to the examination process.

Statutory Authority for Adoption: RCW 18.96.060.

Statute Being Implemented: RCW 18.96.090.

Summary: These amendments allow the Board of Registration for Landscape Architects to adopt examinations prepared by CLARB; to clarify the examination review process; and to repeal two sections that are no longer relevant to the landscape architect examination process.

Reasons Supporting Proposal: To implement the contract agreement with the Council of Landscape Architectural Registration Boards and clarify the registration examination and appeal process.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 2424 Bristol Court, Olympia, 753-6967.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The current rule specifies the use of a national examination that is no longer available. The proposed amendment to WAC 308-31-040 provides enhanced customer service in the scheduling of examination reviews. The repeal of WAC 308-31-041 and 308-31-042 are required because of the elimination of the local state appeal process.

Proposal Changes the Following Existing Rules: Amendment to WAC 308-13-032 authorizes the use of all examinations published by CLARB. The current rule specifies that it must be the UNE examination, which has been superceded; amendment to WAC 308-13-040 would provide enhanced service to the candidate. The amendment deletes the requirement that exam reviews be requested within 30 days of the examination, allows candidates more than four hours for review if necessary, deletes the restriction on the number of reviews, and allow candidates to bring an agent to the review; and repeal of WAC 308-13-041 and 308-13-042. CLARB will now provide the appeal process, the appeal process has been eliminated at the local state level.

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

Hearing Location: West Coast Sea Tac Hotel, Olympic Meeting Room, First Floor, 18220 Pacific Highway South, Seattle, WA 98188, on April 24, 1992, at 9:00 a.m.

Submit Written Comments to: James D. Hanson, FAX (206) 586-0998, Landscape Architect Board, P.O. Box 9649, Olympia, WA 98507, by April 15, 1992.

Date of Intended Adoption: April 24, 1992.

January 22, 1992

James D. Hanson

Program Administrator

AMENDATORY SECTION (Amending Order PM 726, filed 5/24/88)

WAC 308-13-032 LICENSING EXAMINATION. The form of the examination required of applicants shall consist of a written and graphic examination. Subject to the provisions of RCW 18.96.090, the board adopts the ~~((Uniform National Examination, "UNE,"))~~ landscape architectural registration examination and grading procedure prepared by the Council of Landscape Architectural Registration Boards (CLARB) as its examination to test the applicant's qualifications and minimum competency for registration.

The board shall periodically, and in no event not less than once every year, review the passing grade score established by CLARB to ensure that such score conforms with the provisions of RCW 18.96.090. The board may convert raw scores received from CLARB to conform to the passing grade percentage established in RCW 18.96.090.

(1) Procedure for admittance to the ~~((UNE))~~ examination:

(a) Upon completion of the qualifications for admittance to the ~~((UNE))~~ examination under WAC 308-13-020, submit the completed application provided by the board, including fees. The complete application, including fees, must be postmarked by March 15th or earlier to be considered for the next scheduled examination.

(b) No application fee will be refunded because of withdrawal from the examination.

(c) Examination fees are refundable when notice of withdrawal is given prior to ~~((the examination application deadline, March))~~ May 15th.

(d) A completed application includes:

(i) ~~((Green))~~ Notarized application form LA 656-3 ~~((with notarization));~~

(ii) Three landscape architect references;

(iii) ~~((Two references from related design professionals;~~

~~((iv)))~~ Transcript of academic experience showing courses taken and degree awarded with registrar's seal;

~~((v)))~~ (iv) Verification of work experience;

~~((vi)))~~ (v) Application and examination fees.

(e) Notice of acceptance, along with preexamination information, will be mailed to accepted applicants approximately six weeks in advance of the examination, accompanied by specific details regarding the time and place of the examination. The written examination ~~((the UNE,))~~ is administered ~~((over a two-day period in June each year. The examinees are tested on their ability to exercise value judgments in actual landscape architecture situations))~~ according to the published national schedule.

(2) Examination scoring:

(a) The written parts of the examination are machine scored. The graphic parts of the examination are manually graded ~~((in a manner prescribed by the landscape architect board members))~~ at the national grading session.

(b) To pass the examination, an applicant must achieve a passing score of seventy-five percent on each of the ~~((six))~~ sections of the examination.

(c) Applicants are notified of their grades by mail. No grades are given by telephone.

(d) Reexamination information ~~((is given on the examination grade sheet. NO OTHER NOTICE MAY BE GIVEN. See WAC 308-13-025 for reexamination information))~~ shall be provided to candidates.

AMENDATORY SECTION (Amending Order PM 607, filed 7/25/86)

WAC 308-13-040 REVIEW OF EXAMINATIONS. ~~((++))~~ Candidates who fail to pass design problems of the ~~((Uniform National))~~ landscape architect registration examination may review the failed portions of the examination ~~((subject to the conditions set forth in subsection (2) of this rule)).~~ Sections of the examination which have been passed and objective portions of the examination may not be reviewed by the candidate. ~~((2))~~ All examination reviews must be scheduled within thirty days from the date of the examination scores. All examinations must be reviewed at the offices of the board of registration for landscape architects, between the hours of 8:00 a.m. and 5:00 p.m. during normal working days. All candidates reviewing the Uniform National Examination shall be given a maximum of four hours to review said examination. ~~((No examinations may be taken from the offices of the board.))~~ ~~((Only the candidate may review the failed portion of his or her examination, and only one review per candidate shall be scheduled.))~~

WSR 92-05-014

RULES COORDINATOR

OFFICE OF

MARINE SAFETY

[Filed February 7, 1992, 4:40 p.m.]

As required by the Administrative Procedure Act, please be advised that the following individual is the rules coordinator for the Washington Office of Marine Safety: Joel M. Greene, Deputy Administrator, Office of Marine Safety, P.O. Box 42407, Olympia, 98504-2407, 664-9110.

Joel M. Greene
Deputy Administrator

WSR 92-05-015
PROPOSED RULES
WASHINGTON STATE PATROL
 [Filed February 10, 1992, 8:06 a.m.]

Original Notice.

Title of Rule: Chapter 204-38 WAC, Flashing amber lights.

Purpose: To provide safety for the hazardous materials response teams vehicles when they are on the scene of an incident and to warn the motoring public.

Statutory Authority for Adoption: RCW 46.37.300.

Statute Being Implemented: RCW 46.37.300.

Summary: This amendment is necessary to protect the response teams vehicles when they are responding to incidents of hazardous materials spills and to warn the motoring public.

Name of Agency Personnel Responsible for Drafting: Carol I. Morton, 515 15th Avenue, Olympia, 753-0347; Implementation and Enforcement: Lieutenant L. R. Brackins, 515 15th Avenue, Olympia, 753-0347.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment of this rule will allow hazardous material response teams vehicles to use yellow amber flashing lamps to warn the motoring public when they are responding to an incident.

Proposal Changes the Following Existing Rules: Adds to WAC 204-38-030(7) definition of hazardous materials response team vehicles; and amendments to WAC 204-38-040 includes the wording and hazardous materials response teams vehicles.

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

Hearing Location: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, P.O. Box 42607, Olympia, WA 98504-2607, on April 24, 1992, at 2:30 p.m.

Submit Written Comments to: Washington State Patrol, Research and Development Section, Room G-130, General Administration Building, P.O. Box 42607, Olympia, WA 98504-2607, by April 24, 1992.

Date of Intended Adoption: May 1, 1992.

February 7, 1992
 George B. Tellevik
 Chief

AMENDATORY SECTION (Amending Order 81-04-01, filed 4/30/81)

WAC 204-38-030 DEFINITIONS. (1) "Flashing" lamps shall include those lamps which emit a beam of light which is broken intermittently and regularly by use of an electronic or electric switch, a rotating reflector, a rotating lamp, or a strobe lamp.

(2) "Other construction and maintenance vehicles" shall mean those vehicles owned or operated by a private company which is in the process of providing highway construction or maintenance services or is working in conjunction with any public utility.

(3) "Pilot cars" shall mean those vehicles which are used to provide escort for overlegal size loads upon the roadways of this state.

(4) "Public utilities vehicles" shall mean those vehicles used for construction, operations, and maintenance, and which are owned or operated by a public or private utility, including, but not limited to,

companies providing water, electricity, natural gas, telephone, and television cable services, and railroads.

(5) "Tow trucks" shall mean those vehicle engaged in removing disabled or abandoned vehicles from the roadway and which are used primarily for that purpose.

(6) "Animal control vehicles" shall mean those vehicles, either publicly or privately owned, which are used primarily for transportation of animals to or from animal shelters, humane society facilities, or veterinary medicine facilities.

(7) "Hazardous materials response team vehicles" shall mean those vehicles either publicly or privately owned which are used for responding to hazardous materials incidents.

AMENDATORY SECTION (Amending Order 81-04-01, filed 4/30/81)

WAC 204-38-040 MOUNTING OF LAMPS. One or more flashing amber lamps may be mounted on public utilities vehicles, other construction and maintenance vehicles, pilot cars, tow trucks, ~~((and))~~ animal control vehicles, and hazardous materials response team vehicles. The lamp(s) shall be mounted and shall be of sufficient intensity so as to be clearly visible to approaching traffic for at least five hundred feet in normal sunlight.

The provisions of WAC 204-72-030 and 204-72-040 shall be adhered to as they relate to the mounting of warning lamps.

WSR 92-05-016
PERMANENT RULES
WASHINGTON STATE PATROL
 [Filed February 10, 1992, 8:09 a.m.]

Date of Adoption: February 7, 1992.

Purpose: To change the wording "snow" tires to "approved traction" tires; to replace "commission on equipment" with "state patrol"; and to exempt Department of Transportation snow removal vehicles.

Citation of Existing Rules Affected by this Order: Amending WAC 204-24-030, 204-24-040, 204-24-050, and 204-24-070.

Statutory Authority for Adoption: RCW 46.37.420.

Pursuant to notice filed as WSR 91-24-004 on November 22, 1991.

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

February 7, 1992
 George B. Tellevik
 Chief

AMENDATORY SECTION (Amending Order 83-10-01, filed 10/19/83)

WAC 204-24-030 STANDARDS FOR STUDDED TIRES. Studded tires shall meet the following specifications:

(1) Studs shall be metal, tipped with tungsten carbide.

(2) Metal studs shall be inserted only in a new tire or a newly-recapped tire which has molded in the tread the "pin-holes" into which metal studs are to be inserted. Studs shall not be inserted in any new tire or newly-recapped tire after it has been driven on a vehicle.

(3) Metal studs may be installed only by the tire manufacturer, or by a tire dealer or tire jobber who shall install the metal studs in conformance with the manufacturer's specifications.

(4) When a tire is sold or offered for sale as a studded tire or when studs are installed in a new tire or a newly-

recapped tire, there shall be a minimum of seventy metal studs evenly spaced around the tread of the tire.

(5) A tire shall contain a minimum of fifty-six metal studs at all times in order to qualify as a "studded tire" or as an approved traction device where traffic control signs marked "chains" or "~~((snow))~~ approved traction tires required" are posted.

(6) Metal studs shall not be installed in any tire of a vehicle which has a gross vehicle weight of ten thousand pounds or over.

(7) School buses and fire department equipment tires are exempt from ~~((item))~~ subsection (6) of this ~~((regulation))~~ section.

AMENDATORY SECTION (Amending Order 83-10-01, filed 10/19/83)

WAC 204-24-040 TRACTION DEVICES. The following equipment items are approved by the ~~((commission on equipment))~~ state patrol for use as traction devices wherever traction devices are required by the department of transportation:

(1) Tire chains meeting the standards in chapter 204-22 WAC.

(2) Studded tires meeting the standards in WAC 204-24-030.

(3) ~~((Snow))~~ Approved traction tires. An approved ~~((snow))~~ traction tire shall have the following tread characteristics:

(a) A minimum of 4/32 inch tread, measured in the center portion of the tire at three locations equally spaced around the circumference of the tire.

(b) A relatively aggressive tread pattern designed primarily to provide additional starting, stopping, and driving traction on snow or ice. The tread shall have ribs, lugs, blocks or buttons the edges of which are at an angle greater than thirty degrees to the tire circumferential centerline.

(c) On at least one side of the tread design, the shoulder lugs protrude at least 1/2-inch in a direction generally perpendicular to the direction of travel.

(d) Tires manufactured to meet these specifications shall be permanently labeled on at least one sidewall with the words "mud and snow" or any contraction using the letters "M" and "S" (e.g. MS, M/S, M-S, M & S, etc.).

(4) Special tires specifically designed to improve stopping, traction, and cornering abilities of the tire on ice or snow may be approved by the ~~((commission on equipment))~~ state patrol as an approved traction device.

AMENDATORY SECTION (Amending Order 91-003, filed 6/21/91, effective 7/22/91)

WAC 204-24-050 USE OF TIRE CHAINS OR OTHER TRACTION DEVICES. (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "~~((snow))~~ approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive wheels at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive wheels tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive wheels are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "~~((snow))~~ approved traction tires required" or "chains required" are posted by the department of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its wheels tire chains as follows: PROVIDED, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from this requirement if such vehicle has sanding capability in front of the drive wheels.

(i) Single vehicles, including but not limited to trucks, truck-tractors, buses and school buses: A minimum of two drive tires chained, one on each side of the vehicle, both on the same axle: PROVIDED, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from this requirement if such vehicle has sanding capability in front of the drive wheels.

(ii) Two vehicle combinations, including but not limited to truck and trailer, or truck tractor and semi-trailer: A minimum of two drive wheels chained, one on each side of the vehicle and both on the same axle, and one trailer wheel chained on the last axle of the trailer. If the trailer or semitrailer has tandem rear axles, the chained wheel may be on either of the last two axles.

(iii) Three-vehicle combinations, including but not limited to truck tractor, semi-trailer and full trailer: A minimum of four drive wheels chained and two trailer wheels chained. The trailer wheel chains shall be on the last trailer in the combination and at least one such chain shall be on a tire on the last axle, or if the trailer has tandem rear axles, the chained wheel may be on either of the last two axles.

(iv) Combinations of vehicles specially permitted to carry over 80,000 pounds gross vehicle weight: A minimum of four drive wheels chained, and one trailer wheel chained. The trailer wheel chain shall be on the last axle of the trailer. Except in three vehicle combinations, the requirements of ~~((204-24-050 (2)))~~ (a)(iii) of this subsection shall prevail.

(b) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains for use in the event that road conditions require the use of more chains than the minimums stated in ~~((subsection (2)))~~ (a) of this ((section)) subsection or in the event

that chains in use are broken or otherwise made useless: PROVIDED, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from this requirement.

(c) Approved chains for vehicles over 10,000 pounds gross vehicle weight shall have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains shall not be allowed. The ~~((commission on equipment))~~ state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.

(d) On the following routes all vehicles and combinations of vehicles over 10,000 pounds shall carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

- (i) I-90 - from North Bend to Cle Elum.
- (ii) SR-97 - from SR-2 to I-90.
- (iii) SR-2 - from Index to Leavenworth.
- (iv) SR-12 - from Packwood to Naches.
- (v) SR-97 - from the Columbia River to Toppenish.
- (vi) SR-410 - from Enumclaw to Naches.

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/~~((snow))~~ approved traction tire control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

AMENDATORY SECTION (Amending Order 83-10-01, filed 10/19/83)

WAC 204-24-070 APPROVAL OF TIRE CHAINS OR TRACTION DEVICES. Any tire chain, wheel chains, studded tires, or other traction devices meeting the standards in chapter 204-22 WAC, WAC 204-24-030, and 204-24-040 shall be considered as an approved type chain, studded tire, or other traction device by the ~~((commission on equipment))~~ state patrol.

WSR 92-05-017
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed February 10, 1992, 9:13 a.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-229 Refunds.

Purpose: To implement chapter 142, Laws of 1991 with respect to interest on refunds and to indicate the circumstances under which refunds will be considered in the event of successful challenges on constitutional grounds.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Chapter 82.32 RCW.

Summary: Chapter 142, Laws of 1991 provides for interest on refunds to be a variable rate for taxes paid

after January 1, 1992. This rule is also being amended to indicate the circumstances under which refunds will be considered in the event of successful challenges on constitutional grounds.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #205, Olympia, 586-7150; and Enforcement: Ed Faker, 711 Capitol Way, #400, Olympia, 753-5579.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the procedures taxpayers should follow in requesting refunds of tax overpayments. It also indicates the circumstances under which refunds will be considered in the event of successful challenges on constitutional grounds. The rule indicates the statute of limitations for refunds.

Proposal does not change existing rules.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses.

A small business economic impact statement is not required for the following reason(s): The rule requires no additional recordkeeping or reporting and has no identifiable administrative economic impact on small businesses.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on March 31, 1992, at 10:00 a.m.

Submit Written Comments to: Les Jaster, Rules Coordinator, Department of Revenue, P.O. Box 47458, FAX (206) 586-7603, Olympia, WA 98504-7458, by March 31, 1992.

Date of Intended Adoption: April 7, 1992.

February 7, 1992
 Edward L. Faker
 Assistant Director

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-229 REFUNDS. ~~((If upon written application for a refund or an audit of his records, or upon examination of the returns or records of any taxpayer, it is determined by the department of revenue that within the four calendar years immediately preceding the receipt by the department of such an application, or within the four calendar years immediately preceding the completion by the department of such an examination, a tax has been paid in excess of that properly due, the excess amount paid within said period will be credited to the taxpayer's account or will be refunded to him:))~~

~~No refund or credit may be made for taxes paid more than four years prior to the beginning of the calendar year in which refund application is made or examination of records by the department is completed:~~

~~Notwithstanding the foregoing limitation, there will be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund or credit is filed with the department within one year of the date that the amount of refund or credit due to the United States is finally determined, and such claim is filed with the department within four~~

years of the date on which the tax was paid. No interest will be allowed on such refunds to said contractors.

All refunds are made by means of vouchers signed by the taxpayer and approved by the department pursuant to which there is issued to taxpayers state warrants drawn upon and payable from such funds as the legislature may provide.

Any judgment entered by a court of competent jurisdiction, not appealed from, for recovery of any tax, penalty and interest which were paid by the taxpayer, and costs, shall be paid in like manner, upon the filing with the department of a certified copy of the judgment:

Interest at the rate of 3% per annum will be allowed by the department and by any court on the amount of any refund allowed to a taxpayer for taxes, penalties or interest paid by him and interest at the same rate is allowed on any judgment recovered by a taxpayer for taxes, penalties or interest paid:)) (1) INTRODUCTION. This section explains the procedures to be followed by taxpayers in requesting refunds for overpayment of taxes. It also explains the procedures which will be followed by the department under various refund situations. It indicates the statutory period for refunds and the interest rate which applies to those refunds.

(2) STATUTE OF LIMITATIONS FOR REFUNDS. No refund or credit may be made for taxes paid more than four years prior to the beginning of the calendar year in which refund application is made or examination of records by the department is completed. RCW 82.32.050 provides that tax assessments for additional taxes due may be made more than four years after the close of the tax year where a taxpayer has executed a written waiver of such limitation. There is no similar language in the law for refunds. The completion of a statute of limitations waiver for purposes of tax assessments will not entitle the taxpayer to refunds or credits for more than four years after the close of the tax year. The taxpayer must make a claim specifically for taxes believed to have been overpaid which claim must be made within four years of the close of the tax year in which the overpayment was made.

(3) REFUND REQUESTS. Refunds are initiated in the following ways:
(a) Requests for refunds may be initiated by the taxpayer. Refund requests should generally be made to the division of the department to which payment of the tax was originally made. However, if the taxpayer believes that the tax overpayment is the result of a difference of legal opinion with the department as to the taxability of a transaction, the taxpayer may appeal to the department as provided in WAC 458-20-100 or directly to the Thurston County superior court. The following are examples of this procedure:
(i) A taxpayer discovers that the June excise tax return of the prior year was prepared using incorrect figures which overstated its sales resulting in an overpayment of tax. The taxpayer may file an amended tax return which will be treated as a petition for refund of the amounts overpaid on the original tax return. This request should be addressed to the department of revenue's taxpayer account administration section - refund desk. The department will review the request and may take whatever action it considers appropriate under the circumstances to verify the overpayment. (Requests for refunds of taxes other than excise taxes should be made to the division of the department to which the original payment was made.)
(ii) A customer of a taxpayer pays retail sales tax on a transaction which the customer later believes to not have been subject to retail sales tax. The customer should request a refund directly from the seller/taxpayer whom the purchase was made and request the refund. After the seller/taxpayer has determined the tax was not due and issued a refund to the customer, the taxpayer may request a refund from the department.
(iii) An exception with regard to refunds of retail sales tax will be made to situation (a)(ii) of this subsection if the refund results from an action of the courts and it would be unreasonable and undue burden on the person seeking the refund to obtain the refund from the seller. In this case the department may make the refunds directly to the claimant.

(A) In these situations the department shall attempt to contact all persons who may be entitled to refunds through the public media.

(B) Forms for applications for refunds for the situations described in (a)(iii) of this subsection will be available either by mail or at the department's offices and the claimant will need to file an application for refund. The application will request appropriate information needed to identify the claimant, item purchased, amount of sales tax to be refunded, and the seller. The department may at its discretion request additional documentation which the claimant could reasonably be expected to retain, based on the particular circumstances and value of the transaction. Such refund requests shall be approved or denied

within thirty days after all documentation has been submitted by the claimant, and if approved for refund, such refunds shall be made within sixty days after all documentation has been submitted and legal questions have been resolved.

(iv) The taxpayer's records are audited by the department's audit division and a tax assessment is issued. After the assessment is paid, but within the statute of limitations for refund, the taxpayer locates additional records which would have reduced the tax liability if these records had been available in the audit. The taxpayer should contact the department's audit division to request a reexamination of the appropriate records and petition for a refund of overpaid amounts. The statute of limitations will apply based on the date the taxes were overpaid and not on the date the audit was completed or the assessment issued.

(v) The taxpayer's records are audited by the department and a tax assessment is issued. The taxpayer disagrees with assessment based on a legal interpretation, but elects to pay the assessment to stop further interest from accruing. The taxpayer may either challenge the validity of the tax assessment through the courts or may appeal to the department. (See WAC 458-20-100 and RCW 82.32.180.)
(b) When the department audits the taxpayer's records and determines the taxpayer has overpaid its taxes, the department will issue a refund or a credit as part of the audit process. The period for which refunds can be made is for taxes paid within four years prior to the beginning of the calendar year in which the examination of the records is completed by the department. In such cases it is not necessary for the taxpayer to specifically apply for this refund.

(c) In response to a taxpayer's petition for refund, the department may grant a refund or credit with the amount qualified as being subject to future verification or examination of the taxpayer's records. If it is later determined from an examination of the records that the refund or credit exceeded the amount properly due the taxpayer, an assessment may be issued to reverse the amount refunded or credited in error, provided the assessment is issued within four years of the close of the tax year in which the refund or credit was granted.

(4) REFUNDS BECAUSE OF CONSTITUTIONAL CHALLENGES. Refunds will be made to taxpayers because of the ruling of any court overturning tax laws, as enacted or as applied, on constitutional grounds, only under the following circumstances:
(a) The department had reason to question the constitutionality of the law or its application because of prior ruling of the court(s) of this state or the United States; and
(i) The taxpayer seeking a refund paid the tax in question "under protest," with written notice to the department at the time of such payment "under protest" that the taxpayer challenged the constitutionality of the law or tax application; and
(ii) At the time the tax was paid under protest, the taxpayer notified the department in writing of the decisions of any court of record of this state or the United States clearly indicating that such tax laws or application are or may be unconstitutional; and
(iii) The taxpayer seeking refund timely filed a petition of appeal covering the tax sought to be refunded under RCW 82.32.170 and WAC 458-20-100 (Appeals, small claims, and settlements) and exhausted the administrative remedies for securing a refund of the protested tax; or
(b) The court of record which overturns any tax law or application of tax as being unconstitutional without further appeal, expressly orders a refund of tax to any particular taxpayer or group of taxpayers.

(5) INTEREST ON REFUNDS. Interest will be allowed on refunds.
(a) Interest is paid at the rate of three percent per annum for refunds of taxes, penalties, or interest which were paid by the taxpayer prior to January 1, 1992. For example, assume the taxpayer overpaid its taxes in December 1989. The overpayment is discovered in 1994 and a refund is issued on June 30, 1994. Interest will be allowed on the overpayment at three percent per annum.

(b) For amounts overpaid by a taxpayer after December 31, 1991, the rate of interest on refunds and credits is the rate as computed for assessments, less one percentage point. The assessment interest rate is the average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. Refer to WAC 458-20-228 for a discussion of how this interest rate is determined.

(6) OFFSETTING OVERPAYMENTS AGAINST DEFICIENCIES. The department may offset tax deficiencies against overpayments for the same legal entity. However, a potential tax deficiency which is yet to be determined will not be reason to delay the processing of an overpayment where an overpayment has been conclusively determined. The following are examples of this:

within thirty days after all documentation has been submitted by the claimant, and if approved for refund, such refunds shall be made within sixty days after all documentation has been submitted and legal questions have been resolved.

(iv) The taxpayer's records are audited by the department's audit division and a tax assessment is issued. After the assessment is paid, but within the statute of limitations for refund, the taxpayer locates additional records which would have reduced the tax liability if these records had been available in the audit. The taxpayer should contact the department's audit division to request a reexamination of the appropriate records and petition for a refund of overpaid amounts. The statute of limitations will apply based on the date the taxes were overpaid and not on the date the audit was completed or the assessment issued.

(v) The taxpayer's records are audited by the department and a tax assessment is issued. The taxpayer disagrees with assessment based on a legal interpretation, but elects to pay the assessment to stop further interest from accruing. The taxpayer may either challenge the validity of the tax assessment through the courts or may appeal to the department. (See WAC 458-20-100 and RCW 82.32.180.)
(b) When the department audits the taxpayer's records and determines the taxpayer has overpaid its taxes, the department will issue a refund or a credit as part of the audit process. The period for which refunds can be made is for taxes paid within four years prior to the beginning of the calendar year in which the examination of the records is completed by the department. In such cases it is not necessary for the taxpayer to specifically apply for this refund.

(c) In response to a taxpayer's petition for refund, the department may grant a refund or credit with the amount qualified as being subject to future verification or examination of the taxpayer's records. If it is later determined from an examination of the records that the refund or credit exceeded the amount properly due the taxpayer, an assessment may be issued to reverse the amount refunded or credited in error, provided the assessment is issued within four years of the close of the tax year in which the refund or credit was granted.

(4) REFUNDS BECAUSE OF CONSTITUTIONAL CHALLENGES. Refunds will be made to taxpayers because of the ruling of any court overturning tax laws, as enacted or as applied, on constitutional grounds, only under the following circumstances:
(a) The department had reason to question the constitutionality of the law or its application because of prior ruling of the court(s) of this state or the United States; and
(i) The taxpayer seeking a refund paid the tax in question "under protest," with written notice to the department at the time of such payment "under protest" that the taxpayer challenged the constitutionality of the law or tax application; and
(ii) At the time the tax was paid under protest, the taxpayer notified the department in writing of the decisions of any court of record of this state or the United States clearly indicating that such tax laws or application are or may be unconstitutional; and
(iii) The taxpayer seeking refund timely filed a petition of appeal covering the tax sought to be refunded under RCW 82.32.170 and WAC 458-20-100 (Appeals, small claims, and settlements) and exhausted the administrative remedies for securing a refund of the protested tax; or
(b) The court of record which overturns any tax law or application of tax as being unconstitutional without further appeal, expressly orders a refund of tax to any particular taxpayer or group of taxpayers.

(5) INTEREST ON REFUNDS. Interest will be allowed on refunds.
(a) Interest is paid at the rate of three percent per annum for refunds of taxes, penalties, or interest which were paid by the taxpayer prior to January 1, 1992. For example, assume the taxpayer overpaid its taxes in December 1989. The overpayment is discovered in 1994 and a refund is issued on June 30, 1994. Interest will be allowed on the overpayment at three percent per annum.

(b) For amounts overpaid by a taxpayer after December 31, 1991, the rate of interest on refunds and credits is the rate as computed for assessments, less one percentage point. The assessment interest rate is the average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. Refer to WAC 458-20-228 for a discussion of how this interest rate is determined.

(6) OFFSETTING OVERPAYMENTS AGAINST DEFICIENCIES. The department may offset tax deficiencies against overpayments for the same legal entity. However, a potential tax deficiency which is yet to be determined will not be reason to delay the processing of an overpayment where an overpayment has been conclusively determined. The following are examples of this:

within thirty days after all documentation has been submitted by the claimant, and if approved for refund, such refunds shall be made within sixty days after all documentation has been submitted and legal questions have been resolved.

(iv) The taxpayer's records are audited by the department's audit division and a tax assessment is issued. After the assessment is paid, but within the statute of limitations for refund, the taxpayer locates additional records which would have reduced the tax liability if these records had been available in the audit. The taxpayer should contact the department's audit division to request a reexamination of the appropriate records and petition for a refund of overpaid amounts. The statute of limitations will apply based on the date the taxes were overpaid and not on the date the audit was completed or the assessment issued.

(v) The taxpayer's records are audited by the department and a tax assessment is issued. The taxpayer disagrees with assessment based on a legal interpretation, but elects to pay the assessment to stop further interest from accruing. The taxpayer may either challenge the validity of the tax assessment through the courts or may appeal to the department. (See WAC 458-20-100 and RCW 82.32.180.)
(b) When the department audits the taxpayer's records and determines the taxpayer has overpaid its taxes, the department will issue a refund or a credit as part of the audit process. The period for which refunds can be made is for taxes paid within four years prior to the beginning of the calendar year in which the examination of the records is completed by the department. In such cases it is not necessary for the taxpayer to specifically apply for this refund.

(c) In response to a taxpayer's petition for refund, the department may grant a refund or credit with the amount qualified as being subject to future verification or examination of the taxpayer's records. If it is later determined from an examination of the records that the refund or credit exceeded the amount properly due the taxpayer, an assessment may be issued to reverse the amount refunded or credited in error, provided the assessment is issued within four years of the close of the tax year in which the refund or credit was granted.

(4) REFUNDS BECAUSE OF CONSTITUTIONAL CHALLENGES. Refunds will be made to taxpayers because of the ruling of any court overturning tax laws, as enacted or as applied, on constitutional grounds, only under the following circumstances:
(a) The department had reason to question the constitutionality of the law or its application because of prior ruling of the court(s) of this state or the United States; and
(i) The taxpayer seeking a refund paid the tax in question "under protest," with written notice to the department at the time of such payment "under protest" that the taxpayer challenged the constitutionality of the law or tax application; and
(ii) At the time the tax was paid under protest, the taxpayer notified the department in writing of the decisions of any court of record of this state or the United States clearly indicating that such tax laws or application are or may be unconstitutional; and
(iii) The taxpayer seeking refund timely filed a petition of appeal covering the tax sought to be refunded under RCW 82.32.170 and WAC 458-20-100 (Appeals, small claims, and settlements) and exhausted the administrative remedies for securing a refund of the protested tax; or
(b) The court of record which overturns any tax law or application of tax as being unconstitutional without further appeal, expressly orders a refund of tax to any particular taxpayer or group of taxpayers.

(5) INTEREST ON REFUNDS. Interest will be allowed on refunds.
(a) Interest is paid at the rate of three percent per annum for refunds of taxes, penalties, or interest which were paid by the taxpayer prior to January 1, 1992. For example, assume the taxpayer overpaid its taxes in December 1989. The overpayment is discovered in 1994 and a refund is issued on June 30, 1994. Interest will be allowed on the overpayment at three percent per annum.

(b) For amounts overpaid by a taxpayer after December 31, 1991, the rate of interest on refunds and credits is the rate as computed for assessments, less one percentage point. The assessment interest rate is the average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. Refer to WAC 458-20-228 for a discussion of how this interest rate is determined.

(6) OFFSETTING OVERPAYMENTS AGAINST DEFICIENCIES. The department may offset tax deficiencies against overpayments for the same legal entity. However, a potential tax deficiency which is yet to be determined will not be reason to delay the processing of an overpayment where an overpayment has been conclusively determined. The following are examples of this:

(a) The taxpayer's records are audited for the period 1988 through 1991. The audit disclosed underpayments in 1989 and overpayments in 1991. The tax deficiencies in 1989 will be offset against the tax overpayments of 1991 to determine if a refund is owed the taxpayer or if the taxpayer owes additional amounts.

(b) The department has determined that the taxpayer has overpaid its real estate excise tax in 1991. The department believes that the taxpayer may owe additional B&O taxes, but this has yet to be established. The department will not delay the processing of the refund of the real estate excise tax while it proceeds with scheduling and performing an audit for the B&O taxes.

(c) The department simultaneously performed a timber tax audit and a B&O tax audit of a taxpayer. The department determined that the taxpayer underpaid its B&O tax and overpaid its timber tax. Separate assessments were issued on the same date, one showing additional taxes due and the other overpayments. The department may offset the overpayment against the tax deficiency assessment since both the underpayment and overpayment have been established.

WSR 92-05-018
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 10, 1992, 10:42 a.m.]

Continuance of WSR 92-02-086.

Title of Rule: Amending WAC 232-12-021 Import and retention of nonresident wildlife; 232-12-074 Retention of game, 232-12-077 Wildlife taken by another; 232-12-267 Field identification of wildlife—Evidence of sex—Definitions; and 232-12-277 Taxidermy and furdealing records.

Hearing Location: Tulalip Inn, 6128 Marine Drive, Marysville, WA 98270, on April 10-11, 1992, at 8:00 a.m.

Submit Written Comments to: Pam Madson, 600 Capitol Way North, Olympia, WA 98501-1091, by March 30, 1992.

Date of Intended Adoption: April 10, 1992.

February 7, 1992
 Pamela K. Madson
 Administrative Rules Officer

WSR 92-05-019
EMERGENCY RULES
WILDLIFE COMMISSION
 [Order 528—Filed February 10, 1992, 10:45 a.m.]

Date of Adoption: February 8, 1992.

Purpose: Emergency changes to the 1992 winter steelhead fishing regulations.

Statutory Authority for Adoption: RCW 77.12.040.

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

Reasons for this Finding: Items 1, 2, 7 and 10, the harvestable numbers of wild fish in these streams are predicted to be taken by mid-March. However, given the low escapement in Puget Sound rivers in 1991, the

predicted low returns in 1992 and the potential for increased fishing pressure due to closing most Region 4 rivers, the Department of Wildlife is recommending wild fish restrictions beginning March 1; and Items 3, 4, 5, 6, 8 and 9, wild steelhead escapements in 1991 were very low in these rivers, some only 50 percent of the escapement requirement. The 1992 run sizes are also predicted to be low. The Department of Wildlife is recommending total closure of these streams March 1 to allow as many wild fish to escape as possible. Continued low escapement will perpetuate low returns in the future. This proposal would eliminate hooking mortality on wild fish during a period when few hatchery steelhead are available for harvest. It would also eliminate the disturbance of fish on the spawning grounds from fishing activity.

Effective Date of Rule: Immediately.

February 8, 1992
 Curt Smitch
 Director
 for Dean A. Lydig
 Chair

[NEW SECTION]

WAC 232-28-61828 1990-92 AND 1992-94 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - WINTER STEELHEAD REGULATIONS. Notwithstanding the provisions of WAC 232-28-618 and WAC 232-28-619, the following regulations apply to the game fish seasons for the Snohomish, Snoqualmie, Nooksack, Puyallup, Samish, Green, Stillaguamish, Skagit and Sauk rivers, and Tokul Creek.

1) SNOHOMISH RIVER, all channels, sloughs and inter-connected waterways (excluding all tributaries) from Puget Sound to Highway 529, WILD STEELHEAD RELEASE, March 1, 1992, - May 30, 1992.

From Highway 529 upstream: WILD STEELHEAD RELEASE, March 1, 1992 - March 31, 1992.

2) SNOQUALMIE RIVER, from mouth to falls: WILD STEELHEAD RELEASE, March 1, 1992 - March 31, 1992.

3) NOOKSACK RIVER, Mainstem, North Fork, Middle Fork and South Fork: CLOSED to fishing for all game fish March 1, 1992 - March 31, 1992.

4) PUYALLUP RIVER: CLOSED to fishing for all game fish, March 1, 1992 - March 31, 1992.

5) SAMISH RIVER: CLOSED to fishing for all game fish, March 1, 1992 - March 31, 1992.

6) GREEN (DUWAMISH) RIVER, from its mouth to the First Avenue Bridge: CLOSED to the taking of steelhead, March 1, 1992 - June 14, 1992.

From First Avenue Bridge to Tacoma Headworks Dam: CLOSED to fishing for all game fish, March 1, 1992 - March 31, 1992.

7) STILLAGUAMISH RIVER and ALL sloughs, downstream of Warm Beach-Stanwood Highway: WILD STEELHEAD RELEASE, March 1, 1992 - May 30, 1992.

Upstream from the Warm Beach-Stanwood Highway to the forks: WILD STEELHEAD RELEASE, March 1, 1992 - March 31, 1992.

8) SKAGIT RIVER, from mouth to the Memorial Highway Bridge (Hwy 526 at Mt. Vernon): CLOSED to the taking of steelhead, March 1, 1992 - March 31, 1992.

From Memorial Highway Bridge (Hwy 536 at Mt. Vernon) to mouth of Bacon Creek: CLOSED to fishing for all game fish march 1, 1992 - April 30, 1992.

9) SAUK RIVER: CLOSED to fishing for all game fish, March 1, 1992 - April 30, 1992.

10) TOKUL CREEK, from mouth to posted cable boundary marker located approximately 700 feet upstream from the mouth: WILD STEELHEAD RELEASE, March 1, 1992 - March 31, 1992.

All other provisions of WAC 232-28-618 and WAC 232-28-619 remain in effect and unchanged on the above waters.

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

WSR 92-05-020

EMERGENCY RULES

WILDLIFE COMMISSION

[Order 529-Filed February 10, 1992, 10:48 a.m.]

Date of Adoption: February 8, 1992.

Purpose: To clarify wording on daily catch limits and possession limits for bass in Region Four to make them consistent with statewide bass daily catch and possession limits.

Statutory Authority for Adoption: RCW 77.12.040.

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

Reasons for this Finding: The reason for the emergency finding is to meet game fish pamphlet publication deadlines. Correcting the wording of this regulation to be consistent with the intent of daily catch and possession limits for bass statewide will clarify the information in the pamphlet for the angling public. The intent of the Department of Wildlife is to also recommend permanent adoption of this regulation by the Wildlife Commission at a later meeting to maintain the intent of the emergency regulation throughout the 1992-94 game fish seasons.

Effective Date of Rule: Immediately.

February 8, 1992
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61907 1992-94 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—BASS DAILY CATCH LIMITS (REGION 4). Notwithstanding the provisions of WAC 232-28-619, the following regulations will apply to bass limits in Region 4 (that area of the state contained within the boundaries of Island, King, San Juan, Skagit, Snohomish, and Whatcom counties and that portion of Pierce County

east of a line from the mouth of the Nisqually River through Drayton Passage, Pitt Passage, Carr Inlet, and the Tacoma Narrows).

Table with 4 columns: GAME FISH SPECIES, DAILY CATCH LIMITS, MINIMUM SIZE LIMITS, POSSESSION LIMITS. Row for Bass: Five, not more than two over fifteen inches; Less than twelve inches or over fifteen inches; Ten—not more than four over fifteen inches.

WSR 92-05-021

EMERGENCY RULES

WILDLIFE COMMISSION

[Filed February 10, 1992, 10:49 a.m.]

Date of Adoption: February 8, 1992.

Purpose: Emergency change to the 1992 fishing regulations for Deep Creek, Region Six.

Statutory Authority for Adoption: RCW 77.12.040.

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

Reasons for this Finding: A large landslide and logjam have occurred in Deep Creek, an independent drainage into the Strait of Juan de Fuca, at approximately rivermile 1.5. The spawning and rearing habitat downstream have been negatively impacted. The creek was recently field investigated by a team of habitat experts including Tim Rymer from WDW. The investigators found that rearing pools had been largely filled-in and spawning gravel had been degraded by deposition of fine sediments. It is the experts' opinion that wild steelhead spawners will suffer low survival. Past steelhead spawner surveys have shown 50 to 60 percent of wild spawners utilizing this lower reach of the creek. The habitat experts are working with ITT Rayonier to direct the creek away from the toe of the slide and open up the logjam. The creek is not planted with hatchery fish and sport anglers have harvested an average of 41 wild steelhead per season for the past 5 years. The Elwha Tribe harvests between 10 and 20 steelhead annually. The Elwha Tribe has closed the creek to commercial harvest for 1991-92. This emergency request is made because of the anticipated low survival of eggs and fry from wild steelhead spawners in Deep Creek in 1992 due to habitat degradation downstream from the slide and logjam. It will be very important to allow as many wild steelhead to spawn in the creek as possible to have the greatest chance of maintaining this wild population. The intent of the Department of Wildlife is to also recommend adoption of a permanent closed water regulation by the Wildlife Commission at a later meeting to maintain the intent of the emergency regulation throughout the 1992-94 game fish seasons.

Effective Date of Rule: Immediately.

February 8, 1992
Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61827 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - DEEP CREEK (REGION 6). Notwithstanding the provisions of WAC 232-28-618 and WAC 232-28-619, the following regulations apply to the game fish seasons for Deep Creek (Region 6).

DEEP CREEK: CLOSED to fishing for game fish. Effective 12:00 noon February 10, 1992 - last day of February, 1992.

**WSR 92-05-022
EMERGENCY RULES
WILDLIFE COMMISSION**

[Order 531—Filed February 10, 1992, 10:51 a.m.]

Date of Adoption: February 8, 1992.

Purpose: Emergency changes to the 1992 winter steelhead fishing regulations.

Statutory Authority for Adoption: RCW 77.12.040.

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

Reasons for this Finding: Items 1-7, wild steelhead runs returning to these rivers are predicted to be below escapement requirements and the harvest of wild fish must be restricted. These changes are consistent with regulations adopted by the commission for the 1992-93 and 1993-94 winter steelhead seasons; and Item 8, the wild winter steelhead run returning to this river has been reduced from an estimated 380 fish to 50 due to conduit dam blocking spawning and rearing habitat. Only 1.6 miles of the original 16.3 remain accessible to wild steelhead. Restrictive regulations on summer steelhead are already in place and must be extended to winter steelhead to protect the existing run until the access to the upper watershed can be attained and the run can recover. The intent of the Department of Wildlife is to also recommend permanent adoption of this regulation by the Wildlife Commission at a later meeting to maintain the intent of the emergency regulation throughout the 1992-94 game fish seasons.

Effective Date of Rule: Immediately.

February 8, 1992
Curt Smitch
Director
for Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61826 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - WINTER STEELHEAD REGULATIONS. Notwithstanding the provisions of WAC 232-28-618 and WAC 232-28-619, the following regulations apply to the game fish seasons for the Lewis River, N.F. Lewis River, E.F. Lewis River, Salmon Creek, Washougal River West (North Fork), Hamilton Creek, Rock Creek and Big White Salmon River.

1) LEWIS RIVER, from mouth to forks: WILD STEELHEAD RELEASE February 11, 1992 - March 31, 1992.

2) LEWIS RIVER, NORTH FORK, from mouth to overhead powerlines below Merwin Dam: WILD STEELHEAD RELEASE February 11, 1992 - April 15, 1992.

3) LEWIS RIVER, EAST FORK (SOUTH) from mouth to 400' below Horseshoe Falls, WILD STEELHEAD RELEASE February 11, 1992 - March 31, 1992.

4) SALMON CREEK (Clark Co.), from mouth to 72nd Ave. NE: WILD STEELHEAD RELEASE February 11, 1992 - March 31, 1992.

5) WASHOUGAL RIVER, WEST (NORTH FORK), from intake at Department of Wildlife hatchery to source: WILD STEELHEAD RELEASE February 11, 1992 - April 15, 1992.

6) HAMILTON CREEK: WILD STEELHEAD RELEASE February 11, 1992 - March 31, 1992; closed to fishing for game fish April 1, 1992 - April 15, 1992.

7) ROCK CREEK (Skamania Co.): WILD STEELHEAD RELEASE February 1, 1992 - March 31, 1992; closed to fishing for game fish April 1, 1992 - April 15, 1992.

8) BIG WHITE SALMON RIVER, from mouth to within 400' of Northwestern Dam: WILD STEELHEAD RELEASE February 11, 1992 - May 15, 1992.

All other provisions of WAC 232-28-618 and WAC 232-28-619 remain in effect and unchanged on the above waters (Items 1-8).

**WSR 92-05-023
PROPOSED RULES
SECRETARY OF STATE**
[Filed February 10, 1992, 11:47 a.m.]

Original Notice.

Title of Rule: Amending absentee ballot procedures.

Purpose: Facilitate the absentee ballot process for the presidential preference primary by amending WAC 434-75-240 and 434-75-250.

Statutory Authority for Adoption: RCW 29.19.070.

Summary: These amendments are designed to simplify the absentee voting process for both election administrators and the voters for the presidential preference primary.

Name of Agency Personnel Responsible for Drafting: John Pearson, Olympia, 753-2336; Implementation and Enforcement: Ralph Munro, Olympia, 753-7121.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules will facilitate both ongoing and vote-by-mail voting and regular absentee voting by eliminating the need to send the ballots of both political parties out to those voters who do not specify political party on their absentee ballot request form.

Proposal Changes the Following Existing Rules: The existing rule does not permit the election administrator to seek additional information when an incomplete absentee ballot request is received from a voter, nor does it allow vote-by-mail voters or ongoing absentee voters the opportunity to decline to participate in the presidential primary. The amendments will permit both courses of action for election administrators, and greatly reduce the necessity of sending the ballots of both political parties to voters, together with complex instructions.

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

Hearing Location: Office of the Secretary of State, on March 24, 1992, at 10:00 a.m.

Submit Written Comments to: Ralph Munro, Secretary of State, P.O. Box 40229, Olympia, by March 27.

Date of Intended Adoption: March 24, 1992.

February 10, 1992

Donald F. Whiting

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-240 LACK OF PARTY DESIGNATION. In the event the auditor receives a request for an absentee ballot that does not include party designation, he or she shall either attempt to obtain a signed party designation in the manner provided by WAC 434-40-130(2), or he or she shall send the ballots of each major political party to the voter, together with instructions in substantially the following form:

Dear Voter:

We are in receipt of your Presidential Preference Primary absentee ballot application. However, your application is incomplete in that you did not indicate which political party's ballot you are requesting. Under Washington's Presidential Primary law, this information must be provided prior to your ballot being counted. We have, therefore, enclosed the ballots of each political party. You are entitled to vote the ballot of only one political party, and that must be the party indicated on the party designation/request form. Please complete the enclosed information and return it together with, BUT SEPARATE FROM, the appropriate party ballot. DO NOT PLACE THE PARTY REQUEST FORM IN THE BALLOT SECURITY ENVELOPE.

I hereby request a ballot for the following major political party: (CHECK ONE)

_____ DEMOCRATIC _____ REPUBLICAN

x _____
(signature of voter)

Each county auditor shall devise a method of ensuring that the ballot returned by the voter is of the party indicated on the request form without compromising the secrecy of the ballot.

AMENDATORY SECTION (Amending WSR 91-18-012, filed 8/26/91, effective 9/26/91)

WAC 434-75-250 ONGOING ABSENTEE VOTERS. Each county auditor shall, prior to each presidential preference primary, either:

(1) Send to each ongoing absentee voter the ballots of each major political party, together with instructions and a ballot request form similar to those specified in WAC 434-75-240; or

(2) Send a ballot request form to each ongoing absentee voter in advance of the presidential preference primary, requesting that the voter indicate on that form which party ballot he or she desires. The form may also have a space for the voter to indicate that he or she does not desire to participate in the presidential preference primary. If such an indication is received from the voter, no presidential preference primary ballot shall be sent. In the event a voter does not return a ballot request form or a statement declining to participate in the presidential preference primary in advance of the date for mailing ongoing absentee ballots, ~~((the county auditor shall mail the ballots of both parties in the manner specified under subsection (1) of this section))~~ no ongoing absentee ballot shall be sent. Such voters who subsequently express a desire to vote in the presidential preference primary may request a regular absentee ballot as provided by state law and these rules.

~~((Returned ballots issued in the manner specified by subsection (2) of this section shall be processed in the same manner as absentees issued under the provisions of WAC 434-75-240.))~~

WSR 92-05-024

EMERGENCY RULES

WILDLIFE COMMISSION

[Order 532—Filed February 10, 1992, 11:49 a.m.]

Date of Adoption: February 8, 1992.

Purpose: Emergency changes to the 1992 winter steelhead fishing regulations.

Statutory Authority for Adoption: RCW 77.12.040.

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

Reasons for this Finding: The wild steelhead run returning to the Puyallup River system, which includes the Carbon River, is predicted to be below the escapement requirement. Wild escapement in 1991 was also very low in this system. The Department of Wildlife is recommending total closure of the Puyallup system (including the Carbon River) March 1 to allow as many wild fish to escape as possible. This regulation would eliminate hooking mortality of wild fish during a period when few hatchery steelhead are available for harvest. An average of only seven hatchery fish have been taken in the Carbon River during March over the last three years. It would also eliminate the disturbance of fish on the spawning grounds from fishing activity and assist enforcement personnel in reducing poaching loss.

Effective Date of Rule: Immediately.

February 8, 1992
Curt Smitch
Director
for Dean A. Lydig
Chair

NEW SECTION

WAC 232-28-61829 1990-92 AND 1992-94 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS - WINTER STEELHEAD REGULATIONS. Notwithstanding the provisions of WAC

232-28-618 and WAC 232-28-619, the following regulations apply to the game fish seasons for the Carbon River.

1) Carbon River: CLOSED to fishing for all game fish March 1, 1992 - March 31, 1992.

All other provisions of WAC 232-28-618 and WAC 232-28-619 remain in effect and unchanged on the above waters.

WSR 92-05-025

**WITHDRAWAL OF PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 10, 1992, 3:20 p.m.]

The Higher Education Personnel Board hereby withdraws proposed WAC 251-22-215 rule amendment filed with your office on December 31, 1991, as WSR 92-02-066.

John A. Spitz
Director

WSR 92-05-026

**PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 10, 1992, 3:23 p.m.]

Continuance of WSR 92-02-060.

Title of Rule: WAC 251-01-075 Competitive service; 251-01-120 Eligible; 251-01-145 Examination elements; 251-01-147 Examination process; 251-01-150 Examinations; 251-01-210 Institutional examination; 251-01-350 Rating guide; 251-01-385 Specific position elements; 251-01-390 Specific position requirements; and 251-01-410 System examination.

Purpose: Defines terms related to recruitment and examination rules in chapter 251-17 WAC.

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 10, 1992

John A. Spitz
Director

WSR 92-05-027

**PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 10, 1992, 3:24 p.m.]

Continuance of WSR 92-02-061.

Title of Rule: WAC 251-10-030 Layoff.

Purpose: Rule specifies options available to employees scheduled for layoff.

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 10, 1992

John A. Spitz
Director

WSR 92-05-028

**PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 10, 1992, 3:26 p.m.]

Continuance of WSR 92-02-062.

Title of Rule: WAC 251-12-072 Appeal from eligibility determinations.

Purpose: Rule outlines appeal rights available to applicants.

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 10, 1992

John A. Spitz
Director

WSR 92-05-029

**PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 10, 1992, 3:27 p.m.]

Continuance of WSR 92-02-063.

Title of Rule: Chapter 251-17 WAC, Recruitment—Examination.

Purpose: Establish the basis and procedures to be followed for recruitment and examination at institutions under the jurisdiction of the Higher Education Personnel Board.

Other Identifying Information: Chapter 251-17 WAC governs recruitment and examination at higher education institutions.

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 10, 1992

John A. Spitz
Director

WSR 92-05-030
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
 [Memorandum—February 10, 1992]

Correction

The Interagency Committee for Outdoor Recreation will meet on March 19-20, 1992, beginning at 9:00 a.m. at the Ramada Inn Governor House, Washington Room, Olympia, Washington. This is a funding session of the IAC for firearms range projects NOVA education and enforcement projects, and NOVA maintenance and operation projects.

WSR 92-05-031
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—February 10, 1992]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 20, 1992, 9-11 a.m., in the Bellingham Technical College Building G Conference Center A.

WSR 92-05-032
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE
 [Memorandum—February 5, 1992]

The board of trustees of Skagit Valley College will host a study session with superintendents and school board members from Anacortes, Burlington, Concrete, LaConner, Mount Vernon, Oak Harbor, and Sedro Woolley to discuss cooperative efforts between the institutions. This session will be held in the Cascade Room on Wednesday, February 12, 1992, from 7:00 to 9:00 p.m. This is an introductory discussion session and no action will be taken at this meeting.

WSR 92-05-033
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
 [Memorandum—February 11, 1992]

Thursday, March 12, 1992, the Washington State Library Commission will meet for a staff briefing in the Office of the State Librarian, Washington State Library, beginning at 4:00 p.m.

Friday, March 13, 1992, the Washington State Library Commission will hold its regular quarterly business meeting in the Brouillet Conference Room, Office of the Superintendent of Public Instruction, Old Capitol Building, beginning at 10:00 a.m.

WSR 92-05-034
PERMANENT RULES
HIGHER EDUCATION
PERSONNEL BOARD

[Filed February 11, 1992, 1:09 p.m., effective April 1, 1992]

Date of Adoption: February 6, 1992.

Purpose: To clarify HEPB rules relative to the Fair Labor Standards Act. Amending WAC 251-09-025 to eliminate redundancy with WAC 251-09-030; amending WAC 251-09-030 to clarify computation of overtime pay or time off; amending WAC 251-18-180 to eliminate reference to HEPB definitions and insert reference to EEO-6 definitions; and repealing WAC 251-01-010 Administrative employees, 251-01-155 Executive employees and 251-01-320 Professional employees, to reflect Fair Labor Standards Act definition of excepted work period designation.

Citation of Existing Rules Affected by this Order: Repealing WAC 251-01-010 Administrative employees, 251-01-155 Executive employees and 251-01-320 Professional employees; and amending WAC 251-09-025 Schedule changes, 251-09-030 Overtime, and 251-18-180 Eligible lists—Definition—Composition.

Statutory Authority for Adoption: RCW 28B.16.100.

Pursuant to notice filed as WSR 92-02-025 on December 23, 1991.

Effective Date of Rule: April 1, 1992.

February 10, 1992

John A. Spitz
 Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 251-01-010 ADMINISTRATIVE EMPLOYEES.

WAC 251-01-155 EXECUTIVE EMPLOYEES.

WAC 251-01-320 PROFESSIONAL EMPLOYEES.

AMENDATORY SECTION (Amending Order 62, filed 8/30/77, effective 10/1/77)

WAC 251-09-025 SCHEDULE CHANGES. Changes to a scheduled work period employee's assigned hours may be made under the following condition(s):

(1) For temporary changes of work hours within the assigned week:

(a) By providing two calendar days notice to the employee. (The day notification is given constitutes a day of notice); or

(b) Because of emergency conditions; or

(c) When the change is requested by the employee and approved by the employing official; or

(d) For operational convenience (instances where the conditions above do not exist), in which case the employee shall have the right to work his/her regularly assigned schedule in addition to the modified schedule (in accordance with the provisions of WAC 251-09-030) unless:

(i) There is no work; or

(ii) There is a safety hazard to the employee or others; or

(iii) The resulting total hours worked would exceed one and one-half of the employee's regular shift.

(2) For changes in work hours or shift extending beyond seven calendar days for an indefinite period:

(a) By providing seven calendar days notice to the employee. (The day notification is given constitutes a day of notice); or

(b) Because of emergency conditions; or

(c) When the change is requested by the employee and approved by the employing official; or

(d) For operational convenience (instances where the conditions above do not exist), in which case the employee shall be paid premium pay (at time and one-half) for each hour outside of the regular shift (pro rata for part-time employees) for a maximum of seven calendar days from the date of the notice of the schedule change.

~~((3) Overtime worked shall be computed on the employee's base rate plus shift premium where applicable.))~~

AMENDATORY SECTION (Amending Order 151, filed 5/22/86, effective 7/1/86)

WAC 251-09-030 OVERTIME. (1) Any one of the following constitutes overtime:

(a) Work in excess of the daily work shift for full-time employees assigned to scheduled work period positions;

(b) Work in excess of forty hours in one work week for employees assigned to scheduled or nonscheduled work period positions; or

(c) For hospital personnel assigned to a fourteen-day schedule, work in excess of eight hours in a twenty-four hour period or eighty hours in a fourteen-day period.

(2) Overtime worked by employees assigned to scheduled or nonscheduled work period positions shall be compensated at a rate of one and one-half times the employee's ~~((straight time hourly rate including shift differential for all overtime worked as provided in subsection (1) of this section))~~ base rate plus any additional payment(s) required to be included by the Fair Labor Standards Act, such as shift differential, and other applicable state/federal law.

(3) Employees assigned to scheduled or nonscheduled work period positions shall receive monetary payment as compensation for overtime worked; however, at the employee's request compensatory time off at one and one-half times the overtime hours worked may be granted in lieu of monetary payment, except that agricultural employees shall receive compensatory time off or monetary payment at the option of the institution. The accumulation of unused compensatory time that exceeds two hundred forty hours (four hundred eighty for employees engaged in public safety or emergency response activity) must be paid in cash.

(4) If compensation is paid to an employee for accrued compensatory time, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment. Upon termination of employment, an employee will be paid for any

unused compensatory time in accordance with the Fair Labor Standards Act.

(5) Use of accrued compensatory time shall be approved by the employing official with consideration being given to the work requirements of the department and the wishes of the employee. Compensatory time off may be scheduled by the employing official during the final sixty days of a biennium.

(6) Employees assigned to excepted work period positions normally do not qualify for overtime pay. Under circumstances in which the employee is directed to work an excessive amount of overtime, the personnel officer may authorize additional compensation in cash or ~~((compensatory))~~ time off not to exceed one and one-half times the employee's regular rate. The employee may petition the personnel officer for compensation of the directed overtime.

(7) For purposes of computing overtime compensation, holidays or leave with pay during the employee's regular work schedule shall be considered as time worked.

AMENDATORY SECTION (Amending Order 176, filed 3/23/89, effective 5/1/89)

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

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

(a) All permanent and probationary employees of the institution laid off or scheduled for layoff in accord with WAC 251-10-030 and 251-10-055 ranked in order of layoff seniority.

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

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

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

class. This list shall be ranked in order of their final examination scores.

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

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

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

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

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

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

(10) For positions (~~which meet the HEPB definitions of administrative~~), assigned to EEO-6 categories executive ((or)), administrative, managerial, and professional ((employees)) nonfaculty, the personnel officer may combine the organizational unit promotional list, the institution-wide promotional list, the special employment program layoff list, the interinstitutional employee list, the intersystem employee list, the state-wide layoff list, and the open competitive list into a single eligible list:

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

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

WSR 92-05-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 11, 1992, 1:30 p.m.]

Original Notice.

Title of Rule: WAC 388-29-270 Additional requirements for emergent situations—AFDC.

Purpose: This rule amendment clarifies the client must expend their funds for the need items of housing, utilities, food, or clothing identified in WAC 388-29-270, not the emergent situations described in the section.

Statutory Authority for Adoption: RCW 74.04.005.

Statute Being Implemented: RCW 74.04.005.

Summary: This amendment clarifies that in order to meet one of the criteria, the client must have expended their funds for the need items of housing, utilities, food, or clothing, not for the emergent situations of an eviction, shutoff, etc.

Reasons Supporting Proposal: To clarify one criteria for good cause to determine eligibility for additional requirements for emergent situations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: RoseMary Micheli, Division of Income Assistance, 586-3913.

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 24, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by March 24, 1992.

Date of Intended Adoption: April 7, 1992.

February 11, 1992
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2451, filed 12/17/86)

WAC 388-29-270 ADDITIONAL REQUIREMENTS FOR EMERGENT SITUATIONS—AFDC. (1) The department shall allow additional requirements in the following emergent situations (~~in which~~) when, for good cause, a recipient does not have adequate funds to:

(a) Secure housing and necessary clothing in the event of a natural disaster, such as flood or fire, and relief is not available under WAC 388-53-010 (~~(et seq)~~);

(b) Prevent imminent eviction, where a formal written notice of eviction (~~(or)~~), notice to pay or vacate, or notice of foreclosure has been received (~~(-and-only-in)~~). The department shall limit payment to an amount needed to either prevent the eviction or to secure new housing;

(c) Correct a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities and the recipient is legally responsible for the repairs and winterization funds are not available (~~(-limited)~~). The department shall limit payment to actual costs of repairs, or replacement when there is no other alternative;

(d) Obtain new housing when:

(i) The premises contains a verifiable material defect jeopardizing the occupant's health and safety; and

(ii) The landlord or owner fails or refuses to correct the defect within the time allowed by law.

(e) Prevent an impending utility shutoff when a notice of impending shutoff has been received or it is otherwise verified by the department that the recipient is without necessary fuel for heating or cooking (~~(and)~~), but only in the amount to meet the emergent need;

(f) Obtain new housing for needs caused by an abusive spouse. ~~((Payments will be limited))~~ The department shall limit payment to:

(i) Established fees paid to shelters ~~((especially))~~ for abused spouses~~((:));~~ or

(ii) The amount necessary to obtain new housing.

(g) Obtain food, when no other resource is available.

(2) Good cause shall be established when the department determines funds ordinarily available to meet need are no longer available because of:

(a) Stolen proceeds from cashed warrants~~((:));~~

(b) Payment for the necessities ~~((for))~~ of:

(i) Medical bills;

(ii) Child care in an emergency;

(iii) Avoiding abuse;

(iv) Dental care for alleviation of pain or to obtain employment; or

(v) ~~((Need identified in subsections (i)(a) through (g) of this section))~~ Meeting temporary extra costs for the necessary need items of housing, utilities, food, or clothing; provided the actions of the recipient were reasonable under the circumstances. ~~((★))~~ The department shall presume a recipient ~~((shall be presumed to have))~~ acted reasonably when the amount expended for these necessities does not exceed the amount specified ~~((in))~~ under WAC 388-29-112. The department shall determine other cases ~~((shall be determined))~~ on a case-by-case basis. If the amount in WAC 388-29-112 is exceeded, the department shall make a judgment regarding reasonability.

(3) The total of payments made under this section for one month shall not exceed one month's payment standard as ~~((set in))~~ established under WAC 388-29-100 for renting, owning, or buying.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 92-05-036
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Order 577—Filed February 11, 1992, 1:33 p.m.]

Date of Adoption: October 3, 1991.

Purpose: To better carry out the purposes of chapter 174, Laws of 1984 and 1989, RCW 79.08.275.

Citation of Existing Rules Affected by this Order: Amending WAC 332-52-065 Milwaukee Road Corridor—Recreation.

Statutory Authority for Adoption: RCW 79.08.277 and 79.08.279.

Pursuant to notice filed as WSR 91-13-090 on June 19, 1991; and WSR 91-17-031 on August 15, 1991.

Changes Other than Editing from Proposed to Adopted Version: After our public hearing process and public input, we will not adopt the proposal to change the open use period to year around or the "after December 31, 1990" date. However, for a "housekeeping" change the reference to the portion of the corridor west of Columbia River will be deleted which is now managed by state parks due to the 1989 RCW 79.08.275. Only the following words in the second sentence are to be changed (deleted): "and September 1, through July 1, west of the Columbia River."

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

January 31, 1992

James A. Stearns

Supervisor

AMENDATORY SECTION (Amending Order 516, filed 8/27/87)

WAC 332-52-065 MILWAUKEE ROAD CORRIDOR—RECREATIONAL USE. Motorized vehicles including snowmobiles are prohibited on the corridor at all times, except for motorized use for authorized administrative purposes or motorized use approved by the department for reasons of health and safety. The corridor will be open for nonmotorized use, by permit only, from October 1 through June 15, east of the Columbia River. ~~((and September 1 through July 1, west of the Columbia River.))~~ The remainder of the year the corridor will be closed to all recreational use. The department may close portions of the corridor, at any time of the year, to reduce fire danger or protect public safety after consultation with local legislative authorities and fire districts. After December 31, 1990 the department may, if determined necessary to better carry out the purposes of chapter 174, Laws of 1984, adjust the designated periods of the year during which permits will be issued, after first giving public notice and holding at least one public hearing each in Eastern and Western Washington.

WSR 92-05-037

RULES COORDINATOR
DEPARTMENT OF
GENERAL ADMINISTRATION

[Filed February 11, 1992, 2:00 p.m.]

In accordance with RCW 34.05.310, the rules coordinator for the Department of General Administration for 1992 is Vicki J. Toyohara, APA Coordinator, Division of Support Services, P.O. Box 41018, Olympia, WA 98504-1018.

Louis P. Cooper, Jr., Manager
Division of Support Services

WSR 92-05-038

RULES COORDINATOR
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 12, 1992, 10:50 a.m.]

The Department of Labor and Industries names Brett Buckley, Legislative Liaison, as the 1992-93 rules coordinator. Please send information to the following address: Brett Buckley, Legislative Liaison, General Administration Building, Mailstop 4001, Olympia, Washington 98504-4001.

Joseph A. Dear
Director

WSR 92-05-039
PERMANENT RULES
STATE BOARD
OF EDUCATION

[Filed February 12, 1992, 11:01 a.m.]

Date of Adoption: January 24, 1992.

Purpose: To comply with RCW 28A.410.050(2) which requires that the State Board of Education develop and adopt rules establishing masters degree equivalency standards for vocational instructors performing instructional duties and acquiring professional level certification after August 31, 1992.

Citation of Existing Rules Affected by this Order: Amending WAC 180-77-040, 180-77-045, 180-77-050, and 180-77-065.

Statutory Authority for Adoption: RCW 28A.410.050(2).

Pursuant to notice filed as WSR 92-01-125 on December 19, 1991.

Changes Other than Editing from Proposed to Adopted Version: Added an additional renewal to the 3 year certificate, WAC 180-77-040 (4)(b) and 180-77-050 (a)(ii) and changed the 3 year renewal credits to 25 quarter credits or 250 clock hours; added to WAC 180-77-100 (2)(e) stating a written training plan; and changed terminology of hour to credit in WAC 180-77-040 (2)(d).

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

February 10, 1992

Dr. Monica Schmidt

Executive Director/Secretary

AMENDATORY SECTION (Amending Order 11-78, filed 9/7/78)

WAC 180-77-040 GENERAL REQUIREMENTS FOR VOCATIONAL CERTIFICATION OF INSTRUCTORS FROM BUSINESS AND INDUSTRY.

((Instructors in agriculture, business and office, community resource training program coordinator (CRT), distributive education=cooperative preparatory and preparatory specialist, diversified occupations, home economics related occupations (gainful), industrial co-op education (ICE) and trade and industrial, technical and health occupations must meet the following requirements:

(1) The requirements for the one-year certificate are as follows:

(a) Instructors must complete three years of gainful employment in the occupation beyond the learning period, two of which must have been within the past six years or for apprenticeable occupations, the minimum work experience will be equal to the learning period then currently registered with the state department of labor and industries, two years of which must have occurred during the last six years, except distributive education=cooperative preparatory and ICE which require one year in a supervisory or management position in a private business or industry within the six years prior to certification;

(b) Three quarter credits or the equivalent in the methods/elements of teaching the subject area to be taught prior to teaching;

(c) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or the equivalent in instructor-coordinator techniques for cooperative on-the-job instruction, or have equivalent experience as evaluated by the state program director of the program area before employment;

(d) Instructors are required to meet the general and specific safety and industrial hygiene and first aid requirements:

(2) The requirements for the three-year certificate are as follows:

(a) Instructors must have possessed a valid one-year vocational education certificate within the preceding two years;

(b) Vocational teaching experience of one hundred twenty hours under the previous one-year certificate is required;

(c) Instructors are required to have a total of nine quarter credits or the equivalent of approved vocational teacher training which must include elements/methods of teaching, occupational analysis and course organization/curriculum development for the program area, except distributive education=preparatory specialist which requires methods of teaching and principles and objectives of vocational education, and ICE which does not require teacher training;

(d) Instructors must complete three quarter credits or the equivalent of approved vocational teacher training since the last certificate, except distributive education=cooperative preparatory which requires three quarter credits or the equivalent of approved vocational teacher training, which must include a course in methods of teaching or an equivalent course in teaching techniques since the initial one-year certificate;

(e) Instructors must possess a valid first aid certificate:

(3) The requirements for the five-year certificate are as follows:

(a) Instructors must possess a valid three-year vocational certificate within the preceding two years;

(b) Vocational teaching experience of not less than two years is required during the life of the previous certificate;

(c) Instructors must complete a total of eighteen quarter credits or the equivalent of approved vocational teacher training which must include courses in:

(i) Methods/elements of teaching in the program area to be taught;

(ii) Occupational analysis in the program area;

(iii) Course organization/curriculum development in the program area;

(iv) Student leadership development techniques in the program area to be taught;

(v) Philosophy of vocational education;

(vi) State board of education prior approved three hundred clock hours of work experience or thirty clock hours of special technical upgrading workshops, except distributive education=cooperative preparatory and ICE

~~which require ninety clock hours of state board of education approved in-service teacher preparation since the three-year certificate;~~

~~(d) Instructors must complete three quarter credits or the equivalent of approved vocational teacher training since the previous certificate; except distributive education—cooperative preparatory which requires six quarter credits or the equivalent of state board of education approved distributive education subjects beyond the three-year certificate requirements;~~

~~(e) Instructors must possess a valid first aid certificate.) Prior to employment in an approved vocational program, a vocational instructor must be qualified to hold a credential in one of the designated program areas of: Agriculture, business, health occupations, trade and industrial occupations, home economics related occupations, marketing, and diversified occupations must meet the following requirements:~~

~~(1) To qualify for a credential in one of the program areas, an instructor must provide documentation of one of the following:~~

~~(a) Completion of an apprenticeship program receiving journey level according to rules and regulations established by the Washington state apprenticeship and training council.~~

~~(b) A valid license by the state of Washington to practice a particular occupation or profession.~~

~~(c) An associate degree or diploma issued by a community or technical college, which indicates the completion of a program for the same occupation as the program area credential.~~

~~(d) A recommendation by the local vocational education program advisory committee that the candidate possesses required knowledge and skills in a specific occupation which was determined following a review of the candidates credentials.~~

~~(2) The requirements for the two-year certificate are as follows:~~

~~(a) Each instructor shall have an individual professional growth plan which covers the time interval of the current certificate and which has been developed in consultation with and approved by the vocational director/administrator and/or designee. The plan shall be designed to meet program and instructor needs and be reviewed by the program advisory committee for recommendation. The individual professional growth plan shall list college credit, clock hour credit, gainful industry employment, and internships deemed appropriate to maintain and improve occupational and teaching competencies. The vocational director/administrator and/or designee shall maintain a file of all such plans. Such plans shall be reviewed annually by the vocational director/administrator and/or designee.~~

~~(b) Instructors must meet occupational experience as defined in WAC 180-77-003.~~

~~(i) The minimum occupational experience is three years (6000 hours) of gainful employment provided that one year (2000 hours) of that experience shall have been within the five years prior to application for the initial certificate.~~

~~(ii) Instructors may meet gainful employment requirements in selected occupations through work skill~~

competency performance related to subject area as identified by vocational educators and specialists in the field and by verification of one year (2000 hours) of gainful work experience within the five years prior to application for the initial certificate. The instructors work skill competencies are evaluated by a business and/or industrial employer utilizing the check list of competencies identified for the subject area occupation and be recommended by the local vocational education program advisory committee.

(c) Completion of three quarter credits or 30 clock hours in methods of teaching vocational subjects.

(d) An additional thirty-two quarter credits or 320 clock hours, or a combination thereof of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20). One hundred hours of occupational experience after the minimum requirement as defined in WAC 180-77-003(15) is approved for one quarter credit of approved teacher training.

(e) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(f) Instructors are required to meet the general safety and industrial hygiene and first aid CPR requirements.

(g) For the purposes of WAC 392-121-245 (4)(a) and 392-121-272 (4)(b) the minimum vocational certification requirements of a person meeting the vocational certification requirements of (a) through (f) of this subsection shall be deemed to have been met when the minimum occupational experience requirement of (b) of this subsection was met.

(3) The requirements for the three-year certificate are as follows:

(a) Each instructor shall have an individual professional growth plan as described in subsection (2)(a) of this section.

(b) Instructors are required to have an additional fifty quarter credits or 500 clock hours, or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20) which must include the following courses offered for three quarter credits or 30 clock hours each:

(i) Occupational analysis introduction to competency based curriculum;

(ii) Course organization;

(iii) Philosophy of vocational education;

(iv) Advanced competency based curriculum;

(v) Leadership techniques.

The above course offerings shall include concepts for developing competencies in working with special populations and equity issues. One hundred hours of gainful work experience in the subject area being taught is equivalent to technical upgrade of one quarter credit or 10 clock hours.

(c) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(d) Instructors must possess a valid first aid/CPR certificate.

(4) The three-year certificate may be renewed two times in the following manner:

(a) The first three-year renewal shall consist of:

(i) Each instructor shall have an individual professional growth plan as described in subsection (2)(a) of this section.

(ii) Instructors are required to have an additional twenty-five quarter credits or 250 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20) since the issuance of the previous three-year certificate. One hundred hours of gainful work experience in the subject area being taught is equivalent to technical upgrade of one quarter credit or 10 clock hours.

(iii) Vocational teaching experience of one year under the previous certificate is required.

(iv) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(v) Instructors must possess a valid first aid/CPR certificate.

(b) The second three-year renewal shall consist of:

(i) Each instructor shall have an individual professional growth plan as described in subsection (2)(a) of this section.

(ii) Instructors are required to have an additional twenty-five quarter credits or 250 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20) since the issuance of the previous three-year certificate. One hundred hours of gainful work experience in the subject area being taught is equivalent to technical upgrade of one quarter credit or 10 clock hours.

(iii) Vocational teaching experience of one year under the previous certificate is required.

(iv) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(v) Instructors must possess a valid first aid/CPR certificate.

(5) The requirements for a five-year certificate are as follows:

(a) Each instructor shall have an individual professional growth plan as described in subsection (2)(a) of this section.

(b) Instructors must have completed the requirements for the two-year, three-year, or three-year renewal certificates.

(c) Within the last five years, instructors must have completed additional nine quarter credits or 90 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20). One hundred hours of

gainful work experience in the subject area since the previous certificate is equivalent to technical upgrade of one quarter credit or ten clock hours. A maximum of 600 hours of gainful work experience in the occupation certified may be substituted for six of the nine quarter credits.

(d) Satisfactory completion of the one hundred thirty-five quarter credits and/or equivalency credits for placement on the MA+0 column of the state-wide salary allocation schedule.

(e) Vocational teaching experience of one year under the previous certificate is required.

(f) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(g) Instructors must possess a valid first aid/CPR certificate.

(6) The five-year certificate may be renewed every five years if the following criteria are met.

(a) Each instructor shall have an individual professional growth plan as described in subsection (2)(a) of this section.

(b) Within the last five years, instructors must have completed nine quarter credits or 90 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20). One hundred hours of gainful work experience in the subject area since the previous certificate is equivalent to technical upgrade of one quarter credit or 10 clock hours. A maximum of 600 hours of gainful work experience in the occupation certified may be substituted for six of the nine quarter credits.

(c) Vocational teaching experience of not less than two years is required during the life of the previous five-year certificate.

(d) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(e) Instructors must possess a valid first aid/CPR certificate.

AMENDATORY SECTION (Amending Order 11-78, filed 9/7/78)

WAC 180-77-045 SPECIFIC REQUIREMENTS FOR VOCATIONAL CERTIFICATION OF INSTRUCTORS FROM BUSINESS AND INDUSTRY. ((Those areas having specific requirements in addition to the general vocational requirements for a one-year certificate are as follows:

(1) Instructors of distributive education—cooperative and preparatory are required to have a course in the objectives, principles and/or philosophy of vocational education and twelve quarter credits or the equivalent of distributive education subjects or equivalent experience as evaluated by the state program director of distributive education;

(2) ICE instructors are required to have a course in the objectives, principles and/or philosophy of vocational education, a course in occupational analysis and a course

~~in leadership development.)~~ (1) Each instructor shall have an individual professional growth plan which covers the time interval of the current certificate and which has been developed in consultation with and approved by the vocational director/administrator and/or designee. The plan shall be designed to meet program and instructor needs and be reviewed by the program advisory committee for recommendation.

(2) The minimum occupational work experience of 6000 hours shall determine the specific program subject matter that the instructor is qualified to teach.

AMENDATORY SECTION (Amending Order 11-78, filed 9/7/78)

WAC 180-77-050 RENEWAL OF VOCATIONAL CERTIFICATION FOR INSTRUCTORS. Instructors in agriculture, business and office, community resource training program coordinators (CRT), distributive education, distributive education—cooperative preparatory and preparatory specialist, diversified occupations, home and family life (useful), home economics related occupations (gainful), home economics subject matter specialist (useful), home economics subject matter specialist (gainful), home economics related occupations, industrial co-op education (ICE), and trade and industrial, technical and health occupations must meet the following requirements for certification renewal:

(1) Instructors with a bachelor's degree must meet the following general requirements for certification renewal:

(a) The one-year certificate may be renewed two times;

(b) The three-year certificate may be renewed one time provided the instructor has:

(i) One year of teaching experience in the field certified to teach during the life of the previous certificate; except:

(A) Home and family life (useful), and home economics related occupations (gainful) which do not require teaching experience;

(B) Home economics subject matter specialist (useful and gainful) require vocational teaching experience during the life of the previous certificate in the home economics specialty area or the home economics related occupation.

(ii) Three quarter credits or the equivalent of approved vocational teacher training in the field certified to teach since the initial three-year certificate; except:

Home and family life (useful) and home economics related occupations (gainful) which do not require additional teacher training.

(iii) Instructors must possess a valid first aid certificate.

(c) The five-year certificate may be renewed every five years provided the following conditions are met; except home and family life (useful) and home economics related occupation (gainful):

(i) Two years of professional experience in the field certified to teach during the life of the five-year vocational certificate; except home economics subject matter specialist (useful and gainful) require teaching experience in the home and family life specialty or in the home

economics related occupation during the life of the previous certificate;

(ii) Six quarter credits or the equivalent of approved vocational teacher training which may include three quarter credits or the equivalent of technical upgrading or equivalent work experience prior approved by the state board of education since the previous certificate;

(iii) Instructors must possess a valid first aid certificate.

(d) Home and family life (useful) and home economics related occupations (gainful) require the following of the instructors for first renewal of the five-year vocational certificate:

(i) Forty-five quarter credits of state board of education approved professional and technical studies which include at least six quarter credits in home economics subject matter and/or home economics education beyond the requirements for the first five-year certificate; and

(ii) Vocational home and family life education teaching experience during the life of the preceding certificate.

(e) Home and family life (useful) and home economics related occupations (gainful) require the following of the instructors for second and subsequent renewals of the five-year vocational certificate:

(i) Within the five-year period immediately preceding the request for renewal, the instructor must have had teaching experience in home and family life education subjects or in the home economics related occupation (gainful);

(ii) Six quarter credits or the equivalent of professional education, including home economics and/or home economics education; and

(iii) Instructors must possess a valid first aid certificate.

(2) Instructors with a bachelor's degree must meet the following specific requirements in addition to the general requirements for certification renewal:

Those areas having specific requirements for renewal of the one-year certificate are as follows:

(a) Home economics subject matter specialist (useful and gainful) require that the one-year certificate may be renewed two times in the following manner:

(i) Instructors must have a course in principles and objectives of vocational education for the first renewal; and

(ii) Instructors are required to have three quarter credits or the equivalent of professional education in the discipline to be taught.

(b) Business and office instructors are required to have a course in objectives, principles and philosophies of vocational education in order that the one-year certificate be renewed.

(3) Instructors from business and industry must meet the following general requirements for certification renewal:

~~((a) The one-year certificate may be renewed two times in the following manner:~~

~~(i) The first renewal shall consist of:~~

~~(A) Three quarter credits or the equivalent of approved vocational teacher training since the initial certification which must include methods of teaching if not taken prior to initial certification; except CRT, distributive education—cooperative preparatory, diversified occupations, and ICE do not require the above; and~~

~~(B) Possession of a valid first aid certificate.~~

~~(ii) The second renewal shall consist of:~~

~~(A) Three quarter credits or the equivalent of vocational teacher training since the previous certificate, which must include curriculum development/course organization if not taken previously; except CRT, distributive education—cooperative preparatory, diversified occupations and ICE which do not require the above. Home economics related occupations (gainful) require three quarter credits or thirty additional clock hours of approved teacher training from courses listed under the five-year certificate; and~~

~~(B) Possession of a valid first aid certificate.~~

~~(b) The three-year certificate may be renewed one time in the following manner:~~

~~(i) Instructors must possess vocational teaching experience of one hundred twenty hours in the occupation certified to teach during the life of the previous certificate; except home economics related occupations (gainful);~~

~~(ii) Three quarter credits or the equivalent of approved vocational teacher training is required since the three-year certificate; and~~

~~(iii) Instructors are required to possess a valid first aid certificate.~~

~~(c) The five-year certificate may be renewed every five years if the following criteria are met:~~

~~(i) Instructors must have vocational teaching or supervisory experience of two years in the occupation certified to teach during the life of the previous certificate; except home economics related occupations (gainful) which requires vocational teaching experience in the home economics related occupation during the life of the previous certificate;~~

~~(ii) Instructors are required to have six quarter credits or the equivalent of approved vocational teacher training which may include three quarter credits or the equivalent of technical upgrading or three hundred hours of work experience, prior approved by the state board of education since the previous certificate; and~~

~~(iii) Instructors are required to possess a valid first aid certificate.~~

~~(4) Instructors from business and industry must meet the following specific requirements in addition to the general requirements for certification renewal:~~

~~Those areas having specific requirements for the first renewal of the one-year certificate are as follows:~~

~~(a) Home economics related occupations (gainful) require a course in curriculum development;~~

~~(b) Trade and industry, technical and health occupations require a course in Unit H, occupational analysis.))~~

~~(a) The three-year certificate may be renewed two times in the following manner:~~

~~(i) The first three-year renewal shall consist of:~~

(A) Each instructor shall have an individual professional growth plan as described in WAC 180-77-040 (2)(a).

(B) Instructors are required to have an additional twenty-five quarter credits or 250 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20) since the issuance of the previous three-year certificate. One hundred hours of gainful work experience in the subject area being taught is equivalent to technical upgrade of one quarter credit or 10 clock hours.

(C) Instructors must possess vocational teaching experience of one year in the occupation certified to teach during the life of the previous certificate.

(D) Instructors assigned to vocational program which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(E) Possession of a valid first aid/CPR certificate.

(ii) The second three-year renewal shall consist of:

(A) Each instructor shall have an individual professional growth plan as described in WAC 180-77-040 (2)(a).

(B) Instructors are required to have an additional twenty-five quarter credits or 250 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20) since the issuance of the previous three-year certificate. One hundred hours of gainful work experience in the subject area being taught is equivalent to technical upgrade of one quarter credit or 10 clock hours.

(C) Instructors must possess vocational teaching experience of one year in the occupation certified to teach during the life of the previous certificate.

(D) Instructors assigned to vocational program which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(E) Possession of a valid first aid/CPR certificate.

(b) The five-year certificate may be renewed every five years if the following criteria are met:

(i) Each instructor shall have an individual professional growth plan as described in WAC 180-77-040 (2)(a).

(ii) Within the last five years instructors must have completed nine quarter credits or 90 clock hours or a combination thereof, of provider approved professional education, professional experience, and/or technical/education upgrading as defined in WAC 180-77-003 (13), (14), and (20). One hundred hours of gainful work experience in the subject area since the previous certificate is equivalent to technical upgrade of one quarter credit or ten clock hours. A maximum of 600 hours of gainful work experience in the occupation certified may be substituted for six of the nine quarter credits.

(iii) Instructors must possess vocational teaching experience of not less than two years during the life of the previous five-year certificate.

(iv) Instructors assigned to vocational programs which involve cooperative education methods must complete three quarter credits or 30 clock hours in coordination techniques for cooperative education.

(v) Possession of a valid first aid/CPR certificate.

AMENDATORY SECTION (Amending Order 11-78, filed 9/7/78)

WAC 180-77-065 VOCATIONAL CERTIFICATION REINSTATEMENT REQUIREMENTS FOR EXTENDED ABSENCE FROM SUBJECT AREA OF VOCATIONAL EDUCATION FOR SIX YEARS OR MORE. Instructors in agriculture, business and office, CRT, distributive education, diversified occupations, home economics related occupations (gainful), ICE and trade and industrial, technical and health occupations are required to meet the following:

Teachers returning to the profession need a minimum of three quarter credits or the equivalent of approved teacher training in the program area within the last five years to reinstate the vocational certificate last held, except home and family life (useful) which requires candidates who have completed an approved program for training vocational teachers and have not taught for ten years or more must complete a total of twelve quarter credits or the equivalent including home economics education and subject matter courses to qualify for the five-year vocational certificate. A one-year certificate can be issued upon completion of three quarter credits of the above requirements.

NEW SECTION

WAC 180-77-100 PART-TIME VOCATIONAL CERTIFICATE FOR INSTRUCTORS FROM BUSINESS AND INDUSTRY. Notwithstanding other requirements prescribed in this chapter for eligibility for vocational certification in the state of Washington, the part-time vocational certificate shall be issued under specific circumstances set forth below for limited service:

(1) The issuance of the part-time certificate is limited to:

(a) Persons whose contract is no greater than .5 of a full-time equivalent instructor.

(b) Persons highly qualified and experienced in the knowledge and occupational skills of the vocational program to be certified.

(c) Persons who meet the general requirements for vocational certification from business and industry pursuant to WAC 180-77-040 (1)(a) through (d) and (2)(f).

(d) Persons who are employed in a vocationally approved program.

(2) The certificate is issued to individuals who are screened by the local vocational director/administrator and school district superintendent or designee. The local vocational director/administrator or superintendent will verify that the following criteria have been met when requesting the part-time vocational certificate:

(a) No person with vocational certification in the field is available as verified by the local vocational director/administrator or superintendent;

(b) The individual is being certified for a limited assignment and responsibility in a specified vocational program area;

(c) 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;

(d) The vocational director/administrator and local program advisory committee 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; and

(e) A written work and/or educational experience training plan has been provided.

(3) The certificate is valid for one year and only for the teaching area specified on the certificate. The certificate may be reissued on application and evidence that requirements continue to be met.

NEW SECTION

WAC 180-77-105 GRANDFATHER CLAUSE FOR CURRENT VOCATIONAL CERTIFIED TEACHERS FROM BUSINESS AND INDUSTRY. Any person who holds a current vocational certificate under chapter 180-77 WAC prior to August 31, 1992, has the option to continue being vocationally certified under chapter 180-77 WAC adopted September 7, 1978, or follow the new WAC 180-77-040 revised January 1992 by the state board of education. Any person who allows their certificate to lapse as defined in WAC 180-85-040, must renew the certificate under the current chapter 180-77 WAC in effect at time of reapplication.

NEW SECTION

WAC 180-77-110 VOCATIONAL INSTRUCTOR CERTIFICATION RECIPROCITY. The superintendent of public instruction will recognize community and technical college instructors certified under WAC 131-16-091 through 131-16-095 when these individuals provide instruction to high school students. These instructors must maintain their certification in good standing and, if teaching students sixteen years of age or younger, shall be required to have completed and have on file a background check at the applicant's expense through the Washington state patrol criminal identification system.

WSR 92-05-040

NOTICE OF PUBLIC MEETINGS EDMONDS COMMUNITY COLLEGE

[Memorandum—February 12, 1992]

Thursday, February 14, 1992

Lynnwood Hall, Room 424

2:00 - 4:00

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 92-05-041
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed February 13, 1992, 8:07 a.m.]

Date of Adoption: February 13, 1992.

Purpose: To clarify rules relating to nursing services and attendant care.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-01002, 296-21-091, and 296-23-50001.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Pursuant to notice filed as WSR 91-24-090 on December 4, 1991.

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

February 13, 1992

Joseph A. Dear
 Director

AMENDATORY SECTION (Amending WSR 90-14-009, filed 6/25/90, effective 8/1/90)

WAC 296-20-01002 DEFINITIONS. TERMINATION OF TREATMENT: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

UNUSUAL OR UNLISTED PROCEDURE: Value of unlisted services or procedures should be substantiated "by report" (BR).

"BY REPORT": BR (by report) in the value column indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative or narrative report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Major surgical procedure and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to this schedule;
- (5) Estimated follow-up;
- (6) Operative time.

The department or self-insurer may adjust BR procedures when such action is indicated.

"INDEPENDENT OR SEPARATE PROCEDURE": Certain of the listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

SV. ITEMS: Sv (service) procedures are not essentially a single procedure, rather they are comprised of several other procedures. These "Sv" procedures although identified by a specific code number, can be described only in terms of the several services included. Therefore, unit values are not indicated for Sv procedures and total value is derived from the values of the individual services performed. These Sv procedures require "BR" (see above) information to substantiate billing.

MODIFIED WORK STATUS: The injured worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. Injured workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

REGULAR WORK STATUS: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

TOTAL TEMPORARY DISABILITY: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

TEMPORARY PARTIAL DISABILITY: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary.

ALL TIME LOSS COMPENSATION MUST BE CERTIFIED BY THE ATTENDING DOCTOR BASED ON OBJECTIVE FINDINGS.

PERMANENT PARTIAL DISABILITY: Any anatomic or functional abnormality or loss after maximum rehabilitation has been achieved, which is determined to be stable or nonprogressive at the time the evaluation is made. When the attending doctor has reason to believe a permanent impairment exists, the department or self-insurer should be notified. Specified disabilities (amputation or loss of function of extremities, loss of hearing or vision) are to be rated utilizing a nationally recognized impairment rating guide. Unspecified disabilities (internal injuries, spinal injuries, mental health, etc.) are to be rated utilizing the category system detailed under WAC 296-20-200 et al. for injuries occurring on or after October 1, 1974. Appendix D contains a schedule of the permanent disability maximum awards. UNDER WASHINGTON LAW DISABILITY AWARDS ARE BASED SOLELY ON PHYSICAL OR MENTAL IMPAIRMENT DUE TO THE ACCEPTED INJURY OR CONDITIONS WITHOUT CONSIDERATION OF ECONOMIC FACTORS.

TOTAL PERMANENT DISABILITY: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

FATAL: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location (see Appendix C) or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

DOCTOR: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; drugless therapeutics; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and time loss cards except as provided in WAC 296-20-100.

HEALTH SERVICES PROVIDER OR PROVIDER: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, drugless therapeutics, and durable medical equipment dealers.

PRACTITIONER: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; and massage therapy.

PHYSICIAN: For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

ACCEPTANCE, ACCEPTED CONDITION: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

AUTHORIZATION: Notification by a qualified representative of the department or self-insurer that specific medically necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

MEDICALLY NECESSARY: Those health services are medically necessary which, in the opinion of the director or his or her designee, are:

- (a) Proper and necessary for the diagnosis and curative or rehabilitative treatment of an accepted condition; and
- (b) Reflective of accepted standards of good practice within the scope of the provider's license or certification; and
- (c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and
- (d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered medically necessary. Services which are controversial, obsolete, experimental, or investigational are presumed not to be medically necessary, and shall be authorized only as provided in WAC 296-20-03002(6).

UTILIZATION REVIEW: The assessment of a claimant's medical care to assure that it is medically necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

EMERGENT HOSPITAL ADMISSION: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the worker's health or treatment outcome.

NONEMERGENT (ELECTIVE) HOSPITAL ADMISSION: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may

be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

ATTENDANT CARE: Those personal care services that assist a worker with dressing, feeding, and personal hygiene to facilitate self-care and are provided in order to maintain the worker in their place of temporary or permanent residence consistent with their needs, abilities, and safety. These services may be provided by but are not limited to, registered nurses, licensed practical nurses, registered nursing assistants, and other individuals such as family members.

HOME NURSING: Those nursing services that are medically necessary to maintain the worker in their place of temporary or permanent residence consistent with their needs, abilities, and safety. These services may be provided by but are not limited to, home health care, and hospice agencies on either an hourly or intermittent basis.

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

WAC 296-20-091 ((PRIVATE ROOM INTENSIVE CARE SPECIAL OR HOME NURSES)) HOME NURSING OR ATTENDANT CARE.

((When the worker's condition is such that he requires special nurses, a private room or intensive care, the attending doctor may order these services, subject to later department or self-insurer approval of the claim without prior authorization. The department or self-insurer should be notified immediately by collect telephone.

RCW 51.32.060 provides attendant care for injured workers on total permanent disability pension when such injured worker is so "physically helpless as to be unable to care for his personal needs." However, prior to total permanent disability determination some other workers, i.e., paraplegic, quadriplegic, double amputees, multiple fractures, etc. may either temporarily or permanently require special or attendant (home nurse) care.

When the attending doctor has reason to believe such care is needed the following information must be submitted in addition to basic report requirements outlined in WAC 296-20-035:

(1) Description of special/home nurse care required to include estimated time required i.e., catheterization, 3 times per day =30 minutes; bathing, 2 times per day =one hour; toilet transfers =as needed; dressing change, 4 times per day =two hours.

(2) Skill level or special training required to administer care i.e., RN; LPN; family member who has received special training; no special training required.

(3) If known, name and address of person willing to provide care.

(4) Length of time special/home nurse care will be required.

Approval of fees) A worker temporarily totally disabled or permanently totally disabled may either temporarily or permanently require home nursing or attendant care. A physician's request and prior department authorization are required for home ((nurse/)) nursing and attendant care ((is negotiable based upon care provided, and level of training of provider)).

~~((In addition, the department or self-insurer may authorize and pay for visiting nurse care necessary for evaluation or instruction of home health care provider.))~~
Home health, hospice, and home care agency providers shall be licensed.

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

WAC 296-23-50001 NURSING SERVICES AND ATTENDANT CARE. See WAC 296-20-091 for qualifications. ~~((Specify skill level and hours of service.~~

- ~~M-0855 Professional nurse services~~
- ~~M-0856 Nonprofessional attendant care~~
- ~~M-0877 Home health office call~~
- ~~M-0878 Home health aide care~~
- ~~M-0879 Visiting nurse call~~
- ~~M-1200 Home health=nurse visit, agency based~~
- ~~M-1201 Home health=physical therapy, agency based~~
- ~~M-1202 Home health=occupational therapy, agency based~~
- ~~M-1203 Home health=speech therapy, agency based~~
- ~~M-1204 Home health=aide visit, agency based~~
- ~~M-1210 Home health=nurse visit, free standing~~
- ~~M-1211 Home health=physical therapy, free standing~~
- ~~M-1212 Home health=occupational therapy, free standing~~
- ~~M-1213 Home health=speech therapy, free standing~~
- ~~M-1214 Home health=aide visit, free standing~~
- ~~M-3333 Visiting nurse=Physical therapy~~
- ~~M-4444 Visiting nurse=Occupational therapy~~
- ~~M-5555 Visiting nurse=Speech therapy~~
- ~~M-8900 Special duty nurse=RN=First shift~~
- ~~M-8901 Special duty nurse=RN=Second shift~~
- ~~M-8902 Special duty nurse=RN=Third shift~~
- ~~M-8903 Special duty nurse=RN=Partial shift~~
- ~~M-8904 Special duty nurse=LPN=First shift~~
- ~~M-8905 Special duty nurse=LPN=Second shift~~
- ~~M-8906 Special duty nurse=LPN=Third shift~~
- ~~M-8907 Special duty nurse=LPN=Partial shift~~
- ~~M-8908 Special duty nurse=RN=Holiday~~
- ~~M-8909 Special duty nurse=LPN=Holiday~~
- ~~M-8999 Unlisted nursing or attendant service.))~~

The maximum fee is determined by multiplying the unit value for the service by the conversion factor for drug-less therapeutics.

unit value

HOME NURSING HOURLY SERVICES

M0878 hourly home health aide care (one hour) ..	10.7
M8900 hourly RN care (one hour)	22.2
M8904 hourly LPN care (one hour)	17.0

HOME NURSING INTERMITTENT SERVICES

M1200 home health=nurse (RN, LPN) visit (per day)	61.5
M1201 home health=physical therapy visit (per visit)	61.5
M1202 home health=occupational therapy visit (per visit)	63.7

	<u>unit value</u>
M1203 home health-speech therapy visit (per visit)	63.7
M1204 home health-aide visit (per day)	35.5
M1215 home health-nurse (RN, LPN) each additional visit (per day)	25.9
M1216 Independent nursing evaluation requested by the department or self-insurer	BR

ATTENDANT CARE SERVICES

M0856 attendant care (This code is to be used by the self-employed nonagency provider, fee set by the department based on skill level.) BR

OTHER

M0855 nursing home, group home, boarding home services BR

M0857 head injury rehabilitation services BR

M8999 unlisted nursing or attendant service BR

WSR 92-05-042
PROPOSED RULES
DEPARTMENT OF
GENERAL ADMINISTRATION
 [Filed February 13, 1992, 8:35 a.m.]

Original Notice.

Title of Rule: WAC 236-48-190 Surplus property disposal priorities.

Purpose: To incorporate the donation of state surplus property to qualified homeless shelters as an additional priority; and to add donation as another means of conveyance of such property.

Statutory Authority for Adoption: HB 2106 and RCW 43.19.1919.

Statute Being Implemented: HB 2106.

Summary: The proposed rule reorders the priorities as to who is offered surplus property for sale or transfer; adds donation as another means of conveying state surplus property and adds as the fourth priority, shelters that are participants in the Department of Community Development's emergency shelter assistance program.

Reasons Supporting Proposal: In passing HB 2106, the state legislature recognizes that there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment. Also, nonprofit organizations and units of local government that provide shelter and other assistance are finding it difficult to meet the increasing demand for such assistance. In addition, agencies and institutions of state government who generate a significant quantity of surplus, tangible, personal property could assist by donating items "germane" to the needs of homeless individuals. Thus, HB 2106 allows the state to donate its surplus properties that are germane to the needs of such shelters serving homeless individuals.

Name of Agency Personnel Responsible for Drafting: Vicki J. Toyohara, Division of Support Services, 218 General Administration Building, Olympia, (206) 753-4243; Implementation: Neil House, Division of Commodity Redistribution, 2805 C Street S.W., Auburn,

(206) 931-3933; and Enforcement: Michael Levenson, Division of Commodity Redistribution, 2805 C Street S.W., Auburn, (206) 931-3959.

Name of Proponent: Washington State Department of General Administration, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 236-48-190 currently allows for sale or transfer of state surplus personal property to the following groups in priority order: State agencies, governmental entities, private nonprofits, and general public. The implement of HB 2106 would reorder these priorities by making "donation" fourth priority and placing the "general public" as fifth priority. The purpose of changing WAC 236-48-190 is to allow for the "donation" of surplus personal property to shelters which are participants in the Department of Community Development's emergency shelter program. The property donated would be "germane" to the needs of homeless individuals and to the purpose of the shelter. The effect of the proposed rules would be better utilization of surplus personal state property; increased properties available to qualified shelters who can thus better meet the basic needs of homeless individuals.

Proposal Changes the Following Existing Rules: Adds donation as another means of conveying excess state property, reorders the priorities for the sale or transfer of state surplus, and adds as a fourth priority the donation of state surplus personal property to qualified emergency shelter programs.

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

Hearing Location: Department of General Administration, 218 General Administration Building, 1st Floor Auditorium, 11th and Columbia Street, Olympia, WA 98504, on March 26, 1992, at 11:00 a.m.

Submit Written Comments to: Michael Levenson, Assistant Director, Division of Commodity Redistribution, 2805 C Street S.W., Building 5, Door 49, Auburn, WA 48001, by March 26, 1992, 5:00 p.m.

Date of Intended Adoption: April 3, 1992.

February 7, 1992
Michael Levenson
Assistant Director

AMENDATORY SECTION (Amending Order 77-2, filed 1/28/77)

WAC 236-48-190 SURPLUS PROPERTY DISPOSAL PRIORITIES. Excess and/or surplus property will be offered for sale ((or)), transfer, or donation as designated below and according to the following priorities:

- (1) Sale or transfer to state agencies (including state universities and colleges);
- (2) Sale or transfer to other tax-supported educational agencies;
- (3) Sale or transfer to tax-supported agencies, municipalities or political subdivisions within the state of Washington;
- (4) Donation of surplus, tangible personal property to qualified shelters as described in and in accordance with RCW 43.19.1920.
- (5) Sale to the general public including by auction, sealed bid and negotiation;
- ((5)) (6) Other action as needed, ((e.g.)) such as destruction where it has been determined that the item has no sale value.

WSR 92-05-043
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 13, 1992, 10:45 a.m.]

Original Notice.

Title of Rule: WAC 388-49-500 Homeless shelter deduction.

Purpose: This rule amendment implements a new federal food stamp rule. The new WAC section provides a \$128 shelter cost in lieu of actual expenses for certain homeless households. In addition, the new rules mandate new verification rules for homeless households incurring actual expenses exceeding the new shelter cost in order to claim such expenses.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: This amendment announces new WAC rules authorizing a shelter deduction for households comprised entirely of homeless persons for the duration of the benefit month. Rules to be filed for emergency adoption effective February 15, 1992.

Reasons Supporting Proposal: The Department of Agriculture, Food and Nutrition Service, issued new regulations concerning shelter deductions for homeless households.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Division of Income Assistance, 585-8326 [586-8326].

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

Rule is necessary because of federal law, 7 CFR 273.9 (d)(5)(i).

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 24, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by March 24, 1992.

Date of Intended Adoption: April 7, 1992.

February 13, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3292, filed 11/19/91, effective 12/20/91)

WAC 388-49-500 INCOME—DEDUCTIONS. (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred twenty-two dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed one hundred sixty dollars per dependent when care is necessary for a household member to:

(i) Seek, accept, or continue employment; or

(ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred by an elderly or disabled household member;

(e) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, and dependent care deductions. The shelter deduction shall not exceed one hundred ninety-four dollars; and

(f) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) A household's shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if the:

(i) Household intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs. A household may incur a separate utility charge when the household:

(i) Has not yet received a billing for utilities;

(ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or

(iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard allowance.

(d) Actual utility costs rather than the standard utility allowance if the household is:

(i) Not entitled to the standard utility allowance; or

(ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

(e) A shelter amount of one hundred twenty-eight dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

(i) Monthly shelter costs no greater than one hundred twenty-eight dollars; or

(ii) Unverified shelter costs exceeding one hundred twenty-eight dollars.

(3) A household may switch between actual utility costs and the standard utility allowance:

(a) At each recertification; and

(b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

(a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;

(b) Receive food stamps as a nonassistance household until becoming categorically eligible; or

(c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

(a) Reimbursement; or

(b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

(6) The department shall verify:

(a) Dependent care costs including changes, except in prospective budgeting; and

(b) Medical expenses and the reimbursement amounts resulting in a deduction:

(i) At recertification, if the amount has changed more than twenty-five dollars; and

(ii) On a monthly basis for a household subject to monthly reporting.

(c) Actual shelter costs for homeless households when such costs exceed the amount in subsection (2)(e) of this section.

(i) All household members are homeless individuals according to WAC 388-49-020(36) for the entire month; and

(ii) Such costs exceed the amount in subsection (1)(g) of this section.

(7) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction, except in prospective budgeting.

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 92-05-044
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 13, 1992, 10:48 a.m.]

Original Notice.

Title of Rule: WAC 388-49-110 Verification.

Purpose: This rule amendment complies with new federal regulations that require a shelter standard for homeless individuals. Costs claimed in excess of the shelter standard for homeless individuals must be verified.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: This rule amendment includes verification of shelter costs in excess of the homeless household shelter standard as a required verification.

Reasons Supporting Proposal: New federal regulations require a shelter standards for homeless household. Homeless households who want to claim shelter costs in excess of homeless shelter standard must verify shelter costs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana Beck, Division of Income Assistance, 585-8308 [586-8308].

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

Rule is necessary because of federal law, 7 CFR 273.9.

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.

Increase in food coupon allotment is totally funded by federal dollars.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on March 24, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by March 24, 1992.

Date of Intended Adoption: April 7, 1992.

February 13, 1992
 Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3098, filed 11/20/90, effective 12/21/90)

WAC 388-49-110 VERIFICATION. (1) The department shall verify household eligibility from the following sources:

- (a) Documentary evidence;
- (b) Collateral contacts; and
- (c) Scheduled home visits.

(2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.

(3) At initial application, the department shall verify:

- (a) Identity of:
 - (i) The person making the application; or
 - (ii) The authorized representative and the head of household.
- (b) Immigration status of all alien household members;
- (c) Residency;
- (d) Gross nonexempt income;

(e) ~~((Actual))~~ Actual utility expenses in excess of the standard utility allowance as specified in WAC 388-49-505;

(f) Medical care expenses as specified under WAC 388-49-500 (6)(b) and (7);

(g) Dependent care expenses as specified under WAC 388-49-500 (6)(a);

(h) Disability; ~~((and))~~

(i) Resources of an alien's sponsor; and

(j) Actual shelter costs for households where all members are homeless as specified under WAC 388-49-020(36), if the shelter costs exceed the shelter amount as specified under WAC 388-49-500.

(4) At recertification, the department shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed.

(5) The department shall verify for monthly reporting households the following factors on a monthly basis:

- (a) Gross nonexempt income;
- (b) Utility expenses unless the standard utility allowance is used;
- (c) Medical expenses per WAC 388-49-500(6);
- (d) Alien status, Social Security number, residency, and citizenship if changed;
- (e) All other questionable information.
- (6) The department shall verify questionable information.

WSR 92-05-045
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 13, 1992, 10:51 a.m., effective February 14, 1992, 12:01 a.m.]

Date of Adoption: February 13, 1992.

Purpose: This rule amendment implements a new federal food stamp rule. It provides a \$128 shelter cost in lieu of actual expenses for certain homeless households. It mandates new verification rules for homeless households incurring actual expenses exceeding shelter costs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-500 Homeless shelter deduction.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: 7 CFR 273.9 (e)(5)(i).

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

Reasons for this Finding: The Department of Agriculture, Food and Nutrition Service, issued new regulations concerning shelter deductions for homeless households.

Effective Date of Rule: February 14, 1992, 12:01 a.m.

February 13, 1992

Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 3292, filed 11/19/91, effective 12/20/91)

WAC 388-49-500 INCOME—DEDUCTIONS.

(1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred twenty-two dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed one hundred sixty dollars per dependent when care is necessary for a household member to:

(i) Seek, accept, or continue employment; or

(ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred by an elderly or disabled household member;

(e) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, and dependent care deductions. The shelter deduction shall not exceed one hundred ninety-four dollars; and

(f) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) A household's shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if the:

(i) Household intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs. A household may incur a separate utility charge when the household:

(i) Has not yet received a billing for utilities;

(ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or

(iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard allowance.

(d) Actual utility costs rather than the standard utility allowance if the household is:

(i) Not entitled to the standard utility allowance; or

(ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

(e) A shelter amount of one hundred twenty-eight dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

(i) Monthly shelter costs no greater than one hundred twenty-eight dollars; or

(ii) Unverified shelter costs exceeding one hundred twenty-eight dollars.

(3) A household may switch between actual utility costs and the standard utility allowance:

(a) At each recertification; and

(b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

(a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;

(b) Receive food stamps as a nonassistance household until becoming categorically eligible; or

(c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

(a) Reimbursement; or

(b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

(6) The department shall verify:

(a) Dependent care costs including changes, except in prospective budgeting; and

(b) Medical expenses and the reimbursement amounts resulting in a deduction:

(i) At recertification, if the amount has changed more than twenty-five dollars; and

(ii) On a monthly basis for a household subject to monthly reporting.

(c) Actual shelter costs for homeless households when such costs exceed the amount in subsection (2)(e) of this section.

(i) All household members are homeless individuals according to WAC 388-49-020(36) for the entire month; and

(ii) Such costs exceed the amount in subsection (1)(g) of this section.

(7) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction, except in prospective budgeting.

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 92-05-046
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed February 13, 1992, 10:53 a.m., effective February 14, 1992,
 12:01 a.m.]

Date of Adoption: February 13, 1992.

Purpose: This rule amendment complies with new federal regulations that require a shelter standard for homeless individuals. Costs claimed in excess of the shelter standard for homeless individuals must be verified.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-49-110 Verification.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: 7 CFR 273.9.

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

Reasons for this Finding: New federal regulations require a shelter standard for homeless household. Homeless households who want to claim shelter costs in excess of homeless shelter standard must verify shelter costs.

Effective Date of Rule: February 14, 1992, 12:01 a.m.
 February 13, 1992

Leslie F. James, Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3098,
 filed 11/20/90, effective 12/21/90)

WAC 388-49-110 VERIFICATION. (1) *The department shall verify household eligibility from the following sources:*

- (a) *Documentary evidence,*
- (b) *Collateral contacts; and*
- (c) *Scheduled home visits.*

(2) *The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.*

(3) *At initial application, the department shall verify:*

(a) *Identity of:*

- (i) *The person making the application; or*
- (ii) *The authorized representative and the head of household.*

(b) *Immigration status of all alien household members;*

(c) *Residency;*

(d) *Gross nonexempt income;*

(e) *((~~f~~Actual)) Actual utility expenses in excess of the standard utility allowance as specified in WAC 388-49-505;*

(f) *Medical care expenses as specified under WAC 388-49-500 (6)(b) and (7);*

(g) *Dependent care expenses as specified under WAC 388-49-500 (6)(a);*

(h) *Disability, ((and))*

(i) *Resources of an alien's sponsor, and*

(j) Actual shelter costs for households where all members are homeless as specified under WAC 388-49-020(36), if the shelter costs exceed the shelter amount as specified under WAC 388-49-500.

(4) *At recertification, the department shall verify a change in income, medical expenses, or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed.*

(5) *The department shall verify for monthly reporting households the following factors on a monthly basis:*

(a) *Gross nonexempt income;*

(b) *Utility expenses unless the standard utility allowance is used;*

(c) *Medical expenses per WAC 388-49-500(6);*

(d) *Alien status, Social Security number, residency, and citizenship if changed;*

(e) *All other questionable information.*

(6) *The department shall verify questionable information.*

WSR 92-05-047

PERMANENT RULES
STATE BOARD
OF EDUCATION

[Filed February 13, 1992, 11:07 a.m.]

Date of Adoption: January 24, 1992.

Purpose: To provide an opportunity for waiver of program hour and classroom teacher contact hour requirements for school districts with a restructuring plan.

Citation of Existing Rules Affected by this Order:
 Amending WAC 180-16-200 and 180-16-205.

Statutory Authority for Adoption: RCW 28A.150.220 and [28A.150.]260.

Pursuant to notice filed as WSR 92-01-124 on December 19, 1991.

Changes Other than Editing from Proposed to Adopted Version: Changed WAC 180-16-200 (8)(a)(v) and 180-16-205 (5)(a)(v) by requiring a resolution rather than "evidence" to provide a specific measurement instead of a subjective judgment.

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

February 11, 1992

Dr. Monica Schmidt

Executive Director/Secretary

AMENDATORY SECTION (Amending Order 15-86,
 filed 10/7/86)

WAC 180-16-200 TOTAL PROGRAM HOUR OFFERING—BASIC SKILLS AND WORK SKILLS REQUIREMENTS—WAIVER. (1) **Total program hour offering—Definition.**

(a) Each school district shall make available to students enrolled at least a total program hour offering as set forth in subsections (2) through (6) of this section. For the purpose of this section, "total program hour offering" shall mean those hours of sixty minutes each, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned

and scheduled by the district for purposes of discussing students' educational needs or progress—exclusive of time actually spent for eating lunchtime meals—when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district.

For special education/handicapped programs operating in separate facilities in a school district, do not exclude the time actually spent for eating lunchtime meals if that time is specifically identified and utilized as instructional meal training for each student in the program.

(b) Adjustments of program hour offerings between grade level groupings. Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in subsections (2) through (6) of this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction.

(c) Each school district shall make available to students enrolled at least an instructional hour offering as set forth in subsections (3) through (6) of this section. For the purpose of this section, "instructional hour offering" shall mean those hours of sixty minutes each—exclusive of recess time, passing time, total lunch intermission time, and noncountable release time on early dismissal days—when students are provided the opportunity to engage in the basic skills and/or work skills offered by and under the direction of school district staff, as directed by the administration and board of directors of the district.

(d) A school district has "provided the opportunity to engage in" the basic skills and work skills activities required by this section when the district actually conducts basic skills and work skills instruction for students. If a district is not actually conducting the percentage(s) of basic skills and/or work skills required by this section, such district nevertheless shall be deemed to be in compliance with such requirements if such district's instructional time offered to students in basic skills and work skills instruction equals or exceeds the minimum instructional hour requirements in each grade level grouping as specified in subsections (3) through (6) of this section. A school district that makes a reasonable and good faith effort through the first day of the school term to provide students the opportunity to take the section(s) or course(s) necessary to comply with the basic skills and work skills percentages, as specified in subsections (3) through (6) of this section and no student enrolled in such section(s) or course(s), may count that section(s) or course(s) toward the total basic skills and work skills percentages offered to students that term. Each of the basic skills areas specified in subsections (2) through (6) of this section for a particular grade level grouping must be offered each school year to students at one or more of the grade levels within the particular grade level grouping. Instruction in at least one of the following work

skills must be offered each school year to students at one or more of the grade levels within each of the grade level groupings specified in subsections (5) and (6) of this section: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.

(e) Five percent variation—Basic skills and work skills requirements. A school district may establish minimum course mix percentages that deviate within any grade level grouping by up to five percentage points above or below the minimums established by subsections (3) through (6) of this section, provided the total program hour offering requirement for the grade level grouping is met.

(2) Kindergarten. Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours each school year. The program shall include reading, arithmetic, language skills and such other subjects and activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program.

(3) Grades 1 through 3. Each school district shall make available to students in grades one through three at least a total program hour offering of two thousand seven hundred hours each school year. A minimum of ninety-five percent (ninety percent with the five percent variation included, or 2,430 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(4) Grades 4 through 6. Each school district shall make available to students in grades four through six at least a total program offering of two thousand nine hundred seventy hours each school year. A minimum of ninety percent (eighty-five percent with the five percent variation included, or 2,524.5 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(5) Grades 7 through 8. Each school district shall make available to students in grades seven through eight at least a total program hour offering of one thousand nine hundred eighty hours each school year. A minimum of eighty-five percent (eighty percent with the five percent variation included, or 1,584 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of reading/language

arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent (five percent with the five percent variation included, or 99 instructional hours) of the total program offerings shall be in the instruction of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades.

(6) Grades 9 through 12.

(a) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours each school year. A minimum of sixty percent (fifty-five percent with the five percent variation included, or 2,376 instructional hours) of such total program hour offerings shall be in the instruction of the basic skills areas of language arts, foreign language, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent (fifteen percent with the five percent variation included, or 648 instructional hours) of the total program hour offerings shall be in the instruction of work skills. The remainder of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades: PROVIDED, That, whether or not the five percent deviations in course mix percentages allowed by subsection (2)(d) of this section are applied, not less than four hundred and thirty-two instructional hours (i.e., ten percent of the total program hour requirement) of such remaining instructional hours shall consist of basic skills and/or work skills: PROVIDED, That any program hours and/or instructional hours not achieved due to the implementation of WAC 180-16-215(4) relating to students graduating from high school, shall not be deducted from the total program hours calculated.

(b) Grade nine option. Each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours. Each school district shall state which option is in use when providing compliance documentation to the superintendent of public instruction.

(7) Basis and means for determining compliance with basic skills and work skills percentage requirements.

(a) Each school district shall adopt a written policy and procedure for establishing the basis and means for determining and monitoring compliance with the basic skills and work skills percentages, the course requirements and instructional hour minimums as established by this section. Written documentation of such annual determinations and monitoring activities shall be maintained on file by each school district.

(b) Handicapped education programs, vocational-technical institute programs, state institution, state residential school programs and alternative education programs where students are provided access to the basic skills/work skills offered in the regular program, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) WAIVER OPTION.

(a) A district, desiring to implement a local plan to provide an effective educational system to enhance the educational program for all students, may apply for a waiver from the provisions of subsections (2) through (6) of this section, pertaining to the total program hour offerings requirement and the basic skills/work skills percentages/instructional hours requirement. The state board of education ~~((shall))~~ may grant said waiver ~~((if the district demonstrates the need for the waiver by meeting the procedural criteria as specified in (b) and (c) of this subsection))~~. Approval of district waivers shall occur at the November/December or March state board of education meeting prior to ~~((the school year when))~~ implementation ~~((is to commence. Each approval shall be valid for three school years and may be renewed for additional three-year periods based on the criteria as specified in (d) of this subsection.~~

~~(b) ESTABLISHMENT OF NEED. When a district wishes a deviation from subsections (2) through (6) of this section, it shall create an ad hoc committee to review the proposed deviation(s) as a basis for its inclusion in the local plan. The ad hoc committee shall be comprised of at least one district classroom teacher, one district administrator, one district school board member, one district secondary student and two parents who are not employees of the district. Districts may use an existing committee for this purpose if it includes the same makeup of participating members.~~

~~(i) The ad hoc committee shall meet to develop the local plan to provide an effective educational system to enhance the educational program for all students. The plan cannot benefit only a particular group or grade level in the district, but must apply to all students in the district.~~

~~(ii) The local plan shall identify:~~

~~(A) The basic education program requirements that need to be waived;~~

~~(B) A rationale that addresses the need for waiving the identified basic education program requirements;~~

~~(C) The goals and objectives of the effective educational system; and~~

~~(D) The anticipated results and outcomes of the effective educational system.~~

~~(iii) The ad hoc committee shall give sufficient opportunity to the community, through public notice and open public meetings, to give input into the development of the local plan.~~

~~(iv) The appointed representative of the ad hoc committee shall present the plan to the board of directors,~~

the board shall provide an opportunity for testimony and review, and the board shall then take action on the plan.

~~(c))~~ for school districts or individual schools within a district who submit a plan for restructuring of the educational program that includes:

(i) A description of the relationship between the requested waiver and expected student achievement;

(ii) Specific standards for increased student learning that the district expects to achieve;

(iii) How the higher standards are to be achieved, including timelines for implementation;

(iv) How the district plans to assess achievement;

(v) A resolution adopted by the board of directors which states that the teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan; and opportunities were provided for parents and citizens to be involved in the development of the plan.

(b) APPLICATION PROCEDURE.

~~((i))~~ A district, upon the adoption of a local plan to provide an effective educational system, shall make application to the superintendent of public instruction. Accompanying the application form shall be the local plan documentation that identifies the basic education program requirements to be waived and the rationale, the goals and objectives of the effective educational system; and, the anticipated results and outcomes that the plan will achieve. In addition, evidence of the ad hoc committee meetings and verification of the board of director's adoption of the local plan shall be included in the application process.

~~((ii))~~ The application for a waiver and all supporting documentation must be received by the superintendent of public instruction at least thirty days prior to the November/December or March state board of education meeting(, -when) where consideration of ((a)) the waiver((s)) shall occur. The superintendent of public instruction shall review all applications and supporting documentation to insure the accuracy of the information ((and shall recommend approval to the state board of education)). In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.

~~((d))~~ (c) RENEWAL PROCEDURE.

~~((i))~~ A school district may renew the state board of education's approval of a local plan waiver for periods of three school years provided that an application for renewal is submitted to the superintendent of public instruction and that said application is accompanied by documentation which establishes a continuing need for the waiver. To establish the continuing need, a school district shall verify that:

(A) The ad hoc committee, as defined in (b) of this subsection, reconvened to evaluate the success of the previous plan, and that the evaluation involved a thorough analysis of whether the plan's goals and objectives were achieved;

(B) The ad hoc committee gave sufficient opportunity to the community, through public notice and open public meetings, to provide input into the evaluation process and make recommendations for its continuation;

~~(C) The ad hoc committee, based on its evaluation findings and community input, developed a continuing local plan that identifies the basic education program requirements that will need to be waived, the goals/objectives of the plan, and the anticipated results that the plan will have on enhancing the educational program for all students in the district;~~

~~(D) The ad hoc committee presented the evaluation findings from the previous local plan, as well as the continuing plan recommendations to the board of directors;~~

~~(E) The board of directors adopted the recommendations to continue the plan and to apply for a subsequent waiver.~~

~~((ii))~~ The application for renewal and all supporting documentation must be received by the superintendent of public instruction at least thirty days prior to the March state board of education meeting when consideration of waivers and renewals shall occur. A district, desiring to continue a local plan waiver, must submit the application for renewal and all supporting documentation during the last school year of the previously approved three-year period. The superintendent of public instruction shall review all applications for renewal and supporting documentation; shall notify districts of any deficiency in the application or documentation; and shall recommend approval of the continuation to the state board of education. In the event that deficiencies are found in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.)) Waivers granted by the state board of education under this section may be renewed every three years upon the state board of education receiving a renewal request from the school district board of directors. In addition to other evaluation and assessment activities, the school district shall conduct at least one public meeting to evaluate the educational programs that were implemented as a result of the waivers before filing the request. The request to the state board of education shall include information and data regarding the activities and programs implemented as a result of the waivers and a summary of the comments received at the public meeting or meetings.

AMENDATORY SECTION (Amending Order 15-86, filed 10/7/86)

WAC 180-16-205 CLASSROOM TEACHER CONTACT HOURS REQUIREMENT—WAIVER.

(1) Contact hours requirement—Definition. The average annual classroom contact hours for each average annual full-time equivalent certificated classroom teacher employed by a school district shall be no less than twenty-five hours per week. For the purpose of this section "classroom contact hours" shall mean those hours a certificated classroom teacher is instructing students in a classroom, exclusive of such time as the teacher spends for preparation, conferences, administrative duties, and any other nonclassroom instruction duties.

(2) Classroom—Definition. For the purpose of this section, "classroom" shall mean those areas or spaces within or without a building, on or off a school campus, that are utilized by a certificated classroom teacher and

his/her students for the conduct of planned instructional activities.

(3) Computation of FTE teachers. For the purpose of this section the "average annual full-time equivalent classroom teachers" of a school district shall be the sum of full-time and part-time teachers computed as follows:

(a) Full-time teachers. Each employee who is employed full time for the regular instructional year exclusive of summer school, and who is assigned solely classroom instructional and related duties (e.g., planning periods, parent/teacher conferences, before and after school supervision of students, etc.) pursuant to his/her basic contract shall be counted as one full-time equivalent classroom teacher regardless of his/her actual teaching load. No such employee shall be counted as more than one full-time equivalent classroom teacher: **PROVIDED**, That in the case of full-time employees of a school district that conducts a year round regular school program who are employed for a term in excess of the equivalent of the regular instructional year for individual students, such excess term of employment shall be counted as a portion of an additional full-time equivalent classroom teacher.

(b) Part-time teachers. Each part-time employee who is assigned classroom instructional duties solely or in part, and each full-time employee who is assigned both classroom instructional duties and nonclassroom related duties (e.g., administrative duties, extracurricular instructional or supervisory duties, etc.) pursuant to his/her basic contract, shall be counted as a fractional full-time equivalent classroom teacher based upon the percentage of time he or she performs duties equivalent to the duties performed by a full-time employee who is assigned solely classroom instructional duties and related duties (e.g., planning periods, parent/teacher conferences, before and after school supervision of students, etc.) pursuant to his/her basic contract.

(4) Computation of annual average classroom contact hour requirement. A school district's compliance with the average annual contact requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional recordkeeping by classroom teachers as a means of accounting for contact hours shall not be required.

(a) For each teacher, count the actual number of minutes during the school week when the teacher has regularly scheduled responsibilities for the instruction of students. Teacher instructional contact time for the purposes of this requirement shall be that time between the start of the first regularly scheduled class and the end of the last regularly scheduled class including actual minutes scheduled in all regular classes, laboratories, study halls and the supervision of extended classrooms, work experience, outdoor education and other such programs.

(b) Time spent for lunch intermissions, class changes, recesses, planning/preparation, staff meetings, home visits, conferences, supervision of students in noninstructional activities (lunch duty, playground duty, hall duty, sports programs, student clubs and other activities not requiring student attendance or required for credit), and

for specialist teachers (librarian, subject-matter specialist) when the teacher is free from instructional purposes (i.e., released from classroom responsibilities) shall not be countable time for the purpose of computing the teacher's instructional contact. This time is considered valuable and is covered under (e) of this subsection.

(c) The number of average annual full-time equivalent classroom teachers employed by a school district and computed pursuant to subsection (3) of this section shall be divided into the total number of actual contact minutes within a normally scheduled instructional week, pursuant to (a) and (b) of this subsection, that such average annual full-time equivalent classroom teachers are scheduled to be in contact with and instructing students in a classroom (including those hours which would have been accrued but for the implementation of WAC 180-16-215(4) relating to students graduating from high school.

(d) The quotient received by dividing the total number of actual contact minutes per week, for all average annual full-time equivalent classroom teachers in the school district by the number of average annual full-time equivalent classroom teachers shall be called the net average contact minutes per week for the average annual full-time equivalent certificated classroom teacher in the school district.

(e) At the discretion of each school district board of directors, up to two hundred minutes per average annual full-time equivalent classroom teachers for every five school days scheduled for the regular instructional year may be added to the net average contact minutes per week to accommodate for time spent in authorized parent-guardian/teacher conferences, recess, passing time between classes and informal instructional activity.

(f) The quotient received by dividing the net average contact minutes, per week, including up to two hundred minutes to accommodate for time spent in authorized parent-guardian/teacher conferences, recess, passing time between classes and informal instructional activity, by sixty shall be the school district's average annual direct classroom contact hours per week for the average annual full-time equivalent certificated classroom teacher in the school district.

(g) The average annual classroom contact hours per week shall not be less than twenty-five hours per week.

(5) WAIVER OPTION.

(a) In the event that a district develops an educational excellence component(s) which consists of less than the twenty-five hours of average teacher contact and the district determines, but for the inclusion of this component(s), that it would meet the twenty-five hour average teacher contact requirement, the district may apply for a waiver of the inclusion of this component(s) within the calculations. The state board of education (~~shall~~) may grant said waiver (~~if the district demonstrates the need for the waiver by meeting the procedural criteria, as specified in (b) and (c) of this subsection~~). Approval of district waivers shall occur at the November/December or March state board of education meeting prior to ~~(the school year when)~~ implementation (~~is to commence. Each approval shall be valid for three school years and may be renewed for additional~~

~~three-year periods based on the criteria as specified in (d) of this subsection.~~

~~(b) ESTABLISHMENT OF NEED. When a district wishes a deviation from the twenty-five hour average teacher contact requirement, it shall create an ad hoc committee to review the proposed deviation as a basis for its inclusion in the local plan. The ad hoc committee shall be comprised of at least one teacher, one district administrator, one district school board member, one district secondary student, and two district parents who are not employees of the district. Districts may use an existing committee for this purpose if it includes the same make-up of participating members.~~

~~(i) The ad hoc committee shall meet to develop the local plan for educational excellence.~~

~~(ii) The local plan shall include:~~

~~(A) A rationale that addresses the need for waiving the twenty-five hour average teacher contact time; that verifies the students' instructional time will not be reduced; and, that explains how the use of the district's teachers is critical to the success of the local plan;~~

~~(B) The goals/objectives of the educational excellence program; and~~

~~(C) The anticipated results/outcomes of the educational excellence program.~~

~~(iii) The ad hoc committee shall give sufficient opportunity to the community, through public notice and open public meetings, to give input into the development of the local plan.~~

~~(iv) The appointed representative of the ad hoc committee shall present the plan to the board of directors; the board shall provide an opportunity for testimony and review; and the board shall then take action on the plan.~~

~~(c)) for school districts or individual schools within a district who submit a plan for restructuring of the educational program that includes:~~

~~(i) A description of the relationship between the requested waiver and expected student achievement;~~

~~(ii) Specific standards for increased student learning expected to be achieved;~~

~~(iii) How the higher standards are to be achieved, including timelines for implementation;~~

~~(iv) How the district plans to assess achievement;~~

~~(v) A resolution adopted by the board of directors which states that the teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan and opportunities were provided for parents and citizens to be involved in the development of the plan.~~

~~(b) APPLICATION PROCEDURE.~~

~~((i) A district, upon the adoption of a local plan of educational excellence, shall make application to the superintendent of public instruction. Accompanying the application form shall be the local plan documentation that includes the rationale, the goals/objectives of the educational excellence program, and the anticipated results and outcomes that the plan will achieve. In addition, evidence of the ad hoc committee meetings and verification of the board of director's adoption of the local plan shall be included in the application process.~~

~~((ii)) The application for a waiver and all supporting documentation must be received by the superintendent~~

~~of public instruction at least thirty days prior to the November/December or March state board of education meeting((, when)) where consideration of ((att)) the waiver(s) shall occur. The superintendent of public instruction shall review all applications and supporting documentation to insure the accuracy of the information ((and shall recommend approval to the state board of education)). In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.~~

~~((d)) (c) RENEWAL PROCEDURES.~~

~~((i) A school district may renew the state board of education's approval of a local plan waiver for periods of three school years provided that an application for renewal is submitted to the superintendent of public instruction and that said application is accompanied by documentation which establishes a continuing need for a waiver. To establish the continuing need, a school district shall verify that:~~

~~(A) The ad hoc committee, as defined in (b) of this subsection, reconvened to evaluate the success of the previous plan, and that the evaluation involved a thorough analysis of whether the plan's goals and objectives were achieved;~~

~~(B) The ad hoc committee gave sufficient opportunity to the community, through public notice and open public meetings, to provide input into the evaluation process and make recommendations for its continuation;~~

~~(C) The ad hoc committee, based on its evaluation findings and community input, developed a continuing plan that identifies the need to waive the teacher contact requirement, the goals/objectives for the plan, and the anticipated results that the plan will have on educational excellence in the district;~~

~~(D) The ad hoc committee presented the evaluation findings from the previous local plan, as well as the continuing plan recommendations to the board of directors; and~~

~~(E) The local school board adopted the recommendations to continue the local plan and to apply for a subsequent waiver.~~

~~((ii) The application for renewal and all supporting documentation must be received by the superintendent of public instruction at least thirty days prior to the March state board of education meeting, when consideration of waivers and renewals shall occur. A district, desiring to continue a local plan waiver, must submit the application for renewal and all supporting documentation during the last school year in the previously approved three-year period. The superintendent of public instruction shall review all applications for renewal and supporting documentation; shall notify districts of any deficiency in the application or documentation; and, shall recommend the approval of the continuation to the state board of education. In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.))~~
Waivers granted by the state board of education under this section may be renewed every three years upon the state board of education receiving a renewal request

from the school district board of directors. In addition to other evaluation and assessment activities, the school district shall conduct at least one public meeting to evaluate the educational programs that were implemented as a result of the waivers before filing the request. The request to the state board of education shall include information and data regarding the activities and programs implemented as a result of the waivers and a summary of the comments received at the public meeting or meetings.

WSR 92-05-048
PROPOSED RULES
OLYMPIC AIR POLLUTION
CONTROL AUTHORITY
[Filed February 13, 1992, 1:37 p.m.]

Original Notice.

Title of Rule: OAPCA Regulation 1, Section 3.27 (a)(c)(g); civil penalty will not exceed \$10,000 per violation per day, 100% of penalty kept by OAPCA; notice to violators to allow meeting with OAPCA before enforcement action is taken.

Purpose: Change OAPCA Regulation 1 to be in agreement with RCW 70.94.431 and 70.94.211.

Other Identifying Information: Offer alleged violators an opportunity to meet, within 30 days, with OAPCA.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Summary: OAPCA Regulation 1 delete Section 3.27 (b)(d); amend Section 3.27(c); and add Section 3.27(g).

Reasons Supporting Proposal: A local agency may not be less stringent than state regulations.

Name of Agency Personnel Responsible for Drafting and Implementation: James A. Wilson, 120 East State Avenue, (206) 586-0593 ext 101; and Enforcement: Charles Peace, 120 East State Avenue, (206) 586-0593 ext 100.

Name of Proponent: Olympia Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Civil penalties will not exceed \$10,000 per violation per day. One hundred percent of the penalty collected will be kept by OAPCA. A notice will be served to the alleged violator, offering the alleged violator an opportunity to meet, within 30 days, with OAPCA.

Proposal Changes the Following Existing Rules: 3.27(a) OAPCA civil penalty changed from \$1,000 violation/day to \$10,000 violation/day; 3.27(b) referral of violation to DOE for civil penalty of \$5000, entire section deleted; 3.27(c) a reference to 3.27(d), referral of violation to DOE, sentence deleted. Fifty percent of penalty collected retained by OAPCA, 50% distributed to cities and counties changed to 100% of penalty collected retained by OAPCA. Opacity penalty \$400/day maximum, sentence deleted (see 3.27(a)); 3.27(d) referral of violation to DOE, entire section deleted; and

3.27(g) new subsection added, written notice to alleged violator to allow meeting before enforcement action.

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

Hearing Location: Olympic Air Pollution Control Authority, 120 East State Avenue, Olympia, WA 98501, on April 8, 1992, at 10:15 a.m.

Submit Written Comments to: Olympic Air Pollution Control Authority, James A. Wilson, 120 East State Avenue, Olympia, WA 98501, by April 7, 1992.

Date of Intended Adoption: April 8, 1992.

February 10, 1992

James A. Wilson

Air Quality Control Specialist

AMENDED SECTION

SECTION 3.27 PENALTY

(a) In addition to, or as an alternate to, any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations of the Department of Ecology or the Board, including but not limited to Regulation 1 of the Olympic Air Pollution Control Authority, shall incur a penalty in the form of a fine in the amount not to exceed ~~((one thousand))~~ ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and, in case of a continuing violation, each day's continuance shall be a separate and distinct violation. For the purposes of this paragraph, the maximum daily fine imposed by the Board for violations of standards by specific emissions unit is ~~((one thousand))~~ ten thousand dollars.

~~(b) ((Further, the person is subject to a fine of up to five thousand dollars to be levied by the Director of the Department of Ecology if requested by the Board or if the Director determines that the penalty is needed for effective enforcement of Chapter 70.94 RCW. The Board shall not make such a request until notice of violation and compliance order procedures have been exhausted, if such procedures are applicable. For the product of this paragraph, the maximum daily fine imposed by the Department of Ecology for violations of standards by a specific emission unit is five thousand dollars.))~~ REPEALED April 8, 1992.

(c) Each act of commission or omission which procures, aids or abets in this violation shall be considered a violation under the provisions of this section and subject to the same penalty, ~~((except as provided in paragraph (d) of this section.))~~ the penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority, or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the hearings board as provided for in Chapter 43.21(b) RCW and Section 3.17 of this Regulation 1. When a request is made for a hearing, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid to the Board within thirty (30) days after it becomes due and payable, and a request for a hearing has not been made, the Attorney for the Authority, upon request of the Board or Control Officer, shall bring action to recover such penalty in the Superior Court of the county in which the violation occurred. Of all penalties recovered by the Authority, ~~((fifty (50%)))~~ one hundred (100%) percent shall be paid into the treasury of the Authority and credited to its funds, ~~((and fifty (50%) percent shall be distributed to the cities, towns, and counties within the Authority, on a pro rata basis, as each contributes to support the Authority pursuant to RCW 70.94.093. If a prior penalty for the same violation has been paid to the Authority, the penalty imposed under paragraph (b) of this section shall be reduced by the amount of the payment. Notwithstanding any other provisions of Regulation 1, no penalty may be levied for the violation of any opacity standards in an amount exceeding four hundred dollars per day.))~~

~~(d) ((If a penalty is levied under paragraph (b) of this section, the Director or the Director's authorized delegate may, upon written application therefore received within fifteen (15) days after the notice imposing any penalty is received by the person incurring the penalty, and when deemed in the best interest to carry out the purpose of Chapter 70.94 RCW, remit or mitigate any penalty provided in this~~

~~section upon such terms as the Director in the Director's discretion deems proper, and may ascertain the facts upon all such application in such manner and under such regulations as the Director deems proper. The mitigation shall not affect or reduce the penalty imposed by the Board. The appeal procedures shall be as set forth in subsection (4) of RCW 70.94.431.) REPEALED April 8, 1992~~

(e) To secure the penalty incurred under this section, the Authority shall have a lien on any vessel used or operated in violation of this Regulation which shall be enforced as provided in RCW 60.36.050.

(f) In all actions brought in the Superior Court for the recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in ordinary civil action.

(g) At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431 written notice will be served upon the alleged violator or violators. The notice shall specify the provision of RCW 70.94 or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the board or the control officer may require that the alleged violator or violators appear before the board for a hearing. Every notice of violation shall offer to the alleged violator an opportunity to meet with the local air authority prior to the commencement of enforcement action.

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

WSR 92-05-049
PREPROPOSAL COMMENTS
PERSONNEL APPEALS BOARD
[Filed February 13, 1992, 1:39 p.m.]

Subject of Possible Rule Making: Rules are being considered regarding requirements for service, briefing schedules, and deadlines for filing motions.

Persons may comment on this subject in writing or by telephone, Victoria W. Sheldon, Executive Secretary, P.O. Box 40911, Olympia, WA 98504-0911, telephone (206) 586-1481, Monday through Friday, 8:00 to 5:00. Comments to be received by March 31, 1992.

February 12, 1992
Victoria W. Sheldon
Executive Secretary

WSR 92-05-050
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3318—Filed February 13, 1992, 3:43 p.m.]

Date of Adoption: February 13, 1992.

Purpose: The rule sets requirements for providers to maintain and provide written policies and procedures for advance directives to adults receiving medical care.

Citation of Existing Rules Affected by this Order: Amending [new] WAC 388-81-017 Advance directives.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Omnibus Budget Reconciliation Act of 1990.

Pursuant to notice filed as WSR 91-24-037 on November 27, 1991.

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

February 13, 1992

Leslie F. James, Director
Administrative Services

NEW SECTION

WAC 388-81-017 REQUIREMENTS FOR ADVANCE DIRECTIVES. (1) Each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization receiving Medicaid funds shall as providers under this section:

(a) Maintain written policies and procedures concerning a person's right to make medical decisions including advance directives;

(b) Provide written information to all adults as defined in RCW 26.28.010 and RCW 26.28.015 receiving medical care by or through the provider or organization to include the person's right to:

(i) Make decisions concerning the person's medical care;

(ii) Accept or refuse surgical or medical treatment; and

(iii) Formulate advance directives.

(c) Provide written information to all adults on policies concerning implementation of these rights;

(d) Document in the person's medical record whether or not the person has executed an advance directive;

(e) Not condition the provision of care or otherwise discriminate against a person based on whether or not the person has executed an advance directive;

(f) Ensure compliance with the requirements of chapters 11.94, 68.50, and 70.122 RCW concerning advance directives; and

(g) Provide for educating staff and the community on the requirements advance directives.

(2) For the purpose of this section, the term "advance directive" means a voluntarily written instruction, such as a living will, durable power of attorney for health care, or anatomical gift recognized under state law (whether statutory or as recognized by the courts of the state) and relating to the provision of such care when the person is incapacitated.

(3) The written material distributed by the providers as defined concerning medical decision making shall summarize state law found in statute and case law and may include the actual law, copies of the statute, case law or forms.

(4) The provider as defined shall give information concerning these rights to adults as follows:

(a) Hospitals, at the time of the person's admission as an inpatient;

(b) Nursing facility, at the time of the person's admission as a resident;

(c) Provider of home health care or personal care services, before the person comes under the care of the provider;

(d) Hospice program, at the time of the initial receipt of hospice care by the person in the program; and

(e) Health maintenance organization, at the time of enrollment of the person with the organization.

(5) This section shall not be construed to require any physician to implement an advance directive, when the physician objects on the basis of conscience. When the physician refuses to implement the directive, the physician shall make a good faith effort to transfer the person to another physician who will implement the person's directive.

(6) When a person comes under the care of a provider as defined in a comatose or otherwise incapacitated state and is unable to receive information or say whether such person has executed an advance directive, the provider shall include information concerning advance directives with materials about the provider's policies and procedures to the families or to the surrogates or other concerned persons of the incapacitated person as specified under RCW 7.70.065. The provider is obligated to provide this information to the person once he/she is no longer incapacitated.

(7) When the person is incapacitated or otherwise unable to receive information or articulate whether such person has executed an advance directive and no one comes forward with a previously executed advance directive, the provider as defined shall document a person's file that the person was unable to receive information and was unable to communicate whether an advance directive exists.

(8) When the patient or a relative, surrogate, or other concerned person presents the provider as defined with a copy of the person's advance directive, the provider as defined shall comply, except as specified under subsection (5) of this section, with the advance directive.

**WSR 92-05-051
PERMANENT RULES**

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 13, 1992, 3:50 p.m.]

Date of Adoption: February 13, 1992.

Purpose: To provide clarification of terms used in chapter 315, Laws of 1991.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and chapter 315, Laws of 1991.

Pursuant to notice filed as WSR 92-02-076 on December 31, 1991.

Changes Other than Editing from Proposed to Adopted Version: Typographical errors in statutory references in WAC 192-32-125 corrected.

Effective Date of Rule: Thirty-one days after filing.
February 13, 1992
Vernon E. Stoner
Commissioner

NEW SECTION

WAC 192-32-120 FOREST PRODUCTS WORKERS. In accordance with the requirements of RCW 50.70.010, the Employment Security Department has determined the term "forest products workers" shall apply to those individuals who have or had employment, either for wages or self employment in the industries set forth in WAC 192-32-040.

NEW SECTION

WAC 192-32-125 DISLOCATED WORKERS IN TIMBER IMPACT AREAS. For the purposes of RCW 50.12.270, the term "dislocated workers in timber impact areas" shall apply to individuals including (but not limited to) dislocated forest products workers as defined in RCW 50.70.010(2) and as determined by the Employment Security Department in WAC 192-32-120. These individuals are persons who at the time of last separation from work, for either wages or self-employment, resided in or were employed in a timber impact area and who:

(a) have been terminated or received notices of termination from employment and are unlikely to return to employment as defined in WAC 192-32-045 in their principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry; or

(b) are self-employed and have been displaced from their business because of diminishing demand for the business's services or goods.

**WSR 92-05-052
PREPROPOSAL COMMENTS
DEPARTMENT OF REVENUE
[Filed February 14, 1992, 10:51 a.m.]**

Subject of Possible Rule Making: New section WAC 458-20-260 Oil spill response and administration tax.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Robert Heller, Administrative Law Judge, Department of Revenue, P.O. Box 47458, Olympia, WA 98504-7458. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on March 12, 1992, at 10:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: This rule has been previously adopted on an emergency basis to comply with newly enacted amendatory legislation in 1991, and is now being proposed for adoption on a permanent basis. A copy of the rule draft is available upon request. Contact Roseanna Hodson, (206) 586-4281.

February 14, 1992
Les Jaster
Rules Coordinator

**WSR 92-05-053
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
[Filed February 14, 1992, 12:07 p.m.]**

Original Notice.
Title of Rule: Special charges—Financial responsibility.

Purpose: Purpose of amendments is to allow more appropriate time line for appealing assessed financial obligations of employees of Eastern Washington University, to offer brief adjudicative proceedings, and to prevent any unlawful deductions from an employee's paycheck.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Statute Being Implemented: RCW 34.05.482.

Summary: Employees will have an opportunity to appeal assessed financial obligations prior to deductions being taken from their paychecks. Brief adjudicative proceedings are made available for appeals.

Name of Agency Personnel Responsible for Drafting: Leonard H. Klatt, SHW 301, (509) 359-6299; **Implementation and Enforcement:** Terry L. Novak, SHW 216, (509) 359-2421.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed amendments to rules allow employees to dispute assessed financial obligations through a formal appeal process handled by brief adjudicative proceedings. Appeal will be available prior to deductions being withheld from paychecks.

Proposal Changes the Following Existing Rules: Former rule was more restrictive in time line requirements and also allowed for the deduction of assessed financial obligations prior to the results of appeal.

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

Hearing Location: Eastern Washington University, Louise Anderson Hall, First Floor Lounge, Cheney, Washington 99004, on April 3, 1992, at 9:00 a.m.

Submit Written Comments to: Leonard H. Klatt, MS-114, Cheney, Washington 99004, by April 2, 1992.

Date of Intended Adoption: April 3, 1992.

February 4, 1992
Leonard H. Klatt
Rules Coordinator

AMENDATORY SECTION (Amending Order 85-01, filed 12/13/85)

WAC 172-144-010 **PURPOSE.** (~~Commensurate with the privileges afforded individual students in the employ of Eastern Washington University, an employee has~~) Employees have a financial responsibility to the university for legitimate financial obligations owed to the university. Employees whose employee status is contingent on the fact that he or she is a student are exempt from this chapter and covered under chapter 172-124 WAC.

AMENDATORY SECTION (Amending Order 85-01, filed 12/13/85)

WAC 172-144-020 **AUTHORITY OF THE UNIVERSITY TO MAKE DEDUCTIONS.** (1) (~~Except as provided in WAC 172-144-030, following fifteen calendar days' notice to the employee, the university~~) Employees will be given notice that a deduction is forthcoming from their paycheck subject to subsection (2) of this section. Employees who wish to appeal the alleged debt shall be given twenty days from receipt of notice to request a brief adjudicative proceeding. Requests must be in writing and submitted to the university governance office. If no proceeding is requested, the university assumes that there is no dispute over the debt and may deduct from the net remuneration owed to the employee by the university for that particular pay period, the amount of any or all fees, charges, debts, fines, or other financial obligations owed to the university(~~which shall include but are not limited to the following:~~

- (a) Enrollment fees;
- (b) Housing charges;
- (c) Short-term and long-term loans;
- (d) Personal telephone tolls charged to a university number;
- (e) Bookstore debts;
- (f) Parking fines;
- (g) Damages to university property;
- (h) Library fines)) as expressed in the notice.

(2) (~~The fifteen-day~~) Notice as provided for in ((WAC 172-144-020)) subsection (1) of this section shall contain a statement setting forth the manner in which the alleged financial obligations were incurred by the employee and the amount assessed.

(3) The university may deduct from the paycheck of the employee the amount determined owing after the brief adjudicative proceeding is waived or as a result of the outcome of the proceeding. This amount may be deducted immediately.

AMENDATORY SECTION (Amending Order 85-01, filed 12/13/85)

WAC 172-144-040 **PERIODIC DEDUCTIONS.** Should ((such)) deductions for any pay period produce a material and substantial hardship on the assessed employee, the university may enter into an agreement with the employee for a method of periodic deductions from the employee's paycheck until ((such)) the financial obligations owed to the university have been satisfied. The university's chief financial officer will designate a member of his or her staff to negotiate such agreements.

NEW SECTION

WAC 172-144-045 **FINANCIAL OBLIGATIONS RELATING TO TRAVEL.** Financial obligations which result from travel advances or travel-related expenditures shall be addressed consistent with office of financial management regulations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 172-144-030 **DEDUCTIONS WITH TEN DAY NOTICE.**

WAC 172-144-050 **RIGHT TO APPEAL ASSESSED FINANCIAL OBLIGATIONS.**

WSR 92-05-054

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed February 14, 1992, 12:24 p.m.]

Original Notice.

Title of Rule: Use of alcoholic beverages by students twenty-one years and older in residence halls and other student housing at Eastern Washington University.

Purpose: The primary purpose of this proposal is to modify outdated references within the chapter.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Summary: Outdated references are being modified. For example, college is changed to university where appropriate.

Name of Agency Personnel Responsible for Drafting: Kellee Alice, Showalter 107, (509) 359-6293; **Implementation and Enforcement:** Elson Floyd, Showalter 107, (509) 359-6293.

Name of Proponent: Eastern Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposal simply modifies outdated references. No effects are anticipated.

Proposal does not change existing rules.

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

Hearing Location: Eastern Washington University, Louise Anderson Hall, First Floor Lounge, Cheney, Washington 99004, on April 3, 1992, at 9:00 a.m.

Submit Written Comments to: Leonard H. Klatt, MS-114, Cheney, Washington 99004, by April 2, 1992.

Date of Intended Adoption: April 3, 1992.

February 13, 1992
Leonard H. Klatt
Rules Coordinator

Chapter 172-65 WAC

USE OF ALCOHOLIC BEVERAGES BY STUDENTS TWENTY-ONE YEARS AND OLDER IN RESIDENCE HALLS AND ~~((RESIDENT APARTMENTS))~~ OTHER STUDENT HOUSING AT EASTERN WASHINGTON ~~((STATE COLLEGE))~~ UNIVERSITY

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-010 INTRODUCTION AND PURPOSE. ~~((In accordance with))~~ Washington state law ~~((that))~~ permits persons who are the age of twenty-one years and older to possess and consume alcoholic beverages as defined by Washington state law, the trustees at Eastern Washington ~~((State College hereby))~~ University adopt the following regulations for the purpose of establishing rules governing the consumption and possession of alcoholic beverages by ~~((such))~~ the persons within the privacy of Eastern Washington ~~((State College))~~ University student residence halls and ~~((married))~~ other student ~~((apartments))~~ housing. ~~((Such))~~ The regulations are subject to all the limitations imposed by state law, and if any part of these regulations are declared inconsistent ~~((therewith))~~ with state law by legislative amendment or a judgment by a court of competent jurisdiction, ~~((such))~~ the regulations shall be deemed amended to the extent of ~~((such))~~ the inconsistency, but the remainder of these regulations shall remain in full force and effect.

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-020 JURISDICTION. The scope of these rules applies to the residence halls and ~~((married))~~ other student ~~((apartments))~~ housing located ~~((upon))~~ on and properties owned or controlled by Eastern Washington ~~((State College))~~ University.

AMENDATORY SECTION (Amending Order 74-9, filed 11/25/74)

WAC 172-65-030 GENERAL PROHIBITION AGAINST DRINKING IN PUBLIC PLACES. (1) Drinking of alcoholic beverages is prohibited in public places by Washington state law. This prohibition applies to ~~((any and))~~ all functions open to the public, such as entertainment, dances, and athletic events, and also applies to all entrances, hallways, corridors, lounges, and reception areas of the residence living units and to all academic buildings.

(2) The ~~((college))~~ university shall not deem the general prohibition of this section applicable to the consumption of liquor ~~((upon))~~ on public places designated in any special banquet permit issued to ~~((a banquet))~~ an event sponsor by the state liquor control board: PROVIDED, ~~((HOWEVER,))~~ That prior written approval of the ~~((banquet))~~ event sponsor's application for ~~((such))~~ the permit has been ~~((accorded))~~ given by the ~~((college))~~ university.

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-040 LIMITED RIGHTS TO CONSUME AND POSSESS ALCOHOLIC BEVERAGES ACCORDED. (1) For purposes of these regulations, the ~~((college))~~ university recognizes that the students' individual residence hall rooms and ~~((married students))~~ other individual student ~~((apartments))~~ housing constitute private places to which the general public does not have an unrestricted right of access, and are therefore not public places within the meaning of

RCW ~~((66.44.010(24) [66.04.010(24)]))~~ 66.04.010(23) which ~~((law))~~ defines what is a public place ~~((insofar))~~ as far as the law prohibiting consumption of liquor in a public place is concerned, if ~~((such))~~ the rooms are not actually utilized as public places.

(2) Students ~~((of the age of))~~ who are twenty-one years and older are permitted to possess and consume alcoholic beverages on an individual basis in the privacy of the residence hall rooms or ~~((married student apartments))~~ other places of residence.

(3) Due to the physical conditions in residence halls and ~~((married))~~ other student ~~((s'))~~ housing, the possession and consumption of alcohol in the privacy of the room and ~~((apartment))~~ other housing shall not infringe ~~((upon))~~ on the privacy and peace of other individuals. Any infringement ~~((upon such))~~ on the privacy and peace of an individual inhabitant of the residence hall or ~~((apartment))~~ other student housing shall, regardless of the age of the offending individual, be considered a violation of ~~((college))~~ university regulations and therefore subject to disciplinary action under the Eastern Washington ~~((State College))~~ University student conduct code. ~~((Disruptive and unruly behavior, whether it be associated with the use of alcoholic beverages or not, is a serious breach of expectations of the Eastern Washington State College community and will not be tolerated.))~~

(4) ~~((The intent of this policy, as indicated in section 3, is not to provide opportunities for large gatherings involving the consumption of alcohol.))~~ Keggers, cocktail parties, or similar functions are not permitted and any student or students who host such a function will be subject to disciplinary action under the ~~((EWSE))~~ Eastern Washington University student conduct code. Any student who infringes upon the privacy and peace of other individuals while attending such a function will also be subject to disciplinary action.

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-050 SALES OF ALCOHOLIC BEVERAGES PROHIBITED. Alcoholic beverages in any form may not be sold in ~~((college-owned))~~ student housing nor may residence hall or housing funds be used for the purchase of any alcoholic beverages.

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-060 ROOMMATE PREFERENCE ALLOWED. A student planning to live in a residence hall will be allowed to state a preference for a roommate who does or does not drink alcohol. If possible, this request will be honored by housing officials making room assignments.

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-070 INFORMATION RELATIVE TO RULES MUST BE PROVIDED. (1) Each residence hall director will hold an orientation session for residents of the hall each quarter for the express purpose of discussing the policy and regulations regarding possession and consumption of alcohol.

(2) The ~~((college))~~ university shall print, post and distribute the policy about alcohol, and the relevant portions of the laws of the state of Washington.

(3) The policy (with laws) will be posted in each ~~((unit of each hall-floor, corridor, etc))~~ residence hall.

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-080 REPORTS OF VIOLATIONS REQUIRED. (1) Behavioral problems resulting from drinking will be referred to the appropriate student court or to the ~~((college disciplinary officer))~~ appropriate university official.

(2) Unlawful drinking will be reported to ~~((the office of campus safety))~~ university police.

~~((3))~~ Washington state law provides severe penalties for the illegal possession and/or consumption of alcoholic beverages, i.e., by persons under the legal drinking age, for persons who furnish alcoholic beverages to persons under the legal drinking age, and for consumption in public areas.))

AMENDATORY SECTION (Amending Order 71-1, filed 11/26/71)

WAC 172-65-090 ORGANIZATIONS RESPONSIBLE FOR CONDUCT. The ~~((college))~~ university does not condone the consumption of alcoholic beverages at functions sponsored by Eastern Washington ~~((State College))~~ University or by recognized organizations affiliated with Eastern Washington ~~((State College))~~ University.

Organizations are held responsible for the conduct of their members at functions sponsored by that organization and for their failure to comply with Washington state law.

In compliance with chapter ~~((197-10))~~ 197-11 WAC, the vice-president for business and finance ~~((or his/her designee shall be))~~ is the responsible official for carrying out this policy.

WSR 92-05-055
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
 [Filed February 14, 1992, 12:34 p.m.]

WSR 92-05-056
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
 [Filed February 14, 1992, 12:39 p.m.]

Original Notice.

Title of Rule: State Environmental Policy Act.

Purpose: Purpose of amendments are to emphasize university's commitment to environmental concerns.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Statute Being Implemented: Chapter 43.21C RCW.

Summary: The university will provide leadership in resource conservation and environmental protection through its decision-making and planning processes.

Name of Agency Personnel Responsible for Drafting: Barbara Skyles, Surbeck, (509) 359-6496; Implementation and Enforcement: Terry L. Novak, Showalter 216, (509) 359-2421.

Name of Proponent: Eastern Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed amendment emphasizes university's commitment to the environment, including resource conservation and other protection which will be considered in the planning and decision-making processes. Anticipated effects are that environmental protection will be considered and awareness heightened, to a greater extent than in previous years.

Proposal Changes the Following Existing Rules: Environmental concerns will be considered in the planning and decision-making processes.

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

Hearing Location: Eastern Washington University, Louise Anderson Hall, First Floor Lounge, Cheney, Washington 99004, on April 3, 1992, at 9:00 a.m.

Submit Written Comments to: Leonard H. Klatt, MS-114, Cheney, Washington 99004, by April 2, 1992.

Date of Intended Adoption: April 3, 1992.

February 4, 1992
 Leonard H. Klatt
 Rules Coordinator

Original Notice.

Title of Rule: Disposition of obligations owed to university by students.

Purpose: Proposed modifications allow for an appeal proceeding to be heard as a brief adjudicative proceeding, consistent with chapter 34.05 RCW.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Statute Being Implemented: RCW 34.05.482.

Summary: Appeals to the assessment of financial obligations owed by students will be heard as brief adjudicative proceedings.

Name of Agency Personnel Responsible for Drafting: Leonard H. Klatt, SHW 301, (509) 458-6299; Implementation and Enforcement: Terry L. Novak, SHW 216, (509) 359-2421.

Name of Proponent: Eastern Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposal allows more adequate time lines than former rules to request a proceeding to appeal assessed financial obligations. Students' appeals will be heard as brief adjudicative proceedings.

Proposal Changes the Following Existing Rules: Same as above.

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

Hearing Location: Eastern Washington University, Louise Anderson Hall, First Floor Lounge, Cheney, Washington 99004, on April 3, 1992, at 9:00 a.m.

Submit Written Comments to: Leonard H. Klatt, MS-114, Cheney, Washington 99004, by April 2, 1992.

Date of Intended Adoption: April 3, 1992.

February 13, 1992
 Leonard H. Klatt
 Rules Coordinator

Chapter 172-124 WAC
DISPOSITION OF OBLIGATIONS OWED TO ((COLLEGE)) UNIVERSITY BY STUDENTS

AMENDATORY SECTION (Amending Order 83-02, filed 11/23/83)

WAC 172-325-010 STATE ENVIRONMENTAL POLICY ACT (SEPA). It is the policy of Eastern Washington University that any project shall be accomplished in compliance with chapter 43.21C RCW, the State Environmental Policy Act (SEPA) and in accordance with chapter ~~((197-10))~~ 197-11 WAC, guidelines for the State Environmental Policy Act implementation. Further, it is the policy of the university to provide leadership in resource conservation and environmental protection. Environmental issues will be considered in the decision-making and planning process. To this end, Eastern Washington University ~~((hereby))~~ adopts by reference chapter ~~((197-10))~~ 197-11 of the WAC SEPA guidelines and all subsequent amendments thereto.

AMENDATORY SECTION (Amending Order 72-11, filed 9/20/72)

WAC 172-124-010 FINANCIAL OBLIGATIONS OF STUDENTS. The university may withhold admission or registration privileges, conferring of degrees, and issuance of academic transcripts ~~((may be withheld by Eastern Washington State College))~~ for failure ~~((of a student))~~ to meet ~~((his or her))~~ financial obligations ~~((owed to the college)), even if the financial obligations have been assigned to another agency, entity, or department. ((Such fees, charges, debts, fines, or other financial obligations shall include but are not limited to the following:~~

- (1) Bookstore debts;
- (2) Housing and food service debts;

- ~~(3) Parking fines;~~
- ~~(4) Library fines;~~
- ~~(5) "Not sufficient funds" checks;~~
- ~~(6) Damages to college property;~~
- ~~(7) Failure to return borrowed, leased, or rented college property;~~
- ~~(8) Unreturned keys;~~
- ~~(9) Personal telephone tolls charged to a college number.))~~

AMENDATORY SECTION (Amending Order 72-11, filed 9/20/72)

WAC 172-124-020 APPEAL PROCEDURE. ~~((1) Every student has the right to appeal a decision of any college department or division to assess a fee, fine, charge, debt, or other financial obligation for a determination of the validity and legitimacy of that charge. The appeal must be in writing and directed to the division or department head assessing the financial obligation. Notice of the appeal shall be given within ten days after notice of right to appeal is received. Following such notice, the student shall be allowed an informal hearing with the head or appointed representative of the department or division assessing the obligation. The decision of such hearing shall be final. PROVIDED, That in the event such financial obligation shall prove to be of a magnitude requiring the assessed student to terminate his relationship with Eastern Washington State College, the student shall have a right to a formal hearing as provided in RCW 28B.19.120.~~

~~(2) If the student has not satisfied his financial obligations to the college within ten days after his right to a hearing has expired, the college may take the action provided in WAC 172-124-010 after providing the financially obligated student with notice of the intended action, whenever such notice is possible.)) Students shall be given notice of any alleged financial obligation prior to the university taking action as described in WAC 172-124-010. Students who wish to appeal the alleged financial obligation may request a brief adjudicative proceeding. This request must be in writing and received by the university governance office within twenty days of notice of the alleged financial obligation. Any student who fails to respond to such notice waives the right to a brief adjudicative proceeding and the university may take action as described in WAC 172-124-010. Action may also be taken immediately after and consistent with the determination of the proceeding.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 172-124-100 SMOKING REGULATIONS.
- WAC 172-124-200 DEFINITION—PETS.
- WAC 172-124-210 PET CONTROL.
- WAC 172-124-220 PENALTIES FOR VIOLATIONS OF PET CONTROL REGULATIONS.

WSR 92-05-057

PERMANENT RULES

DEPARTMENT OF HEALTH

[Order 244—Filed February 14, 1992, 1:49 p.m.]

Date of Adoption: February 11, 1992.

Purpose: These rules establish a concurrent review process for certificate of need applications for ethnic minority nursing home construction, and include related procedures implementing the provisions of ESHB 2100.

Citation of Existing Rules Affected by this Order: Amending WAC 246-310-020.

Statutory Authority for Adoption: RCW 70.38.135 (3)(c).

Pursuant to notice filed as WSR 92-01-110 on December 18, 1991.

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

February 11, 1992
Kristine M. Gebbie
Secretary

AMENDATORY SECTION (Amending Order 121 [224], filed 12/27/90 [12/23/91], effective 1/31/91 [1/23/92])

WAC 246-310-020 APPLICABILITY OF CHAPTER 248-19 WAC. (1) The following undertakings shall be subject to the provisions of chapter 248-19 WAC, with the exceptions provided for in this section.

(a) The construction, development, or other establishment of a new health care facility:

(i) No new health care facility may be initiated as a health service of an existing health care facility without certificate of need approval as a new health care facility;

(ii) The extension, on a regular and ongoing basis, of the services of a home health agency or a hospice in a county not previously regularly included in the service area of that home health agency or hospice during the preceding twelve months shall be considered the development of a new home health agency or hospice.

(b) The sale, purchase, or lease of part or all of any existing hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW;

(c) A change in bed capacity of a health care facility increasing the total number of licensed beds or redistributing beds among acute care, skilled nursing, intermediate care, and boarding home care, as defined under RCW 18.20.020, if the bed redistribution is effective for a period in excess of six months;

(d) Any new tertiary health services offered in or through a health care facility, and not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time the facility will offer such services:

(i) Tertiary services include the following:

(A) Specialty burn services. This is a service designed, staffed, and equipped to care for any burn patient regardless of the severity or extent of the burn. All staff and equipment necessary for any level of burn care are available;

(B) Intermediate care nursery and/or obstetric services level II. Intermediate care nursery is defined in chapter 248-18 WAC. A level II obstetric service is in an area designed, organized, equipped, and staffed to provide a full range of maternal and neonatal services for uncomplicated patients and for the majority of complicated obstetrical problems;

(C) Neonatal intensive care nursery and/or obstetric services level III. Neonatal intensive care nursery is defined in chapter 248-18 WAC. A level III obstetric service is in an area designed, organized, equipped, and staffed to provide services to the few women and infants requiring full intensive care services for the most serious type of maternal-fetal and neonatal illnesses and abnormalities. Such a service provides the coordination of care, communications, transfer, and transportation for a given region. Level III services provide leadership in preparatory and continuing education in prenatal and perinatal care and may be involved in clinical and basic research;

(D) Transplantation of specific solid organs, including, but not limited to, heart, liver, pancreas, lung, and kidney and including bone marrow. A transplantation service for each solid organ is considered a separate tertiary service;

(E) Open heart surgery and/or elective therapeutic cardiac catheterization including elective percutaneous transluminal coronary angioplasty (PTCA). Open heart surgery includes the care of patients who have surgery requiring the use of a heart lung bypass machine. Therapeutic cardiac catheterization means passage of a tube or other device into the coronary arteries or the heart chambers to improve blood flow. PTCA means the treatment of a narrowing of a coronary artery by means of inflating a balloon catheter at the site of the narrowing to dilate the artery;

(F) Inpatient physical rehabilitation services level III. Level III rehabilitation services are services for persons with usually nonreversible, multiple function impairments of a moderate-to-severe complexity resulting in major changes in the patient's lifestyle and requiring intervention by several rehabilitation disciplines. Services are multidisciplinary, including such specialists as a rehabilitation nurse; and physical, occupational, and speech therapists; and vocational counseling; and a psychiatrist. The service is provided in a dedicated unit with a separate nurses station staffed by nurses with specialized training and/or experience in rehabilitation nursing. While the service may specialize (i.e., spinal cord injury, severe head trauma, etc.), the service is able to treat all persons within the designated diagnostic specialization regardless of the level of severity or complexity of the impairments;

(G) Specialized inpatient pediatric services. The service is designed, staffed, and equipped to treat complex pediatric cases for more than twenty-four hours. The service has a staff of pediatric specialists and subspecialists.

(ii) The department shall review, periodically revise, and update the list of tertiary services. The department shall change the tertiary services list following the procedures identified in WAC 248-19-235;

(iii) The offering of an inpatient tertiary health service by a health maintenance organization or combination of health maintenance organizations is subject to the provisions under chapter 248-19 WAC unless the offering is exempt under the provisions of RCW 70.38.111.

(e) Any increase in the number of dialysis stations in a kidney disease center;

(f) Any capital expenditure in excess of the expenditure minimum for the construction, renovation, or alteration of a nursing home. However, a capital expenditure, solely for any one or more of the following, which does not substantially affect patient charges, is not subject to certificate of need review:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, not for use in the direct provision of health services;

(vi) Construction, involving physical plant facilities, including administrative and support facilities, not for use in the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt.

(g) Any expenditure for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking subject to the provisions under chapter 248-19 WAC and any arrangement or commitment made for financing such undertaking;

(h) No person may divide a project in order to avoid review requirements under any of the thresholds specified under this section; and

(i) The department may issue certificates of need authorizing only predevelopment expenditures, without authorizing any subsequent undertaking for which the predevelopment expenditures are made.

(2) No person shall engage in any undertaking subject to certificate of need review unless:

(a) A certificate of need authorizing such undertaking is issued and remains valid; or

(b) An exemption is granted in accordance with the provisions of this chapter.

(3) If a nursing home or portion of a nursing home constructed or established under the authority of a certificate of need granted from the pool of nursing home beds for ethnic minorities according to the provisions of WAC 246-310-135 is sold or leased within ten years to a party not eligible for an award of such beds under the provisions of WAC 246-310-136(2):

(a) The purchaser or lessee may not operate those beds as nursing home beds without first obtaining a certificate of need for new beds; and

(b) The beds that were awarded from the special pool shall be returned to that pool.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 246-310-135 ETHNIC MINORITY NURSING HOME BED POOL—PROCEDURES. (1) The department is establishing a pool of two hundred fifty nursing home beds to serve the special needs of ethnic minorities. This pool shall be made up of nursing home beds that have become available on or after March 15, 1991, due to:

(a) Loss of license or reduction in licensed bed capacity of existing nursing homes, if the beds are not otherwise obligated for replacement as evidenced by a certificate of need authorizing such replacement; or

(b) Expiration or surrender of a certificate of need.

(2) Applications for construction or establishment of ethnic minority nursing home beds shall be reviewed in concurrent review cycles published by the department in rules.

(3) The department may award up to one hundred nursing home beds to a qualified applicant or applicants in the first concurrent review, and before those beds are in the ethnic minority bed pool. The schedule for the first concurrent review is set out in subsection (6) of this section.

(4) A second concurrent review cycle shall not be conducted until at least two hundred beds are in the ethnic minority bed pool, including the number of beds awarded in the first concurrent review. In this review cycle the department shall award at least one hundred beds and may award as many as one hundred fifty beds to a qualified applicant or applicants. In addition, the department may award any beds not awarded in the first concurrent review, provided any decision not to award those beds is not under appeal. The schedule for the second concurrent review shall be published in rule after at least two hundred beds are in the ethnic minority bed pool.

(5) The department shall conduct additional concurrent review cycles to award beds to qualified applicants when fewer than two hundred fifty beds are awarded in the first and second concurrent reviews, or when beds are returned to the ethnic minority bed pool under the provisions of WAC 246-310-020(3). Such additional concurrent reviews shall be conducted according to schedules published in rules. The department shall schedule additional concurrent reviews when the department determines an adequate number of nursing home beds are in the pool to justify such reviews.

(6) The first ethnic minority concurrent review cycle shall be conducted according to the following schedule.

(a) Letters of intent shall be submitted to the department between the first and last working day of March 1992.

(b) Initial applications shall be submitted to the department between the first and last working day of April 1992.

(c) The department shall screen initial applications for completeness by the last working day of May 1992.

(d) Responses to screening questions shall be submitted to the department by the last working day of June 1992.

(e) The public review and comment period for applications shall begin on July 14, 1992, and shall be limited to ninety days, unless extended according to the provisions of WAC 246-310-120 (2)(d).

(f) The final review period shall be limited to sixty days, unless extended according to the provisions of WAC 246-310-120 (2)(d).

(g) Any letters of intent or certificate of need applications submitted for review in advance of this schedule, or any certificate of need applications under review as of the effective date of this section, shall be held for review according to the schedule in this subsection.

NEW SECTION

WAC 246-310-136 ETHNIC MINORITY NURSING HOME BED POOL—CONSIDERATIONS FOR REVIEW OF APPLICATIONS. (1) The department shall consider the following factors in the course of reviewing and making decisions on applications for construction or establishment of nursing home beds for ethnic minorities.

(a) Conformance with applicable review criteria in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240;

(b) Which of any competing applications best meet identified needs, consistent with the purpose of concurrent review as stated in RCW 70.38.115(7).

(c) The relative degree to which the long-term care needs of an ethnic minority among Washington residents are not otherwise being met. This includes consideration of the legislature's finding that certain ethnic minorities have special cultural, language, dietary, and other needs not generally met by existing nursing homes which are intended to serve the general population;

(d) The percentage of low-income persons who would be served by the proposed project; and

(e) The impact of the proposal on the area's total need for nursing home beds.

(2) To be eligible to apply for and receive an award of beds from the ethnic nursing home bed pool, an application must be to construct, develop, or establish a new nursing home or add beds to an existing nursing home that:

(a) Shall be owned and operated by a nonprofit corporation. At least fifty percent of the board of directors of the corporation are members of the ethnic minority the nursing home is intended to serve;

(b) Shall be designed, managed, and administered to serve the special cultural, language, dietary, and other needs of the ethnic minority; and

(c) Shall not discriminate in admissions against persons who are not members of the ethnic minority whose special needs the nursing home is designed to serve.

(3) An applicant not awarded beds in a concurrent review shall not be given preference over other applicants in any subsequent concurrent review on the basis of the prior review and decision when that applicant submits a new application for another review.

WSR 92-05-058

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF HEALTH (Chiropractic Peer Review Committee)

[Memorandum—February 11, 1992]

The following future meeting dates have been scheduled for the Washington State Peer Review Committee for the year 1992.

March 26, 1992
 May 28, 1992
 July 30, 1992
 September 25, 1992
 November 19, 1992

All of the above scheduled meetings are going to be held at West Coast Sea-Tac Hotel at 18220 Pacific Highway South, Seattle, WA 98188.

WSR 92-05-059
RULES COORDINATOR
TRANSPORTATION IMPROVEMENT BOARD

[Filed February 14, 1992, 1:57 p.m.]

The name of the Transportation Improvement Board's rules coordinator is Donna Laing. She can be reached at 3-7198.

Jerry Fay
 Executive Director

WSR 92-05-060
PERMANENT RULES
SECRETARY OF STATE
(Division of Archives and Records Management)

[Filed February 14, 1992, 2:22 p.m.]

Date of Adoption: February 14, 1992.

Purpose: To prescribe rules for the physical disposal of public records including the use of recycling.

Statutory Authority for Adoption: RCW 40.14.020.

Pursuant to notice filed as WSR 92-02-068 on December 31, 1991.

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

February 14, 1992
 Sidney F. McAlpin
 State Archivist

Chapter 434-640 WAC
METHODS OF RECORDS DISPOSAL

NEW SECTION

WAC 434-640-010 **RECORDS DISPOSAL—GENERALLY.** When the state or local records committee has authorized the destruction of public records in accord with chapter 40.14 RCW, it shall be the responsibility of the agency having requested or received such authorization to cause such records to be disposed of promptly and effectively, after the approved retention period.

NEW SECTION

WAC 434-640-020 **DISPOSAL OF CONFIDENTIAL RECORDS.** It is the agency's responsibility to insure that records exempt from disclosure per chapter 42.17 RCW, or which are otherwise considered confidential, are protected from unauthorized access during

any disposal process. The primary purpose of such disposal shall be that of reducing the records to an illegible condition.

NEW SECTION

WAC 434-640-030 **DISPOSAL BY RECYCLING.** Pursuant to disposal authorization from the state or local records committee, an agency may dispose of records by recycling, under the following conditions:

(1) The prompt destruction of the records shall be insured, and the responsibility for such destruction shall continue to be that of the agency until effectuated.

(2) The recycling agent or entity shall have any required licenses and shall be insured or bonded.

(3) Records shall not be kept in unattended and unprotected storage awaiting their destruction.

(4) The agency or its authorized agent shall have in effect a contract or written agreement with the recycling entity which includes these conditions.

WSR 92-05-061
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed February 14, 1992, 2:27 p.m.]

Original Notice.

Title of Rule: Chapter 308-102 WAC, Administration of the Financial Responsibility Act—Procedures; and chapter 308-104 WAC, Driver's licenses.

Purpose: Revise procedural rules regarding suspensions under the Financial Responsibility Act, update the list of moving traffic violations, transfer the hearings procedures for habitual traffic offenders to the appropriate chapter, and repeal outdated sections.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: Chapters 46.20, 46.29, and 46.65 RCW.

Summary: Updates information regarding actions taken under the Financial Responsibility Act, including driver license suspensions, security required following an accident, informal settlement and formal hearing procedures, and findings. Also updates list of moving violations and makes technical corrections.

Reasons Supporting Proposal: Changes to chapter 308-102 WAC necessary due to the Administrative Procedure Act.

Name of Agency Personnel Responsible for Drafting: Clark J. Holloway, Highways-Licenses Building, (206) 753-1134; Implementation and Enforcement: Joan L. Baird, Highways-Licenses Building, (206) 753-6977.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-102-002, states that the rules of procedure contained in chapter 308-102 WAC conform with the Administrative Procedure Act and other rules; WAC

308-102-004, hearings, informal interviews and document reviews under this chapter are conducted by presiding officers delegated authority by the director; WAC 308-102-006, gives the correspondence address for the department; WAC 308-102-008, sets the property damage threshold in an accident required to invoke the Financial Responsibility Act; WAC 308-102-010, requires the department to notify a person regarding amount of security required following an accident; WAC 308-102-011, explains how the amount of security is determined; WAC 308-102-020, provides for the mailing of a notice of intent to suspend the driver's license of a person required to deposit security, and gives procedures for requesting administrative review; WAC 308-102-100, gives timelines for requesting administrative review of security requirement and suspension; WAC 308-102-130, provides for a document review as a part of an informal settlement; WAC 308-102-140, provides for an interview as part of an informal settlement; WAC 308-102-190, authorizes the presiding officer to make findings in an informal settlement and provides opportunity to request formal hearing; WAC 308-102-200, gives procedure for requesting a formal hearing; WAC 308-102-250, gives issues to be determined at a formal hearing; WAC 308-102-255, gives guidelines for the department to determine the possibility of probability of judgment against a person involved in an accident; WAC 308-102-260, outlines the duties of presiding officers at formal hearings; WAC 308-102-265, gives procedure where a person fails to appear at a formal hearing; WAC 308-102-290, authorizes the presiding officer to make findings and enter an order following a formal hearing. Gives procedure for filing a petition of reconsideration; WAC 308-104-160, defines "nonmoving violation" and lists moving traffic violations; WAC 308-104-340, gives procedures for formal hearings where a person has been determined to be an habitual traffic offender; and repeals outdated sections.

Proposal Changes the Following Existing Rules: WAC 308-102-010, amended to make gender neutral; WAC 308-102-011, amended to clarify amount of security required; WAC 308-102-020, amended to update terminology and to give procedures for applying for an administrative review. Necessary to bring rule into compliance with the Administrative Procedure Act (APA); WAC 308-102-100, amended to bring procedures into technical compliance with APA; WAC 308-102-130, amended to update terminology; WAC 308-102-140, amended to update terminology; WAC 308-102-190, amended to give presiding officer authority to make decisions in informal settlements; WAC 308-102-200, amended to bring request for adjudicative proceeding requirements into compliance with APA; WAC 308-102-250, amended to update terminology and property damage threshold amount; WAC 308-102-260, amended to bring presiding officer's duties into conformance with APA; WAC 308-102-265, amended to clarify consequence of a person's failure to appear at a requested hearing; WAC 308-102-290, amended to bring findings provisions following a formal hearing into compliance with APA; WAC 308-104-160, amended to include motorcycle helmet violations into list of moving traffic

offenses; and WAC 308-102-040, 308-102-110, 308-102-120, 308-102-125, 308-102-150, 308-102-160, 308-102-170, 308-102-180, 308-102-210, 308-102-220, 308-102-230, 308-102-240, 308-102-270, 308-102-280, and 308-102-295 repealed.

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

Rules will have no impact above that required by statute.

Hearing Location: Department of Licensing, Highways-Licenses Building, 4th Floor, Olympia, Washington 98504, on March 24, 1992, at 10:00 a.m.

Submit Written Comments to: Clark J. Holloway, Department of Licensing, Highways-Licenses Building, 4th Floor, Olympia, Washington 98504, by March 24, 1992.

Date of Intended Adoption: March 25, 1992.

February 12, 1992

Joan Baird

Assistant Director

NEW SECTION

WAC 308-102-002 DECLARATION OF PURPOSE—PROCEDURAL RULES. Chapter 308-102 WAC contains the rules of procedure used in the administration of the Financial Responsibility Act, chapter 46.29 RCW. Adjudicative proceedings conducted under the Financial Responsibility Act shall be held in accordance with the Administrative Procedures Act, chapter 34.05 RCW, and the rules published in chapter 10-08 and 308-08 WAC insofar as those rules are consistent with the rules adopted herein.

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

NEW SECTION

WAC 308-102-004 PRESIDING OFFICER. Hearings, informal interviews and document reviews held under this chapter shall be conducted by a presiding officer who shall be delegated the authority to conduct such hearings, informal document reviews and interviews by the director. The presiding officer shall have the powers and duties provided by chapter 34.05 RCW, and may be authorized by the director to make final determinations regarding the issuance, denial, cancellation, or suspension or revocation of a driver's license or a nonresident's privilege to drive. If the presiding officer is authorized by the director to make final determinations, the decision shall be final.

If the presiding officer is not authorized to make final decisions the results shall be subject to review by the director or his or her designated representative. The director or his or her designated representative upon review of the records, the evidence, and the findings of the presiding officer shall promptly render his or her decision sustaining, modifying, or reversing any order entered by the department.

NEW SECTION

WAC 308-102-006 CORRESPONDENCE ADDRESS. All correspondence shall be addressed to the Department of Licensing, Hearings and Interviews Section, Highways-Licenses Building, Olympia, WA 98504.

NEW SECTION

WAC 308-102-008 PROPERTY DAMAGE THRESHOLD. In the case of property damage, the provisions of the Financial Responsibility Act shall apply where the damage to the property of any one person is of an apparent extent equal to or greater than five hundred dollars. In the event that this amount differs from that established by the chief of the Washington state patrol under the provisions of RCW 46.52.030, the amount established by the chief of the Washington state patrol shall prevail.

AMENDATORY SECTION (Amending Order 103-MV, § 308-102-010, filed 3/8/71 [8/17/71])

WAC 308-102-010 ORDER FIXING AMOUNT OF SECURITY. Whenever under the Financial Responsibility Act, the department fixes the amount of the security required of any person it shall forthwith notify ~~((him))~~ the person of the amount so required by mailing to ~~((him))~~ the person at his or her address as shown by department records, a notice of security stating the amount of the security required, the date by which the security must be posted, which shall be not less than twenty nor more than sixty days following the date of mailing, and which notice shall contain instructions pertaining to the filing of proof of financial responsibility.

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

AMENDATORY SECTION (Amending Order 228, § 308-102-011, filed 12/31/74)

WAC 308-102-011 AMOUNT OF SECURITY—HOW DETERMINED. The department shall determine the amount of security deposit required of any person upon the basis of reports ~~((or other information))~~ submitted, such reports to be in a form provided by the department which must be completed by the parties who sustain a loss, or their successors in interest, ~~((and must provide))~~ or upon the basis of other information or evidence received by the department which provides sufficiently specific information for the department to enter its decision concerning the amount of security with reasonable certainty: PROVIDED, That(:) a fatality or fatalities will create the presumption that the amount shall be for the full amount of the limit provided by RCW 46.29.090 in reference to the acceptable limits of a policy or bond. Failure to respond to a request for specific information within ((a reasonable time)) thirty days will allow the department to conclude that no claim is being pursued.

AMENDATORY SECTION (Amending Order 103-MV, § 308-102-020, filed 8/17/71)

WAC 308-102-020 ~~((SUSPENSION NOTICES))~~ NOTICE OF INTENT TO SUSPEND. At the time the department mails a notice of security, it shall also mail ~~((an order of suspension to the person to whom notice is mailed. Said order))~~ a notice of intent to suspend. The notice of intent to suspend shall ~~((effect the suspension of the driving privilege of))~~ give notice to the person required to post security ((which shall)) of the department's intention to suspend the person's driving privilege, the effective date of such suspension to be not less than twenty and not more than sixty days from the date of mailing. The grounds stated in ((said order)) the notice shall be: "Failure to deposit the security requirements and to file proof of financial responsibility." A person receiving a notice of intent to suspend may apply for administrative review under WAC 308-102-100. Failure to apply for administrative review within the time limits of WAC 308-102-100 shall constitute a default and shall result in the suspension becoming effective on the date indicated on the notice of intent to suspend and the loss of the right to further administrative review. In the event the person so notified posts the security and files proof of financial responsibility for the future within the time allowed for such purposes, no suspension shall be effected. The department may extend the effective date of the suspension where it appears the person suspended has made a bona fide attempt to file proof of financial responsibility for the future within the time permitted and will in all probability be able to do so within thirty days.

AMENDATORY SECTION (Amending 86-07-018 (Order DS 2), § 308-102-100, filed 3/12/86)

WAC 308-102-100 ~~REQUEST FOR ((DOCUMENT REVIEW OR INTERVIEW))~~ INFORMAL SETTLEMENT—EFFECT, TIMELINESS. Pursuant to WAC 10-08-230, regarding informal settlements, any person ~~((hereinafter referred to as licensee))~~ notified of the requirement of depositing security and suspension for failure to deposit security under the Financial Responsibility ~~((law))~~ Act, chapter 46.29 RCW, may within fifteen days of the date of the notice of ~~((suspension of))~~ intent to suspend his or her driver's license or nonresident privilege to drive request either an interview or document review before a ((department of licensing referee)) presiding officer.

The request may be oral or written, but if made orally, such request must be confirmed by the ~~((licensee))~~ person in writing within five days following such request.

Upon receipt of a timely request for interview or document review, the ~~((order of))~~ suspension shall be stayed pending the outcome of the document review or interview.

If the ~~((licensee))~~ person does not request a document review or interview within the time specified above, or fails to attend an interview scheduled at the ((licensee's)) person's request, said ((licensee)) person shall have waived his or her right to any further administrative remedies, including the formal hearing, and the ((order of)) suspension of the person's driver's license or driving privilege shall become effective.

AMENDATORY SECTION (Amending Order MV-302, § 308-102-130, filed 3/31/75)

WAC 308-102-130 INFORMAL SETTLEMENT—DOCUMENT REVIEW. Document review shall be held before a ~~((referee))~~ presiding officer who, in making the decision shall consider any of the following:

(1) Affidavits filed by, for, and/or on behalf of the ~~((licensee))~~ person seeking review, and/or by, for and/or on behalf of the individual(s) claiming the loss(:);

(2) The financial responsibility files concerning the ~~((licensee))~~ person seeking review;

(3) The investigating officer's report of the accident(:);

(4) Court records of any conviction or bail forfeiture of a traffic violation arising out of the accident(:); and

(5) Any other evidence relevant to the issues to be determined.

AMENDATORY SECTION (Amending Order 466-DOL, § 308-102-140, filed 12/30/77)

WAC 308-102-140 INFORMAL SETTLEMENT—INTERVIEW. The interview shall be held before a ~~((referee))~~ presiding officer who, in making the decision, shall consider any of the following:

(1) Oral testimony or argument offered by, for, or on behalf of the ~~((licensee))~~ person seeking review;

(2) Affidavits from the individuals claiming the loss and/or from a representative of any insurance carrier that has a subrogated interest therein(:);

(3) Investigating officer's reports of the accident in question(:);

(4) Court records of convictions or bail forfeitures submitted to the department of licensing and arising out of the accident in question(:);

(5) The financial responsibility files concerning the ~~((licensee))~~ person seeking review;

(6) Affidavits or witness testimony of the ~~((licensee))~~ person seeking review; and

(7) Any other evidence relevant to the issues to be determined.

AMENDATORY SECTION (Amending 86-07-018 (Order DS 2), § 308-102-190, filed 3/12/86)

WAC 308-102-190 INFORMAL SETTLEMENT—DOCUMENT REVIEW OR INTERVIEW—DECISION. Upon conclusion of a document review or interview the ~~((department referee))~~ presiding officer shall make findings on the matter under consideration and shall ~~((properly submit the recommendations to the department. After a review of the referee's report and any attachments thereto together with the files and records maintained by the department pertaining to the accident in question and any documents submitted by the licensee, the department shall))~~ sustain, modify, or reverse the department's notice of intention to suspend and/or the amount of security required. The department shall notify the ((licensee)) person of the presiding officer's decision and said ((licensee's)) person's right to request a formal administrative hearing in writing by first class mail sent to the last address of record. A copy of the ((referee's)) presiding officer's findings shall be sent to the ((licensee)) person with the notice of the decision and right to a formal hearing. Upon receipt of a timely request for formal hearing the order for the deposit of security and suspension for failure to deposit security shall be stayed pending the results of the hearing.

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 86-07-018 (Order DS 2), § 308-102-200, filed 3/12/86)

WAC 308-102-200 REQUEST FOR ADJUDICATIVE PROCEEDING—FORMAL HEARING. Any ~~((licensee))~~ person who is aggrieved by the interview or document review decision of the department may request a formal hearing on the matter. The request for formal hearing must be in writing and must be addressed to the department of licensing and postmarked within fifteen days following the mailing of the decision of the department to the ~~((licensee))~~ person. Failure to make timely request for a formal hearing to the department shall be considered a withdrawal of the person's request for adjudicative proceedings and shall result in a waiver of the ~~((licensee's))~~ person's right to such hearing and the decision of the department shall become final. ~~((At the time it sends the notice of the decision, the department shall send a request for administrative hearing in substantially the following form:~~

REQUEST FOR ADMINISTRATIVE HEARING

~~Within fifteen days of this letter you may request a hearing by the department in the matter of the suspension of your driving privilege.) If a timely request for a formal hearing is made, the departments shall notify the person of the time and place of such hearing in writing, and mail such notice to the last address of record, at least twenty days in advance of the hearing date. The hearing shall be held within a reasonable distance of the county wherein the person resides or, if the person is a nonresident of Washington, in the county where the accident occurred. The notice shall include the information required by RCW 34.05.434(2).~~

AMENDATORY SECTION (Amending Order 467-DOL, § 308-102-250, filed 12/30/77)

WAC 308-102-250 ISSUES TO BE DETERMINED—FORMAL HEARING. Only the following issues shall be considered at any formal hearing held on request of ~~((the licensee))~~ a person:

- (1) Whether the ~~((licensee))~~ person was the owner or driver of any motor vehicle of a type subject to registration under the motor vehicle laws of this state which was in any manner involved in an accident within this state(:);
- (2) Whether the accident resulted in bodily injury or death of any person or damage to the property of any one person in an amount ~~((of \$300 or more:))~~ meeting or exceeding the property damage threshold established by WAC 308-102-008;
- (3) Whether there is a reasonable possibility of a judgment being entered against the ~~((licensee))~~ person in the amount required by the order of the department fixing such security(:);
- (4) Whether the amount of security to be deposited, if any, is sufficient to satisfy any judgment or judgments resulting from such accident as may be recovered against the ~~((licensee:))~~ person; and
- (5) Whether the ~~((licensee))~~ person is entitled to an exception to the requirement of security pursuant to RCW 46.29.080.

NEW SECTION

WAC 308-102-255 DETERMINATION OF POSSIBILITY OF JUDGMENT. For the purposes of WAC 308-102-250(3), the department may presume that there is a reasonable possibility of a judgment being entered against a person if:

- (1) The person was convicted of or forfeited bail for a traffic violation arising out of the accident, or
- (2) A law enforcement officer investigating the accident completed a report which specified that a violation of a rule of the road contributed to the accident regardless of whether a citation was issued, or
- (3) The person was negligent, having committed an act which a reasonably careful and prudent person would not have done under the same or similar circumstances, or failed to act in a way which a reasonably careful and prudent person would have acted under the same or similar circumstances, and such act or omission was a proximate cause of the accident.

AMENDATORY SECTION (Amending 82-03-046 (Order 668 DOL), § 308-102-260, filed 1/19/82)

WAC 308-102-260 ((HEARING)) PRESIDING OFFICER—DUTIES. The ~~((hearing))~~ presiding officer, in making his~~(/)~~ or her decision at the formal hearing, shall consider:

- (1) ~~((Sworn oral testimony offered by the licensee:))~~ Evidence as allowed under RCW 34.05.452;

~~(2) ((Sworn oral testimony offered by witnesses on behalf of the licensee:~~

~~(3) Sworn oral testimony offered by the individual(s) who sustained the loss:~~

~~(4) Sworn oral testimony offered by witnesses on behalf of the individual(s) who sustained the loss or offered by the representative of the insurance carrier who has a subrogated interest therein:~~

~~(5)) Court records of convictions or bail forfeitures submitted to the department of licensing and arising out of the accident in question(:);~~

~~((6)) (3) Traffic collision reports completed by a police officer who investigated the accident, all reports and other information submitted to the department by the individual(s) who sustained the loss or the insurance carrier who has a subrogated interest therein, records and documents in possession of the department of which it desires to avail itself, repair estimates, repair and medical bills, towing bills and any other reasonable accounting of a loss proximately arising from an accident or photocopies thereof(:); and~~

~~((7)) (4) Any other evidence related to the issues before the hearing which have probative value commonly accepted by reasonable, prudent persons in the conduct of their affairs.~~

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 86-07-18 [86-07-018] (Order DS 2), § 308-102-265, filed 3/12/86)

WAC 308-102-265 ((FINANCIAL—RESPONSIBILITY)) FORMAL HEARING—FAILURE TO APPEAR. In the event that ~~((neither))~~ the ~~((licensee))~~ person who requested a formal hearing pursuant to this chapter ~~((308-102 WAC nor the person or persons for whose benefit the department is requiring security appears))~~ fails to appear at the time and place of the scheduled hearing, no hearing shall be held. The case shall be remanded to the department, and the previous department order requiring security shall be affirmed: PROVIDED, That the presiding officer may consider evidence as to whether the amount of security to be deposited is sufficient to satisfy any judgment or judgments as may be recovered against the person, and may adjust the amount of security required accordingly.

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

AMENDATORY SECTION (Amending 82-03-046 (Order 668 DOL), § 308-102-290, file 1/19/82)

WAC 308-102-290 FORMAL HEARINGS—FINDINGS, CONCLUSIONS AND DECISIONS. At the conclusion of the formal hearing, the ~~((hearing))~~ presiding officer shall, as soon as practical, make and enter findings of fact, conclusions of law and enter an order as provided by RCW 34.05.461. ~~((They shall either affirm, rescind or modify the terms of the previous departmental order concerning the deposit of security or suspension. If the hearing officer is not authorized to make final determinations, the director or his/her authorized representative(s) shall review the recommendations together with the transcript or recording of the hearing and all evidence of record, and shall enter a final order which affirms, rescinds or modifies the departmental order of suspension. Copies of the findings of fact, conclusions of law and order so entered shall be sent to the licensee:))~~

If the order of the department is affirmed, the department shall suspend the driver's license or nonresident driving privilege of the ~~((licensee))~~ person required to deposit security, but the order of suspension shall carry an effective date of thirty days after the date of mailing, during which time the ~~((licensee))~~ person may comply with the terms of the order.

If the order of the department is reversed, the department shall cancel its previous order.

If the order of the department is modified, the department shall nonetheless suspend the driver's license or nonresident driving privilege of the ~~((licensee))~~ person required to deposit security, but the order of suspension shall carry an effective date of thirty days after the date of mailing, during which time the ~~((licensee))~~ person may comply with the terms of the order.

Petitions for reconsideration, as provided by RCW 34.05.470, shall be filed with the presiding officer within ten days of service of the final

order. The department is deemed to have denied the petition for re-consideration if, within twenty days from the date the petition is filed, the department does not either: (a) Dispose of the petition; or (b) serve the parties with a written notice specifying the date by which it will act on the petition.

AMENDATORY SECTION (Amending 86-07-018 (Order DS 2), § 308-104-160, filed 3/12/86)

WAC 308-104-160 NONMOVING VIOLATIONS DEFINED. A "nonmoving violation" as used in RCW 46.65.020 and this chapter shall mean any violation or traffic infraction in Title 46 RCW, other than those moving violations included in the following list:

- (1) Driving while under the influence of intoxicants or drugs
- (2) Reckless driving
- (3) Hit and run (occupied vehicle)
- (4) Vehicular homicide
- (5) Driving while driving privilege suspended or revoked
- (6) Eluding police vehicle
- (7) Racing
- (8) Embracing
- (9) Manslaughter
- (10) Speed too fast for conditions
- (11) Speed 1 to 14 MPH excess
- (12) Speed 15 to 29 MPH excess
- (13) Speed over 29 MPH excess
- (14) Failure to stop
- (15) Disobey road sign
- (16) Improper lane change
- (17) Improper lane travel
- (18) Prohibited turn
- (19) Unnecessary noise
- (20) Negligent driving
- (21) Wrong way on one-way street
- (22) Driving over center line
- (23) Drive wrong side of road
- (24) Straddling centerline
- (25) Failure to yield right of way
- (26) Disobey signalman
- (27) Disobey school patrol
- (28) Driving without lights
- (29) Failure to dim lights
- (30) Following too closely
- (31) Improper turn
- (32) Failure to signal or improper signal
- (33) Passing stopped school bus
- (34) Driving on shoulder or sidewalk
- (35) Violating license restriction(s)
- (36) Carrying passenger improperly
- (37) In physical control of vehicle while under influence of alcohol or drugs
- (38) Vehicular assault
- (39) Crossing fire hose
- (40) Carry passenger outside vehicle
- (41) Improper backing
- (42) Obstructed vision or control
- (43) Following emergency equipment
- (44) Crossing divider
- (45) Inattention
- (46) Improper mirrors
- (47) Illegal vehicle equipment
- (48) Handle bars over height
- (49) Illegal lights
- (50) Defective equipment
- (51) Reckless endangerment
- (52) No helmet, goggles, windshield or face shield
- (53) Improper overtaking or passing
- (54) Hit and run (unattended vehicle)
- (55) Impeding traffic
- (56) More persons than provided for on motorcycle
- (57) Operating moped on freeway
- (58) Wearing earphones/viewing TV in vehicle
- (59) Open container violation (driver)
- (60) Permitting illegal vehicle operation
- (61) Violation of instruction permit

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

NEW SECTION

WAC 308-104-340 FORMAL HEARINGS—HABITUAL TRAFFIC OFFENDERS. At the formal hearing held by the department to determine whether the driver is a habitual offender, the certified abstract of convictions of traffic offenses or determinations that the indicated traffic infractions occurred shall be prima facie evidence that the person named therein was duly convicted by the court wherein such conviction or holding was made of each offense or infraction shown by such transcript or abstract.

A person may bring a collateral attack on the constitutional validity of the convictions for the traffic offenses giving rise to the proposed license revocation, pursuant to RCW 46.65.020(1): PROVIDED, HOWEVER, That the person collaterally attacking the constitutional validity of any conviction for a traffic offense must prove by clear, cogent and convincing evidence both of the following:

(1) That the person pleaded guilty to a traffic offense for which imprisonment was authorized without having been advised of his or her right to be represented by counsel and or his or her right to have counsel appointed if indigent; and

(2) As the result of the guilty plea, the driver was sentenced to jail and actually served time in jail.

The department may, in addition, consider any records in its possession with respect to any conviction(s) which is (are) being collaterally attacked.

REPEALER

The following sections of the Washington Administrative Code are repealed.

- WAC 308-102-040 HEARING—PROCEDURAL RULES.
 WAC 308-102-110 CONDUCT OF DOCUMENT REVIEW OR INTERVIEW—REFEREE.
 WAC 308-102-120 FINANCIAL RESPONSIBILITY DOCUMENT REVIEW OR INTERVIEW.
 WAC 308-102-125 DISCOVERY.
 WAC 308-102-150 ISSUES TO BE DETERMINED.
 WAC 308-102-160 DETERMINATION OF POSSIBILITY OF JUDGMENT.
 WAC 308-102-170 NOTICE THAT INTERVIEW OR DOCUMENT REVIEW MAY BE REQUESTED.
 WAC 308-102-180 CORRESPONDENCE ADDRESS.
 WAC 308-102-210 FORMAL HEARING—TIME AND PLACE.
 WAC 308-102-220 FORMAL HEARING—NOTICE OF PROCEEDING.
 WAC 308-102-230 HEARING OFFICER.
 WAC 308-102-240 FINANCIAL RESPONSIBILITY—FORMAL HEARING.
 WAC 308-102-270 HEARING OFFICER—POWERS.
 WAC 308-102-280 FORMAL HEARING.
 WAC 308-102-295 FORMAL HEARINGS—HABITUAL TRAFFIC OFFENDERS.

WSR 92-05-062

**NOTICE OF PUBLIC MEETINGS
 DEPARTMENT OF LICENSING
 (Board of Registration for Architects)**

[Memorandum—February 11, 1992]

Meeting Date	Location	Time
August 7	Red Lion at the Quay 100 Columbia Street Vancouver, WA	9:00 a.m.

DATE CHANGED TO:

August 14 Red Lion at the Quay 9:00 a.m.
 100 Columbia Street
 Vancouver, WA

WSR 92-05-063
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—February 13, 1992]

The regular February meeting of the board of directors of the Washington State Convention and Trade Center will not be held on February 19th due to insufficient agenda items and no items requiring board action.

The next regular meeting of the board will be held on Wednesday, March 18, 1992, at 2:00 p.m. in the Fifth Floor Board Room of the Convention Center, 800 Convention Place, Seattle.

WSR 92-05-064
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed February 18, 1992, 10:58 a.m.]

Date of Adoption: February 18, 1992.

Purpose: This rule provides tax reporting information to persons in the business of selling lodging and related services.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-166.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 92-01-041 on December 9, 1991.

Changes Other than Editing from Proposed to Adopted Version: In subsection (3)(b), was added a statement that deposits retained because a customer fails to timely cancel a reservation are service taxable. Clarified in subsections (5) and (6), that recreational vehicle site rentals are subject to hotel/motel and convention/trade center tax.

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

February 18, 1992

Edward L. Faker
 Assistant Director

AMENDATORY SECTION (Amending Order 88-6, filed 9/27/88)

WAC 458-20-166 HOTELS, MOTELS, BOARDING HOUSES, ROOMING HOUSES, RESORTS, SUMMER CAMPS, TRAILER CAMPS, ETC. (1) Introduction. This section explains the taxation of the business activity of providing lodging and related services. In addition to retail sales tax and B&O tax, this section explains the special hotel/motel tax, the convention and trade center tax, and the taxation of emergency housing furnished to the homeless.

(2) Definitions. The following definitions apply to this section.

(a) A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, ((auto or tourist camp)) bed and breakfast facility, recreational vehicle park, and bunkhouse, as used in this ((rating)) section, includes all establishments which are held out to the public as ((an inn, hotel, public lodging house, or place)) such where sleeping accommodations may be obtained, whether with or without meals or facilities for preparing meals. It will be presumed that the establishments defined above are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.

(i) The ((foregoing)) above terms do not include establishments in the business of renting real estate, such as apartments, nor do these terms include hospitals, sanitariums, nursing homes, rest homes, and similar institutions. ((Further,)) The terms generally do not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms or schools solely for the accommodation of employees of such firms((, and)) or students which are not held out to the public as a place where sleeping accommodations may be obtained. However, educational institutions who sell overnight lodging to persons other than students may be subject to the provisions of this section and should also refer to WAC 458-20-167.

(ii) The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc.

(b) A "boarding house", as used in this section, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. ((Where)) When meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.

(c) A "trailer camp" or "recreational vehicle park" as used in this section is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, recreational vehicles, mobile homes, tents ((and the like)), etc. which provide sleeping or living accommodations for the occupants. Additional charges for utility services ((will be deemed)) are a part of the charge made for the rental.

(d) The term "transient" as used in this section means: Any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property and who does not continuously occupy the premises for a period of one month. Any such occupant who remains in continuous occupancy for more than one month, shall be deemed a transient as to the first month of occupancy, unless such occupant has contracted in advance to remain one month. A person who has contracted in advance and does remain in continuous occupancy for one month, will be deemed a nontransient from the start of the occupancy.

~~((2) It will be presumed that the establishments first defined above are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.))~~

(3) Business and occupation tax. The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:

(a) Retailing. Amounts derived from the charge made to transients for the furnishing of lodging; charges for such services as the rental of radio and television sets and the rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., and including automobile parking or storage; also amounts derived from the sale of tangible personal property at retail are taxable under this classification. See "retail sales tax" below for a more detailed explanation of the charges included ~~((herein as))~~ in the retailing.

~~(b) ((service and other business activities. Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained;))~~ Service and other business activities. Included in this classification are commissions received, amounts derived from accommodations not available to the public, certain unsegregated charges, and amounts received from certain coin operated laundries.

(i) Hotels, motels, and similar businesses may receive commissions from various sources. These commissions are generally taxable under the service and other business activities classification. The following are examples of such commissions:

(A) Commissions received from acting as a laundry agent for guests when someone other than the hotel provides the laundry service (see WAC 458-20-165) ((and commissions received for the use of telephone facilities)).

(B) Commissions received from telephone companies for long distance telephone calls where the hotel or motel is merely acting as an agent (WAC 458-20-159) and commissions received from coin-operated telephones (WAC 458-20-245). Refer to the retail sales tax subsection below for a further discussion of telephone charges.

(C) Commissions or license fees for permitting a satellite antenna to be installed on the premises or as a commission for permitting a broadcaster or cable operator to make sales to the guest of the hotel or motel.

(D) Commissions from the rental of videos for use by guests of the hotel or motel when the hotel or motel operator is clearly making such sales as an agent for a seller.

(E) Commissions received from the operation of amusement devices. (WAC 458-20-187.)

(ii) Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses,

etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained.

(iii) Summer camps, guest ranches and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the gross income from such charges under ((this)) the service and other business activities classification.

(iv) This classification ((is)) also ((applicable)) applies to gross income from charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See WAC 458-20-165 for information regarding the tax liability of laundry services generally.)

(v) Deposits retained by the business as a penalty charged to a customer for failure to timely cancel a reservation is taxable under the service and other business activities classification.

(c) Charges for lodging and related services described above are subject to tax even though they may be ((denominated)) identified or characterized as membership fees or dues. (See WAC 458-20-114.)

(d) Where lodging is furnished to a nontransient, the transaction is ((deemed)) a rental of real estate which is exempt of B&O tax (RCW 82.04.390).

(4) Retail sales tax. All sales and rentals of tangible personal property by the persons defined in this section are subject to the retail sales tax.

(a) The charge made for the furnishing of lodging and other services to transients is subject to the retail sales tax. Included is the charge made by a trailer camp for the furnishing of space and other facilities. Charges for automobile parking and storage are also subject to the retail sales tax. A business providing transient lodging must complete the "transient rental income" information section of the combined excise tax return. The four digit location code must be listed along with the income received from transient lodging subject to retail sales tax for each facility located within a participating city or county.

The retail sales tax does not apply to charges for the use of coin-operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, or trailer camp for the exclusive use of the tenants.

(b) The retail sales tax applies to all retail sales which includes, but is not limited to, the following sales:

(i) Food and beverages (including room service) and in the case of meals sold under a "two meals for the price of one" promotion, the taxable selling price is the actual amount received as payment for the meals;

(ii) Laundry services if provided by the hotel/motel in the hotel's name;

(iii) Banquet room services;

(iv) Equipment rentals;

(v) Mandatory gratuities;

(vi) Employee meals (WAC 458-20-119);

(vii) Telephone charges (except those specified in this rule and WAC 458-20-245);

(viii) Movie rentals;

(ix) Hotel owned vending machines dispensing beverages or other tangible personal property (WAC 458-20-187); and

(x) Dancing cover charges.

(c) A charge for providing extended television reception to guests of a hotel or motel is additional consideration from the sale of lodging and subject to retail sales tax.

(d) Telephone charges to a guest for local telephone calls are taxable under the retailing B&O and retail sales tax classifications. These charges are considered part of the lodging services provided to the guest. See service and other activities business and occupation tax above for transactions involving coin-operated telephones located in hotels/motels and commissions paid by telephone companies to hotels/motels for long distance calls.

(e) If the hotel/motel is acting as an agent for a telephone service provider who provides long distance telephone service to the guest, the actual telephone charges are not taxable income to the hotel/motel. These amounts are advances and reimbursements (see WAC 458-20-111 and 458-20-159). Any commission received by the hotel/motel from the telephone service provider is taxable under the service and other business activities classification. Any additional handling or other charge which the hotel/motel may add to the actual long distance telephone charge is taxable under the retailing and retail sales tax classifications.

(f) If the hotel/motel leases telephone lines and then provides telephone services for a charge to its guests, these charges are taxable under the retailing and retail sales tax classifications. In this case the hotel/motel is in the telephone business. (See WAC 458-20-245.) The hotel/motel may give a resale certificate to the provider of the leased lines and is not subject to the payment of retail sales tax to the provider of the leased lines.

((b)) (g) An occupant does not become entitled to a refund of retail sales tax paid for lodging as a transient by reason of having remained one month and having thereby qualified as a nontransient.

((c) Effective July 1, 1988, there is an exemption from the retail sales tax, convention and trade center tax, and the special hotel/motel tax on the charge made for the furnishing of emergency lodging to homeless persons purchased via a shelter voucher program administered by cities, towns, and counties or private organizations that provide emergency food and shelter services.

(d)) (h) Except ((as to)) for guest ranches and summer camps ((as described herein)), when a lump sum is charged for lodging to nontransients and for meals furnished, the retail sales tax must ((nevertheless)) be ((paid)) collected upon the fair selling price of such meals((- and)). Unless accounts are kept showing ((such)) the fair selling price, the tax will be computed upon double the cost of the meals served((- and)). The cost ((shall)) includes the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses. ((The retail sales tax is not applicable to charges for the use of coin-operated laundry facilities when such facilities are situated in an

apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants.

(e)) (i) All ((sales)) purchases of tangible personal property ((to such persons)) by a lodging provider, except ((such)) property ((as is to be resold as tangible personal property)) purchased for resale are subject to the retail sales tax. ((In this regard,)) This includes as subject to retail sales tax all ((sales)) purchases of tangible personal property for use ((in the furnishing of)) in providing lodging and related services ((are subject to the retail sales tax)), such as beds and other furnishings. The charge ((made)) for lodging ((being)) and related services is for services rendered and not for the ((sale)) resale of any tangible property ((as such)). Included are items such as soap, towels, linens, laundry, laundry supply services and furnishings. See WAC 458-20-244 ((Rule 244)) for sales to persons operating guest ranches and summer camps of food supplies for use in the preparation of meals served to guests when such persons make an unsegregated charge for meals, lodging, and services and report such charges under the classification service and other activities as ((herein provided)) explained above.

(j) Sales to the United States government are not subject to retail sales tax. However, it may be difficult for hotels and motels to determine if the sale is actually to the federal government or is only a sale to an employee of the federal government. Sales to employees of the federal government are fully taxable notwithstanding that the employee ultimately will be reimbursed for the cost of lodging. The department of revenue has identified four methods of billing or payment which are presumed to be sales to the federal government. They are:

(i) Charges made through the use of a VISA I.M.P.A.C. card (International Merchant Purchase Authorization Card). The VISA I.M.P.A.C. cards include the embossed legend "U.S. Government Tax Exempt." The account number on each card begins with the prefix "4716."

(ii) Charges made through Diner's Club Corporate Charge Card (the card contains the statement "for official use only"). There are two Diner's Club Corporate Charge Cards now available to federal employees. Only one is sales tax exempt. The card providing the exemption is embossed with the name of the employee followed by the statement "for official use only." This card is used by federal agencies to pay for group lodging.

(iii) The lodging is paid by government voucher or government check payable directly to the hotel/motel.

(iv) A cash purchase made on behalf of the federal government by a federal employee who gives the seller a federal standard form SF 1165. A cash purchase by a federal employee made on behalf of the federal government qualifies for a sales tax exemption provided that the federal employee presents a federal standard form SF 1165 to document the fact that the purchase is made on behalf of the federal agency out of petty cash funds. The vendor (hotel/motel) is required to sign form SF 1165 to signify receipt of cash for the purchase. The vendor must retain a photocopy of SF 1165, describing the item purchased, to document the sales tax exemption.

(5) Special hotel/motel tax. Beginning in October 1987, some locations in the state have been authorized to charge a special hotel/motel tax. (See chapters 67.28 and 36.100 RCW.) If a business is in one of these locations, an additional tax is charged and reported under the special hotel/motel portion of the tax return. The four digit location code, the amount received for the lodging, and the tax rate must be completed for each location in which the lodging is provided. The tax applies without regard to the number of lodging units except that the tax of chapter 36.100 RCW applies only if there are forty or more lodging units. The tax only applies to the charge for the rooms to be used for lodging by transients. Additional charges for telephone services, laundry, or other incidental charges are not subject to the special hotel/motel tax. Neither is the charge for use of meeting rooms, banquet rooms, or other special use rooms subject to this tax. However, the tax does apply to charges for use of camping and recreational vehicle sites.

(6) Convention and trade center tax. Businesses selling lodging to transients, having sixty or more units located in King County, must charge their customers the convention and trade center tax and report the tax under the "convention and trade center" portion of the tax return.

(a) A business having more than sixty units which are rented to transients and nontransients will be subject to the convention and trade center tax only if the business has at least sixty rooms which are available or being used for transient lodging. For example, a business with one hundred forty total rooms of which ninety-five are rented to nontransients is not subject to the convention and trade center tax.

(b) The tax only applies to the charge for the rooms to be used for lodging by transients. Additional charges for telephone services, laundry, or other incidental charges are not subject to the convention and trade center tax. Neither is the charge for use of meeting rooms, banquet rooms, or other special use rooms subject to the convention and trade center tax.

(c) The four digit location code, amount received for the lodging, and the tax rate must be completed for each location in which the lodging is provided. However, the tax does apply to charges for camping or recreational vehicle sites. Each camp site is considered a single unit.

(7) Furnishing emergency lodging to homeless. Effective July 1, 1988, there is an exemption from the retail sales tax, convention and trade center tax, and the special hotel/motel tax on the charge made for the furnishing of emergency lodging to homeless persons purchased via a shelter voucher program administered by cities, towns, and counties or private organizations that provide emergency food and shelter services. This form of payment does not influence the required minimum of transient rooms available for use as transient lodging under the "convention and trade center tax" or under the "special hotel/motel tax."

WSR 92-05-065

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed February 18, 1992, 11:01 a.m.]

Date of Adoption: February 18, 1992.

Purpose: This rule provides tax reporting information to sellers and purchasers of prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-18801.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 92-01-042 on December 9, 1991.

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

February 18, 1992

Edward L. Faker

Assistant Director

AMENDATORY SECTION (Amending Order 87-1, filed 2/18/87)

WAC 458-20-18801 PRESCRIPTION DRUGS, PROSTHETIC AND ORTHOTIC DEVICES, OSTOMIC ITEMS, AND MEDICALLY PRESCRIBED OXYGEN. (1) Definitions. As used in this section:

(a) "Prescription drugs" are medicines, drugs, prescription lenses, or other substances, other than food for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans ordered by (i) the written prescription to a pharmacist by a practitioner authorized by the laws of this state or laws of another jurisdiction to issue prescriptions, or (ii) an oral prescription of such practitioner which is reduced promptly to writing and filled by a duly licensed pharmacist, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is promptly reduced to writing and filled by the pharmacist, or (iv) physicians or optometrists by way of written directions and specifications for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

(b) "Prescription" means a formula or recipe or an order ((therefor)) written by a medical practitioner for the composition, preparation and use of a healing, curative or diagnostic substance, and also includes written directions and specifications by physicians or optometrists for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects or anomalies of humans.

((b)) (c) "Other substances" means products such as catalytics, hormones, vitamins, and steroids, but the term generally does not include devices, instruments, equipment, and similar articles. However, "other substances" does include the needles, tubing, and the bag which are part of an intravenous set for delivery of prescription drugs. It also includes infusion pumps and catheters when used to deliver prescription drugs to a specific patient. These items are not conceptually distinct from the prescription drug solution. This same rationale applies to tubing and needles which are used in placing

prescribed nutritional products in the patient's system. The stand which holds the intravenous set is not included nor are plain glass slides, plain specimen collection devices, and similar items which are used in the laboratory. This term does include diagnostic substances and reagents, including prepared slides, tubes and collection specimens devices which contain diagnostic substances and reagents at the time of purchase by a laboratory.

~~((c)) "Food" means any substance the chief general use of which is for human nourishment.))~~

(d) "Medical practitioner" means a person within the scope of RCW 18.64.011(9) who is authorized to prescribe drugs, but excluding veterinarians, and for the purposes of this rule includes also persons licensed by chapter 18.53 RCW to issue prescriptions for lenses.

(e) "Licensed dispensary" means a drug store, pharmacy, or dispensary licensed by chapter 18.64 RCW or a dispensing optician licensed by chapter 18.34 RCW.

(f) "Prosthetic devices" are artificial substitutes which ~~((physically))~~ generally replace missing parts of the human body, such as a limb, bone, joint, eye, tooth, or other organ or part thereof, and materials which become ingredients or components of prostheses.

(g) "Orthotic devices" are ~~((fitted surgical))~~ apparatus designed to activate or supplement a weakened or atrophied limb or function. They include braces, collars, casts, splints, and other ~~((specially fitted))~~ similar apparatus as well as parts thereof. Orthotic devices do not include durable medical equipment such as wheelchairs, crutches, walkers, and canes nor consumable supplies such as ~~((elastic))~~ embolism stockings, arch pads, belts, supports, bandages, and the like, whether prescribed or not.

(h) "Ostomic items" are medical supplies used by colostomy, ileostomy, and urostomy patients. These include bags, tapes, tubes, adhesives, deodorants, soaps, jellies, creams, germicides, and sundry related supplies.

(i) "Medically prescribed oxygen" means oxygen prescribed for the use in the treatment of a medical condition. For periods after July 27, 1991, this term shall include, but is not limited to, the sale or rental of oxygen concentrator systems, oxygen enricher systems, liquid oxygen systems, and gaseous, bottled oxygen systems for use by an individual under a prescription. (See RCW 82.08.0283.)

(j) "Legend drugs" are those drugs which may not be legally dispensed without a prescription. These drugs are listed in the official United States pharmacopeia or similar source. (See RCW 69.41.010(8).) WAC 246-865-010(5) requires legend drugs to have a label stating that federal law prohibits dispensing without a prescription. Also refer to RCW 69.41.010(9).

(k) "Nutrition products" are prescribed dietary substances formulated to provide balanced nutrition as a sole source of nourishment.

(2) Business and occupation tax. The business and occupation tax applies to the gross proceeds from sales of drugs, medicines, prescription lenses, or other substances used for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailments in humans. Sales of these items to persons for resale are taxable under the wholesaling classification. Sales to consumers are taxable

under the retailing classification. Persons who provide medical services to patients are taxable under the service and other business activities classification on the gross charge to the patient, notwithstanding that some prescription drugs may be separately charged to the patient. Persons who provide medical services should refer to WAC 458-20-151 and 458-20-168 for additional tax reporting information.

(3) Deductions. The following may be deducted from gross proceeds for computing business and occupation tax:

(a) Sales of prescription drugs and other medical and healing supplies furnished as an integral part of services rendered by a publicly operated or nonprofit hospital, nonprofit kidney dialysis facility, nursing home, or home for unwed mothers operated as a religious or charitable organization which meets all the conditions for exemption for services generally under RCW 82.04.4288 or 82.04.4289 (see WAC 458-20-168).

(4) Retail sales tax. The retail sales tax applies upon all retail sales of tangible personal property unless expressly exempted by law.

(5) Exemptions. The following exemptions apply from the retail sales tax and use tax.

(a) Legend drugs are exempt from retail sales tax or use tax when sold for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or other ailments of humans. This exemption applies to all levels of sales and distribution of legend drugs, including legend drugs given away as samples. Legend drugs are exempt from sales tax when sold to hospitals, doctors, dentists, or any other medical practitioner, as well as to patients. Sellers of legend drugs are not required to retain a resale certificate or other exemption documentation from the legend drug purchaser. The exemption applies at the time of purchase even if the hospital or medical practitioner who makes such purchases will not resell the legend drug as a separate line item charge to its patient.

(b) The retail sales tax does not apply to sales ~~((to patients))~~ of nonlegend drugs, nutrition products including dietary supplements or dietary adjuncts, medicines, prescription lenses, or other substances, but only when

- ~~((a))~~ (i) Dispensed by a licensed dispensary
- ~~((b))~~ (ii) Pursuant to a written prescription
- ~~((c))~~ (iii) Issued by a medical practitioner
- ~~((d))~~ (iv) For diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans. (See RCW 82.08.0281.)

~~((6)) This exemption does not apply to sales of food. Thus, dietary supplements or dietary adjuncts do not qualify for this exemption even though prescribed by a physician.~~

~~((7))~~ (c) Laboratory reagents and other diagnostic substances are exempt from retail sales tax when used as part of a test prescribed to diagnose disease in humans. These items include, among others, reagents, calibrators, chemicals, gases, vacutainers with heparin or other chemicals or medicines, and prepared media. Control reagents are exempt, but only when the control reagents are used in performing tests prescribed for a patient. Reagents which are used to merely calibrate equipment

and are not related to a test prescribed for a specific patient are not exempt.

(d) The retail sales tax exemption applies also to intravenous sets, including the needles and tubing, when used for the administration of drugs prescribed to a patient. This also includes catheters, infusion pumps, syringes, and similar items when used for the delivery of prescription drugs. Medical gas delivery system components, including tubes, nebulizers, ventilators, masks, cannulae and similar items, are not conceptually distinct from the prescribed gases they deliver and are exempt from retail sales or use tax. The medical delivery system includes airway devices (tubes) which are prescribed to keep a patient's airways open and to deliver medical gases.

(e) The retail sales tax does not apply to sales of prosthetic devices, orthotic devices prescribed by physicians, osteopaths, or chiropractors, nor to sales of ostomic items(, medically prescribed oxygen, or hearing aids)). (See RCW 82.08.0283.) Sutures, pacemakers, hearing aids, and kidney dialysis machines are examples of prosthetic devices. Drainage devices which are particularly prescribed for use on or in a specific patient are exempt from sales or use taxes as prostheses because they either replace missing body parts or assist dysfunctional ones, either on a temporary or permanent basis. A prosthetic device can include a device that is implanted for cosmetic reasons. Hearing aids are also exempt when dispensed or fitted by a person licensed under chapter 18.35 RCW. A heart-lung machine used by a hospital in its surgical department is not an exempt prosthetic device.

(f) The sale of medically prescribed oxygen is not subject to retail sales or use tax when sold to an individual having a prescription issued by a person licensed under chapter 18.57 or 18.71 RCW for use in the medical treatment of that individual.

(g) The retail sales tax does not apply to the purchase of anesthesia gases, medical gases, contrast media, or irrigation solutions when these items are used under a physician's order as part of a medical treatment for a specific patient.

((8) Proof of exemption. Sales claimed to be exempt under this rule must be separately accounted for and for items requiring a prescription,)) (6) Proof of exemption. Persons selling legend drugs need only to substantiate that the drugs meet the definition of legend drugs and are for use in the diagnosis, cure, mitigation, treatment, prevention of disease or other ailments in humans. Resale certificates or other exemption certificates are not required for these sales. For sales to consumers of non-legend drugs, sellers must retain in their files the written prescription bearing the signature of the medical practitioner who issued the prescription and the name of the patient for whom prescribed. See also WAC 458-20-150 Optometrists, ophthalmologists, and oculists; 458-20-151 Dentists, dental laboratories and physicians; and 458-20-168 Hospitals.

((9)) (a) Hospitals and physicians who purchase drugs for use in providing medical services to patients may purchase the drugs without payment of retail sales

tax if the drugs will only be dispensed under a physician's order. It is not required that the hospital or physician make a specific charge to the patient for drugs dispensed under a physician's order for the drug purchase to be exempt from retail sales or use tax. This also includes the purchases of intravenous sets, catheters, infusion pumps, syringes, and similar items which will be used for delivery of prescription drugs. The hospital or physician may give the nonlegend drug supplier an exemption certificate. The certificate should be retained by the seller for a period of five years after the last sale covered by the certificate. Certificates should not be sent to the department of revenue. The certificate should be in the following form:

Prescription drug exemption certificate

(name of purchaser)

(address of purchaser)

I hereby certify: That I am a registered Washington taxpayer. I may legally prescribe or dispense drugs or other substances. I further certify that the drugs and other substances listed below purchased from (name of vendor) will be prescribed and used for the treatment of illness or ailments of human beings. I shall maintain invoices and prescriptions or such other records as are necessary to account for the disposition of the drugs or other substances for which I have not paid retail sales tax. In the event that any such drug or substance is used without a prescription being issued, it is understood that I am required to report and pay use tax measured by its purchase price. If I have indicated that this is a blanket certificate, this certificate shall be considered part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid for a period of four years or until revoked by me in writing. Description of drugs and other substances to be purchased:

.....
.....
.....
Dated:

Single Purchase Blanket Certificate

(indicate by check mark if certificate is for a single purchase or continuing purchases)

(signature of purchaser or authorized agent)
(title)

(Revenue registration number of buyer)

(b) A blanket exemption certificate may be given if there will be continuing purchases from a particular supplier. Blanket exemption certificates should be renewed at intervals not to exceed four years. The purchaser should indicate by an appropriate check mark on the certificate whether the certificate is being used for a single purchase or will be for continuing purchases. It is

unnecessary to list each and every drug on the exemption certificate if all drugs purchased from a particular supplier are exempt.

(7) Use tax. The use tax does not apply to the use of articles and products which are exempt from sales tax as specified herein. (See RCW 82.12.0277.) This includes legend drugs which are given away as samples.

(8) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(a) ABC Hospital purchases both legend and nonlegend drugs. These drugs are held in inventory and dispensed to patients only under the written order of the patient's physician. These drugs are not billed specifically to the patient, but the cost is recovered through a general floor charge to the patient. ABC Hospital may purchase these drugs without payment of sales or use tax.

(b) ABC Hospital purchases reagents for use in its laboratory which are nonlegend drugs. Laboratory reagents are chemical compounds used to promote reactions in the laboratory to aid in determining disease pathology and are not administered directly to the patient. These reagents are used for three purposes consisting of tests on the tissue from a specific patient, a control reagent which is not applied to the tissue from the patient but is used to measure or control the reaction, and a reagent used to calibrate equipment. The reagents used for the first two purposes may be purchased without payment of sales or use tax. The reagents for the calibration of equipment are also exempt if the equipment is calibrated as part of tests for a specific patient. Reagents used to calibrate equipment that is not part of a prescribed test for a patient are taxable.

(c) XY Blood Bank purchases reagents which are nonlegend drugs. These reagents are used in determining the blood type and presence of disease. The blood is sold to local hospitals. The purchase of these reagents is taxable since they are not used to provide treatment for a specific patient.

WSR 92-05-066
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed February 18, 1992, 11:03 a.m.]

Date of Adoption: February 18, 1992.

Purpose: To amend the rule to clarify use tax liability of automobile dealers for vehicles removed from inventory for personal or demonstration use.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-132.

Statutory Authority for Adoption: RCW 82.32.300.

Pursuant to notice filed as WSR 92-01-044 on December 9, 1991.

Changes Other than Editing from Proposed to Adopted Version: Changes made in subsection (11) to indicate

how use tax is to be computed if a dealer uses a combination of new and used cars for executive use. Added two additional examples in subsection (12) to show how it would work.

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

February 18, 1992

Edward L. Faker

Assistant Director

AMENDATORY SECTION (Amending Order ET 86-5, filed 4/3/86)

WAC 458-20-132 AUTOMOBILE DEALERS/ DEMONSTRATOR AND EXECUTIVE VEHICLES.

(1) Introduction. This section accounts for the unique practices of the retail automobile dealer's industry and reflects administrative notice of the customs of this trade. The tax reporting formulas explained in this rule represent((s)) a compromise of tax liabilities and offsetting deductions. It recognizes that demonstrators and ~~((executive used))~~ vehicles used by executives or persons associated with a dealer are actually used for limited periods of time without significantly affecting their marketability or retail selling value, and that such used vehicles have a high trade-in value when returned to inventory for sale.

((DEFINITIONS))

(2) Definitions. The following definitions apply to this section.

(a) The terms "demonstration" and "demonstrator((;))" ~~((as used in this section;))~~ mean the use of automobiles provided by dealers to their ~~((employees or other representatives))~~ sales staff, without charge, for any personal or business reason other than ~~(or in addition to)~~ the mere display of such vehicles to prospective purchasers.

~~((;))~~ (b) The term "display((;))" ~~((as used herein;))~~ means the showing for sale of vehicles to prospective purchasers, at or near the dealer's premises, including the short term test driving, operating, and examining by prospective purchasers.

~~((;))~~ (c) The term "executive use vehicle((;))" ~~((as used herein;))~~ means any vehicle from sales inventory, used by any person associated with the automobile dealership for personal driving, other than for demonstration or display purposes as defined above, when such person does not have a recent model vehicle registered and licensed in that person's own name on which retail sales tax was paid.

(d) The term "recent model vehicle" refers to a car of the current model year or either of the two preceding model years.

(e) The terms "purchase price" and "total cost" mean the amount charged to the dealer for the purchase of a vehicle and includes any additional charges for accessories installed on the vehicle. If the vehicle was acquired through a trade-in by a customer, these terms then mean the trade-in value given to the customer by the dealer (with consideration of underallowances and overallowances) as well as any costs of refurbishing and repairs in preparing the vehicle for resale or use. These

values will generally be the amounts shown as the vehicle cost within the dealer's inventory records.

(f) The phrase "pickup truck" refers only to trucks having a commercial pickup body rated at three-quarter ton capacity or less.

~~((BUSINESS AND OCCUPATION TAX~~

~~(5)) (3) Business and occupation tax.~~ Automobile dealers are taxable under the retailing classification upon ~~((sales))~~ the sale or lease of automobiles to their employees or other representatives for personal use, including demonstration. The business and occupation tax does not apply upon the transfer of vehicles to employees or other representatives ~~((, where no sale occurs,))~~ for their personal use, including demonstration where no sale occurs.

~~((RETAIL SALES TAX~~

~~(6)) (4) Retail sales tax.~~ The retail sales tax applies upon ~~((sales))~~ the sale or lease of automobiles, parts, and accessories by dealers to their employees or other representatives for the personal use ~~((, of))~~ by such persons ~~((including demonstration))~~. The retail sales tax does not apply to the display of automobiles where no sale takes place.

~~((USE TAX~~

~~(7)) (5) Use tax.~~ The use tax does not apply to the display of new or used automobiles by dealers, their employees or other representatives. Neither does use tax apply upon the personal use or demonstration of automobiles which have been sold or leased to dealers' employees or other representatives and upon which the retail sales tax has been paid. Also, use tax does not apply upon demonstrator vehicles if no such vehicles are actually used. However, where an automobile dealer purchases a passenger car or pickup truck without paying a retail sales tax ~~((in respect thereto,))~~ and uses such car

or truck for personal use or demonstration purposes, the use tax ~~((is applicable irrespective of the fact that))~~ applies even if such personal car or demonstrator may later be sold by the dealer. ~~((As used in this section the phrase "pickup truck" refers only to trucks having a commercial pickup body rated at three-quarter ton capacity or less.~~

~~(8)) (6) Computation of use tax.~~ For practical purposes, automobile dealers may elect to compute the use tax upon the use of demonstrators ~~((but not on service cars) as follows:))~~ by sales staff on either a "one per one hundred vehicles sold" basis or on an "actual number of demonstrators used" basis. Use of the one per one hundred vehicles sold method will satisfy the use tax liability for personal or business use of demonstrators by sales staff employed by a new car dealer. However, the one per one hundred vehicles sold method will not satisfy the use tax liability for the personal or business use of vehicles by persons other than sales staff employed by the dealership.

~~((9)) (a) One per one hundred demonstrator reporting basis.~~ The use of demonstrators is subject to the use tax on the basis of one demonstrator for each one hundred new automobiles and pickup trucks, or fractional part of such number, of all makes or models sold at retail including lease transactions during a calendar year. The use tax on each such demonstrator ~~((shall be))~~ is measured by twenty-five percent of the average selling price ~~((to be based upon the total selling price)),~~ including dealer preparation, transportation, and factory or dealer installed accessories, of all makes and models of new passenger cars and new pickup trucks sold during the preceding calendar year divided by the number of such units sold: PROVIDED, That the first such vehicle reported during any calendar year shall be subject to use tax measured by the full average retail selling price. ~~((The computation is as follows:~~

Retail Sales Volume/Preceding Year	Use Tax Rate (for 1st vehicle reported)
x Average Selling Price x	
Total Units Sold/Preceding Year	.25 x Use Tax Rate (for subsequent vehicles reported))

(i) The average retail selling price is computed by dividing the total retail sales of new passenger cars and trucks in the preceding year by the total units sold in the preceding year. Thus, for example, a dealer with \$3,000,000.00 in gross sales for ~~((+985))~~ the previous year, who sold 250 units that year derives an average selling price of \$12,000.00. The very first demonstrator use in ~~((+986))~~ the current year will be \$12,000.00 multiplied by the prevailing use tax rate. All subsequent demonstrators reported in ~~((+986))~~ the current year, based upon the formula of one demonstrator for each one hundred units sold, will be \$3,000.00 multiplied by the prevailing use tax rate.

~~((+9)) (ii) The use tax ~~((shall be))~~ is paid as of the date of the first sale in any calendar year and subsequently upon the sale of the one hundred and first automobile or pickup truck. If a dealer sold 340 units in the current year, use tax would be due on four units (the first at one hundred percent of the average retail selling price of all new vehicles sold in the preceding year and the remaining three at twenty-five percent of the previous year's average selling price of new vehicles).~~

(b) Actual demonstrator reporting basis. Dealers who decide to report use tax on demonstrators on an actual basis are required to report use tax on each vehicle assigned to demonstrator use. The value is computed in the same manner as under the one per one hundred basis.

The first vehicle in the current year which is used for demonstrator use is taxable on the full average selling price of all new vehicles sold in the preceding year. Additional vehicles during the year which are put to use as demonstrators are taxable at twenty-five percent of the average selling price of new vehicles sold in the preceding year.

~~((11))~~ (c) The ~~((foregoing))~~ above method of computation applies only in respect to use by sales staff of demonstrator vehicles operated under dealer plates ~~((or private licenses))~~ issued to the dealership. ~~((Demonstrator))~~ Vehicles which are required to be licensed ~~((otherwise))~~ other than to the dealership are presumed to be used substantially for purposes other than demonstration and are subject to the use tax measured by the actual value (purchase price) of such vehicles.

~~((12))~~ (d) Change in reporting method. When an automobile dealer has elected to report the use tax ~~((as above provided))~~ under the "one per one hundred basis", or upon the actual number of demonstrators used, it will not be permitted to change the manner of reporting without the written consent of the department of revenue.

Dealers are required to provide reasonably accurate records reflecting the use of dealer plates.

~~((13))~~ (7) Executive vehicles – personal use of vehicles by executives and persons associated with a dealer. When a dealer or a person associated with a dealer (firm executive, corporate officer ~~((or))~~, partner, or manager) does not have a recent model car registered and licensed in its own name and regularly uses either one or various new cars from ~~((stock))~~ inventory for personal driving (whether or not such cars are also used for demonstration purposes) the use tax ~~((will be applicable))~~ applies to the value of one such car for each two calendar years in addition to the tax ~~((otherwise applicable))~~ which applies to demonstrator use by sales staff. The ~~((term "recent model car" refers to a car of the current model year or of either of the two preceding model years. In such cases, the))~~ measure of the use tax ~~((shall be))~~ is the same as the measure ~~((herein approved))~~ for the computation of use tax on subsequently used demonstrator vehicles, that is, twenty-five percent of the average selling price of all makes and models of new passenger cars and pickup trucks sold at retail during the preceding year.

~~((14))~~ (a) The dealer may not include within the executive car reporting method the use of a new vehicle which is not of the type or model of new vehicles authorized to be sold by the dealer's franchise agreement. The executive car reporting method applies only to vehicles removed from inventory for use by the executives. Vehicles purchased specifically for use by the executives are taxable on the purchase price of each vehicle.

(b) No use tax in addition to that outlined above will be due if members of the immediate family of the executive also use a vehicle from inventory which is not otherwise licensed or required to be licensed. "Immediate family" includes only the spouse and children of the executive who live in the same household as the executive.

(8) Vehicles used by automobile manufacturers or distributors. Automobile manufacturers or distributors will often assign vehicles to their employee representatives for demonstration purposes, sales solicitation and personal use in the state. It is common practice to replace these vehicles frequently so that several vehicles may be used by a company representative during the course of the year. Under these circumstances, the department of revenue will allow computation of the use tax based on the average selling price of all new cars sold in the preceding year multiplied by the maximum complement of cars of each model year in use at any time during the year. The tax is due at the start of the model year. No use tax is due on the usual turnover or replacement of cars within the model year.

(9) Vehicles loaned to nonprofit or other organizations. The use tax ~~((is applicable))~~ applies to the value of vehicles ~~((which))~~ that are required to be licensed and are loaned or donated to civic, religious, nonprofit or other organizations ~~((for continuous periods of use exceeding 72 hours, and))~~. The use tax may be computed for loaned vehicles on a value of two percent per month multiplied by the purchase price of the vehicle. Such tax is in addition to the tax on the use of demonstrators as provided ~~((herein))~~ in this rule. Vehicles that are not required to be licensed which are used for the purpose of promoting or participating in an event such as a parade, pageant, convention, or other community activity are not subject to the use tax provided the dealer obtains a temporary letter of authority or a special plate in accordance with RCW 46.16.048.

~~((15))~~ (10) Service department vehicles. Vehicles removed from inventory and committed to use as service vehicles ~~((or))~~, parts trucks ~~((are not entitled to the special use tax treatment explained in this rule. Full use service vehicles are used by dealers as consumers and are subject to use tax measured by their full value))~~, or service department loaner cars are subject to use tax. Dealers will often use vehicles for this purpose for only short periods of time. In recognition of this, dealers may elect to report use tax on either the purchase price of the vehicle or on two percent per month of the purchase price for each month or any fraction thereof that the vehicle is being used as a service vehicle or loaner. If use tax is reported based on total purchase price rather than on the two percent method, a trade-in deduction is allowed if the vehicle is returned to inventory and concurrently another vehicle replaces this vehicle for use as a loaner or service vehicle. The trade-in value is the wholesale value and generally will be the value recorded by the dealer in the inventory records exclusive of any refurbishing costs at the time the vehicle is returned to inventory.

~~((USED CAR DEALER'S LIABILITY))~~

(16) Used car dealers are not deemed to be using vehicles for demonstration purposes and have no liability for reporting use tax on demonstrators. However, ~~((11))~~ Personal use of used vehicles. Used vehicle dealers who provide used cars for personal use to their sales staff or managers without charge are subject to use tax on one vehicle per year for each sales person or manager to

whom a used vehicle is provided. The value for use tax reporting is the average selling price of all used vehicles sold in the preceding year multiplied by twenty-five percent. The use tax is due in the month in which the vehicle is first used for personal use. New vehicle dealers will also be taxable in this manner for used cars furnished to sales staff or managers, but only if no new cars are provided during the course of the year to the manager or sales person. If both new and used cars are provided by a new vehicle dealer to a manager or sales person, use tax liability is as provided in subsections (6) and (7) of this section.

Where used car dealers satisfy the criteria for executive car use (no current model vehicle registered in the user's name) they are deemed to be using one executive or personal use vehicle per calendar year. In such cases use tax must be reported under the same formula as for subsequently used new demonstrator cars, that is, measured by twenty-five percent of the average selling price of all used cars sold during the preceding calendar year. Use tax also is due on all vehicles that are capitalized for accounting purposes or removed from inventory and used for personal use. In such cases, the use tax measure is the purchase price of the vehicle. If the vehicle was acquired through a trade-in by a customer, the value will generally be that recorded by the dealer in the inventory records including any costs incurred in repairing or refurbishing the vehicle. Purchase of a new car by a used car dealer and used personally by the dealer or person associated with the dealer is subject to use tax measured by the purchase price of the vehicle.

~~((17) This section and the reporting formulas contained herein are necessary for the consistent and uniform enforcement of the revenue act of this state as contemplated under RCW 82.32.300.))~~ (12) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(a) Dealer A makes a specific charge each month to its sales person for the use of a vehicle. The sales person uses the vehicle for personal use as well as displaying the vehicle to potential customers. The dealer is required to report the gross charges under the retailing and retail sales tax classifications. No use tax is due on this vehicle.

(b) Dealer A assigns a vehicle from its new vehicle inventory for personal and business use to each of its new vehicle sales staff. No charge is made to the sales staff for the use of the vehicle. Dealer A is subject to use tax and may elect to report the tax on each vehicle assigned to the sales staff or may report on the "one per one hundred" method discussed above. Once a method is elected, the dealer may not change methods without approval from the department.

(c) Dealer A assigns a vehicle from its new vehicle inventory for personal use to its service manager. The service manager will use the vehicle for approximately 90 days when it will be replaced with another new vehicle. The service manager does not have a recent model car registered and licensed in his/her name. The dealer

is subject to use tax on the vehicles assigned to the service manager. The tax will apply on only one vehicle every second year and will be measured by twenty-five percent of the average selling price of all new passenger cars and trucks sold in the previous year.

(d) Dealer A has the franchise to sell Chevrolets. Dealer A purchases a new Mercedes Benz for its personal use. The dealer attaches a "dealer plate" to this vehicle. Dealer A is subject to use tax on the purchase price of this vehicle. The dealer may not report use tax on the method authorized for reporting executive cars for this vehicle since the dealer is not an authorized dealer for this make of vehicle and the vehicle was not removed from the dealer's new vehicle inventory.

(e) Vehicle Manufacturer A has five employees who live and work from their homes in Washington. These employees call on dealers in Washington to resolve warranty disputes. Each employee is given a new vehicle at the start of the model year. The vehicle will be replaced every sixty days. Manufacturer A owes use tax on five vehicles at the start of the model year. No additional use tax will be due when these vehicles are replaced during the same model year. However, should a sixth employee be added during the course of the year, an additional vehicle will be subject to use tax.

(f) Dealer A uses a vehicle from inventory as a service truck. This vehicle is used to pick up parts from local suppliers, transportation for making emergency repairs on customer's vehicles, and similar activities. The dealer is liable for use tax on this vehicle. At its option, the dealer may report use tax on two percent per month of the purchase price of the vehicle or may report use tax on the full value of the vehicle at the time it is put to use.

(g) Dealer A uses a new vehicle from inventory for his/her own personal use. Dealer A's spouse also uses a new vehicle. Dealer A's son who lives in the same household will occasionally use a new vehicle. All of these vehicles are operated with dealer plates attached. Dealer A does not have a recent model car licensed in Washington. Dealer A is subject to use tax on one vehicle as an "executive" car every second year as provided above.

(h) Dealer A loans a vehicle to a civic organization for a thirty-day period. The dealer is unable to obtain a temporary letter of authority for use of the vehicle under RCW 46.16.048. The dealer is liable for use tax, but the dealer may report the use tax based on two percent of the purchase price of the vehicle per month as the measure of the tax. No use tax would be due if the dealer had obtained a letter of authority under RCW 46.16.048 for the use of the vehicle.

(i) Dealer A, who sells new and used vehicles, assigns a used vehicle to the used car sales manager for personal use. However, if the sales manager exceeds the sales goals for the preceding quarter, the manager will be assigned a new vehicle for personal use for the following quarter. The manager will generally exceed the sales goal at least once during the year. Since the manager uses both a new and used car from inventory during the course of a year, use tax will be computed based on twenty-five percent of the average selling price of all

new cars and trucks sold in the preceding year. The use tax will be due on one such vehicle every second year.

(j) Dealer A, who sells new and used vehicles, regularly assigns a used vehicle from inventory to its service manager for personal use. This vehicle is replaced approximately every sixty days. Use tax is due on one vehicle every year measured by twenty-five percent of the average selling price of all used vehicles sold in the preceding year.

WSR 92-05-067
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed February 18, 1992, 11:09 a.m.]

Original Notice.

Title of Rule: WAC 180-51-085 Physical education requirement—Excuse.

Purpose: To provide flexibility for choice of course work to meet two credit physical education requirement.

Statutory Authority for Adoption: RCW 28A.230.100.

Statute Being Implemented: RCW 28A.230.100.

Summary: The two credit physical education requirement shall be met by course work in physical education.

Reasons Supporting Proposal: Will broaden definition of two credit physical education requirement to provide more flexibility for school districts.

Name of Agency Personnel Responsible for Drafting: Richard Wilson, Superintendent of Public Instruction, Old Capitol Building, 753-2298; Implementation: Jeff Carpenter, Superintendent of Public Instruction, Old Capitol Building, 753-6752; and Enforcement: Bridget Cullerton, Superintendent of Public Instruction, Old Capitol Building, 586-6394.

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: See above.

Proposal Changes the Following Existing Rules: Broadens definition of course work which shall meet two credit physical education requirement of current high school graduation requirements.

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

Hearing Location: Thurston Room, Educational Service District 113, 601 McPhee Road S.W., Olympia, WA, on March 26, 1992, at 9:00 a.m.

Submit Written Comments to: Dr. Monica Schmidt, Executive Director, State Board of Education, P.O. Box 47200, Olympia, WA 98504-7200, by March 25, 1992.

Date of Intended Adoption: March 27, 1992.

February 18, 1992
 Dr. Monica Schmidt
 Executive Director

AMENDATORY SECTION (Amending WSR 91-11-018, filed 5/6/91, effective 6/6/91)

WAC 180-51-085 PHYSICAL EDUCATION REQUIREMENT—EXCUSE. The two credit physical education requirement shall be met by course work in ~~((the areas of personal fitness development, leisure activities, health education/life skills management, and healthful living program design))~~ physical education. The content of courses shall be determined locally pursuant to WAC 180-51-025. Suggested course outlines and student outcomes shall be developed by the office of the superintendent of public instruction. Students shall be excused from physical education pursuant to RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts.

WSR 92-05-068
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 92-02—Filed February 18, 1992, 11:12 a.m.]

Date of Adoption: February 14, 1992.

Purpose: To set forth policies and procedures for a teacher assistance program.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-196-090; and amending WAC 392-196-005, 392-196-045, 392-196-080, 392-196-085, and 392-196-100.

Statutory Authority for Adoption: RCW 28A.405.450 [28A.415.250].

Other Authority: RCW 28A.415.010.

Pursuant to notice filed as WSR 92-01-082 on December 16, 1991.

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

February 18, 1992
 Judith A. Billings
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-196-005 AUTHORITY. The authority for this chapter is RCW 28A.405.450 which authorizes the superintendent of public instruction to adopt rules to establish and operate a teacher assistance program and RCW 28A.415.010 which authorizes the educational service district to administer, coordinate, and act as fiscal agent for the teacher assistance program.

AMENDATORY SECTION (Amending Order 16, filed 7/3/90, effective 8/3/90)

WAC 392-196-045 DEFINITION—SCHOOL DISTRICT WORKSHOPS. As used in this chapter, the term "school district workshops" shall mean an in-service training program sponsored or approved by the school district for the purpose of providing professional training for the mentors and the beginning teachers in ~~((one or more of the following:~~

- ~~(1) Communication skills;~~
- ~~(2) Teacher effectiveness; and/or~~
- ~~(3) School district policies and procedures))~~ areas of need as identified by participating teams. This training

will be in addition to regularly required school district staff development activities.

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

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-196-080 SCHOOL DISTRICT APPLICATION TO ~~((SP))~~ ESD FOR PARTICIPATION IN THE TEACHER ASSISTANCE PROGRAM. Any district may apply to ~~((the superintendent of public instruction))~~ its educational service district for participation in the teacher assistance program. The application shall require the superintendent of the district to provide the following assurances:

(1) The board of directors of the district has reviewed the requirements of this chapter and has agreed to the conditions therein.

(2) The mentor teacher shall be paid a mentor teacher stipend.

(3) The beginning[/experienced] teacher shall be paid a beginning[/experienced] teacher stipend.

(4) The beginning[/experienced] teacher and mentor shall be required to attend and shall be reimbursed by the district for travel expenses for attendance at the educational service district sponsored workshops or training sessions.

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

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

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

(8) Mentor teachers shall not be involved in evaluations of their beginning [or experienced] teachers conducted pursuant to RCW 28A.405.100.

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

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

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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 37, filed 11/2/90, effective 12/3/90)

WAC 392-196-085 SELECTION PROCESS. ~~((Nominations for the teacher assistance program must be received by the office of the superintendent of public instruction by 5:00 p.m. September 15 of a given year. PROVIDED, That if September 15 falls on a weekend, the nominations must be received by the office of the superintendent of public instruction by 5:00 p.m. on the Monday following September 15. Applications will be accepted based upon date of receipt at the office of the superintendent of public instruction until funding is depleted.))~~ Specific numbers of nominations will be allocated to each ESD based upon the percentage of public school students in each ESD. ~~((If all ESD nominations are not allocated by the Friday after Labor Day, remaining applications will be accepted on the basis of the date received.))~~ Each educational service district will submit to the superintendent of public instruction the procedure, including timelines, it will follow in selecting participants.

AMENDATORY SECTION (Amending Order 16, filed 7/3/90, effective 8/3/90)

WAC 392-196-100 DISTRIBUTION OF STATE MONEYS FOR THE TEACHER ASSISTANCE PROGRAM. The superintendent of public instruction shall issue grant awards to the ~~((participating))~~ educational service districts which in turn shall reimburse school districts according to the dollar amount per team established pursuant to WAC 392-196-095.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-196-090 SUPERINTENDENT OF PUBLIC INSTRUCTION CONSULTATION.

WSR 92-05-069

WITHDRAWAL OF PROPOSED RULES LOTTERY COMMISSION

[Filed February 18, 1992, 1:03 p.m.]

Pursuant to WAC 1-21-060, notice is hereby provided that proposed rules WAC 315-11-750, 315-11-751 and 315-11-752, filed in WSR 92-03-146 of the Washington Administrative Code are hereby withdrawn.

Evelyn Y. Sun
Director

Date of Intended Adoption: May 21, 1992.

February 18, 1992
Arthur C. Scheunemann
Assistant Director

WSR 92-05-070
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed February 18, 1992, 1:22 p.m.]

Original Notice.

Title of Rule: Amending WAC 16-561-020 Red raspberry commodity board.

Purpose: To provide for at least two board members per district, based on acreage; add three more producers to the board to improve representation; change nomination and election schedule to later in the year; authorize board members to participate in proceedings concerning agricultural chemicals. Give more flexibility to board meeting schedule.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW and RCW 15.65.375.

Summary: Provides for at least two producer members per district based on acreage; add three more producers to the board; provides for the term of office to end on November 30 and hold elections in October; to authorize the board members to participate in proceedings concerning the regulations of agricultural pesticides and chemicals as authorized in RCW 15.65.375; and changes the board meetings from one quarterly to four times a year.

Name of Agency Personnel Responsible for Drafting: Roger L. Roberts, Washington State Department of Agriculture, Olympia, Washington, (206) 753-5028; Implementation and Enforcement: Washington Red Raspberry Commission, Bellingham, Washington, (206) 671-1437.

Name of Proponent: Producer petition to director as provided for in RCW 15.65.050, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule changes would improve the representation of the producers from the various districts, move the nomination and election period to a more convenient time, authorize board members to take part in proceedings regarding the regulation of agricultural pesticides and chemicals, and to provide for the board to meet four times a year instead of once each quarter, allowing more flexibility in scheduling board meetings.

Proposal Changes the Following Existing Rules: Same as above.

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

Hearing Location: Chicon Room, Western Washington Research and Extension Center, 7612 Pioneer Way East, Puyallup, WA, on March 26, 1992, at 1:45 p.m.

Submit Written Comments to: Roger L. Roberts, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by March 26, 1992.

AMENDATORY SECTION (Amending Order 1888, filed 6/6/86)

WAC 16-561-020 RED RASPBERRY COMMODITY BOARD. (1) ADMINISTRATION. The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) BOARD MEMBERSHIP.

(a) The board shall consist of ~~((eight))~~ eleven members. ~~((Seven))~~ Ten members shall be affected producers elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

There shall be a minimum of two producer board members per district, with additional producer board members added based on acreage; using two thousand acres as the baseline, every one thousand acres, or increment thereof, would entitle a district to another board member, so long as no single district had an over-all majority of representatives.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into four representative districts as follows:

(i) District I shall have ~~((three))~~ four board members, being positions 2, 3, 4, and ~~((6))~~ 8, and shall be Whatcom County.

(ii) District II shall have two board members, being positions 1, and 7, and shall include the counties of Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pierce, and Thurston.

(iii) District III shall have ~~((one))~~ two board members, being positions 5 and 9, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum.

(iv) District IV shall have ~~((one))~~ two members, being positions ~~((4))~~ 6 and 10, and shall include the counties of San Juan, Skagit, and Snohomish.

(3) BOARD MEMBERSHIP QUALIFICATIONS. The affected producer members of the board shall be practical producers of raspberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing raspberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) TERM OF OFFICE.

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year. These terms shall expire on November 30.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through ~~((seven))~~ ten and the member appointed by the director, position ~~((eight))~~ eleven.

(c) The term of office for the initial board members shall be as follows:

Positions one and two - one year;

Positions three, four, ~~((and))~~ five, and nine - two years;

Positions six, seven, ~~((and))~~ eight, ten, and eleven - three years.

(d) No elected member of the board may serve more than two full consecutive three-year terms.

(5) NOMINATION AND ELECTION OF BOARD MEMBERS. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers. At the inception of this order, nominations may be made at the issuance hearing.

(6) ELECTION OF BOARD MEMBERS.

(a) Members of the board shall be elected by secret mail ballot within the month of ~~((June))~~ **October** under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected area. Each affected producer within the affected area shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of such affected producers within the affected area maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) **VACANCIES PRIOR TO ELECTION.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **QUORUM.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **BOARD COMPENSATION.** No member of the board shall receive any salary or other compensation, but each member shall receive \$35.00 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) **POWERS AND DUTIES OF THE BOARD.** The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from monies collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish a "raspberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, shall be deposited as often as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

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

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

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter ~~((34.04))~~ **34.05** RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or the order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.38.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose.

(p) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) PROCEDURES FOR BOARD.

(a) The board shall hold regular meetings, at least ~~((quarterly))~~ **four** times annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news service.

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

WSR 92-05-071**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed February 18, 1992, 1:25 p.m.]

Original Notice.

Title of Rule: Washington strawberry commission, amending WAC 16-555-020 and 16-555-040.

Purpose: To delete board member term limitations; and to increase the assessments.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: Amendments would delete the term limitations for board members of two consecutive three-year term and increase the assessment on strawberries from one-quarter to one-half cent per pound.

Reasons Supporting Proposal: The industry has a small number of leaders and needs to have them serve a longer time. The number of producers and their production has declined and commission needs more funds.

Name of Agency Personnel Responsible for Drafting: Roger L. Roberts, Washington State Department of Agriculture, Olympia, Washington, 98504, (206) 753-5028; Implementation: Norval Johanson, Olympia, (206) 491-6567; and Enforcement: Washington Strawberry Commission, Olympia, (206) 491-6567.

Name of Proponent: Twelve producers signed a petition as provided for in RCW 15.65.050, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and

Fiscal Matters: Producers must approve in compliance with RCW 15.65.160 before this rule can be effective.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The deletion of the term limitations would allow a producer to serve more than two consecutive three-year terms. This would allow the industry's limited leadership to serve a longer time. The assessment increase would increase the revenue of the commission. The commission has had about a 50% reduction of income because of the decline in production.

Proposal Changes the Following Existing Rules: Same as above.

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

Hearing Location: Chicon Room, Western Washington Research and Extension Center, 7612 Pioneer Way East, Puyallup, WA, on March 26, 1992, at 1:00 p.m.

Submit Written Comments to: Roger L. Roberts, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by March 26, 1992.

Date of Intended Adoption: May 21, 1992.

February 18, 1992

Arthur C. Scheunemann
Assistant Director

AMENDATORY SECTION (Amending Order 1856, filed 5/14/85)

WAC 16-555-020 STRAWBERRY COMMODITY BOARD.

(1) ADMINISTRATION. The provisions of this marketing order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) BOARD MEMBERSHIP.

(a) The board shall consist of six members. Five members shall be affected producers elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into three representative districts as follows:

(i) District I shall have two board members, being Positions 1 and 2, and shall include the counties of Island, San Juan, Skagit, and Whatcom.

(ii) District II shall have two board members, being Positions 3 and 4, and shall include the counties of King, Clallam, Jefferson, Kitsap, Pierce, and Snohomish.

(iii) District III shall have one board member, being Position 5, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, Wahkiakum, Grays Harbor, Mason, and Thurston.

(3) BOARD MEMBERSHIP QUALIFICATIONS. The affected producer members of the board shall be practical producers of strawberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing strawberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his/her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) TERM OF OFFICE.

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through five and the member appointed by the director, position six.

(c) The term of office for the initial board members shall be as follows:

Position one - shall terminate on August 31, 1986;

Positions three and five - shall terminate on August 31, 1987;

Positions two and four - shall terminate on August 31, 1988.

((d) No elected member of the board may serve more than two full consecutive three-year terms.))

(5) NOMINATION AND ELECTION OF BOARD MEMBERS. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers. At the inception of this marketing order, nominations may be made at the issuance hearing.

When only one nominee is nominated for any position on the board, the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

(6) ELECTION OF BOARD MEMBERS.

(a) Members of the board shall be elected by secret mail ballot within the month of May under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) VACANCIES PRIOR TO ELECTION. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) QUORUM. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) BOARD COMPENSATION. No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) POWERS AND DUTIES OF THE BOARD. The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the marketing order and effectuate the declared policies of the act.

(d) To pay from moneys collected as assessments, contributions, or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the marketing order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in marketing order to defray the costs of formulating the marketing order.

(f) To establish a "strawberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or

institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, shall be deposited each day or as often as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each calendar year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

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

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

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter (~~34.04~~) 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the marketing order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or the marketing order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) PROCEDURES FOR BOARD.

(a) The board shall hold regular meetings, at least semiannually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news services.

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

AMENDATORY SECTION (Amending Order 1856, filed 5/14/85)

WAC 16-555-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

(a) The annual assessment on all varieties of strawberries shall be (~~one-fourth~~) one-half cent per affected unit (pound).

(b) For the purpose of collecting assessments, the board may:

- (i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or
- (ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the marketing order during or with respect to any season or year, may be refunded on a prorata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of this marketing order, to all persons

from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the marketing order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

WSR 92-05-072

PROPOSED RULES

**HIGHER EDUCATION
PERSONNEL BOARD**

[Filed February 18, 1992, 1:58 p.m.]

Original Notice.

Title of Rule: Amending WAC 251-01-255 Lead.

Purpose: To establish how many employees and/or others over which one must have lead responsibility in order to meet the requirement of the definition.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: Chapter 28B.16 RCW.

Summary: ALTERNATIVE #1, proposal would require an employee to lead at least one full-time equivalent employee and/or others to be considered a lead; and ALTERNATIVE #2, proposal would require an employee to lead at least two full-time equivalent employees and/or others to be considered a lead.

Reasons Supporting Proposal: ALTERNATIVE #1, modification of rule reflects historical practice of using one FTE as the threshold for lead responsibility; and ALTERNATIVE #2, modification of rule creates consistency between lead definition and the proposed supervisor definition.

Name of Agency Personnel Responsible for Drafting: Jamie McNamara, 1202 Black Lake Boulevard, Olympia, WA 98504, (206) 753-0653; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, Olympia, WA 98504, (206) 753-3730.

Name of Proponent: ALTERNATIVE #1, Higher Education Personnel Board staff; and ALTERNATIVE #2, Interinstitutional Personnel Officers Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: ALTERNATIVE #1 and #2, the existing rule does not specify how many employees/others must be lead in order to meet the lead definition. This proposal would formally establish a minimum number of full-time equivalent employees/others over which one must have lead responsibility.

Proposal Changes the Following Existing Rules: ALTERNATIVE #1, proposed modification of rule formally establishes the number of employees/others over which one must have lead responsibility in order to meet the requirement of the lead definition; and ALTERNATIVE #2, interpretation of existing rule may allow one who leads one FTE to qualify as a lead. The proposed rule modification would change the definition to require an employee to lead at least two FTEs.

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

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 14, 1992
John A. Spitz
Director

ALTERNATIVE 1

AMENDATORY SECTION (Amending Order 173, filed 8/24/88, effective 10/1/88)

WAC 251-01-255 LEAD. An employee who, in addition to his/her other duties, has responsibility regularly to assign, instruct and check the work of one or more full-time equivalent employees/others as a significant part of his/her work responsibilities. This definition is not intended to cover professional employees who provide direction to support staff.

ALTERNATIVE 2

AMENDATORY SECTION (Amending Order 173, filed 8/24/88, effective 10/1/88)

WAC 251-01-255 LEAD. An employee who, in addition to his/her other duties, has responsibility regularly to assign, instruct and check the work of two or more full-time equivalent employees/others as a significant part of his/her work responsibilities. This definition is not intended to cover professional employees who provide direction to support staff.

WSR 92-05-073
PROPOSED RULES
HIGHER EDUCATION
PERSONNEL BOARD
[Filed February 18, 1992, 2:00 p.m.]

Original Notice.

Title of Rule: Amending WAC 251-01-395 Supervisor.

Purpose: ALTERNATIVE #1 and #2, to establish how many employees over which one must have supervisory responsibility in order to meet the requirements of the definition.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: Chapter 28B.16 RCW.

Summary: ALTERNATIVE #1, proposed rule amendments would require supervision of at least one full-time equivalent employee and/or others to be considered a supervisor. In addition, the proposal would clarify the meaning of the supervisor definition; and

ALTERNATIVE #2, proposed rule would require supervision of at least two full-time equivalent employees and/or others to be considered a supervisor. In addition, the proposal would clarify the meaning of the supervisor definition.

Reasons Supporting Proposal: ALTERNATIVE #1, modification of rule reflects historical practice of using one FTE as the threshold for supervisory responsibility; and ALTERNATIVE #2, modification rule creates consistency between the executive exemption criteria of the Fair Labor Standards Act and the supervisor definition.

Name of Agency Personnel Responsible for Drafting: Jamie McNamara, 1202 Black Lake Boulevard, Olympia, WA 98504, (206) 753-0653; Implementation and Enforcement: John A. Spitz, Director, 1202 Black Lake Boulevard, Olympia, WA 98504, (206) 753-3730.

Name of Proponent: ALTERNATIVE #1, Higher Education Personnel Board staff; and ALTERNATIVE #2, Interinstitutional Personnel Officers Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: ALTERNATIVE #1 and #2, the existing rule does not specify how many employees must be supervised in order to meet the supervisor definition. The proposals would formally establish the number of full-time equivalent employees and/or others over which one must have supervisory responsibility and clarify the meaning of the definition.

Proposal Changes the Following Existing Rules: ALTERNATIVE #1, proposed modification of rule formally establishes that an employee must have supervisory responsibility over a minimum of one full-time equivalent employees and/or others in order to meet the requirement of the definition. In addition, the proposal clarifies the meaning of the definition; and ALTERNATIVE #2, interpretation of existing rule may allow one who supervises one FTE to qualify as a supervisor. The proposed modification would change the definition to require an employee to supervise at least two full-time equivalent employees and/or others.

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

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, FT-11, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 14, 1992
John A. Spitz
Director

ALTERNATIVE 1

AMENDATORY SECTION (Amending Order 147, filed 4/22/86)

WAC 251-01-395 SUPERVISOR. Any ((individual)) employee having authority((, in the interest of the employer,)) to hire, transfer, suspend, layoff, recall, promote, discharge, assign work to, evaluate, reward ((or)), discipline ((other)), and adjust the grievances of one or more full-time equivalent employees((, or responsibility to direct them or adjust their grievances, or effectively))/others. This includes those

who have responsibility to recommend such action if ((in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but)) exercising such responsibility requires the use of independent judgment in the application of HEPB, institution, state, and federal rules, and constitutes a significant portion of the employee's work responsibilities.

ALTERNATIVE 2

AMENDATORY SECTION (Amending Order 147, filed 4/22/86)

WAC 251-01-395 SUPERVISOR. Any ~~((individual))~~ employee having authority ~~((in the interest of the employer,))~~ to hire, transfer, suspend, layoff, recall, promote, discharge, assign work to, evaluate, reward ~~((or))~~, discipline ~~((other))~~, and adjust the grievances of two or more full-time equivalent employees ~~((or responsibility to direct them or adjust their grievances, or effectively))~~/others. This includes those who have responsibility to recommend such action if ~~((in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but))~~ exercising such responsibility requires the use of independent judgment in the application of HEPB, institution, state, and federal rules, and constitutes a significant portion of the employee's work responsibilities. The two or more full-time equivalent threshold is effective June 1, 1992, and does not apply to employees classified as supervisors prior to that date.

WSR 92-05-074

NOTICE OF PUBLIC MEETINGS HUMAN RIGHTS COMMISSION

[Memorandum—February 14, 1992]

The Washington State Human Rights Commission will hold its March regulation commission meeting in Longview on March 23 and 24, 1992. The meeting on March 23, will be held at the Public Utility District #1 of Cowlitz County, 960 Commerce, Longview, and will be a planning and training session beginning at 7:00 p.m. The regular business meeting on March 24, will be held at the City of Longview City Hall, City Council Chambers, 1525 Broadway, Longview, beginning at 9:30 a.m.

WSR 92-05-075

PROPOSED RULES HIGHER EDUCATION PERSONNEL BOARD

[Filed February 18, 1992, 2:28 p.m.]

Original Notice.

Title of Rule: WAC 251-09-071 Supervisor premium pay.

Purpose: Proposal would allow additional compensation for employees who supervise at least one but less than two full-time equivalent employees without allocation to a supervisory class.

Statutory Authority for Adoption: RCW 28B.16.100.

Statute Being Implemented: Chapter 28B.16 RCW.

Summary: Proposed rule would additional compensation for employees who supervise at least one but less than two full-time equivalent employees without allocation to a supervisory class.

Reasons Supporting Proposal: To offer some compensation for supervisory duties for those who would not fully meet the requirements of the proposed ALTERNATIVE #2 amendment to WAC 251-01-395.

Name of Agency Personnel Responsible for Drafting: Jamie McNamara, 1202 Black Lake Boulevard, Olympia, WA 98504, (206) 753-0653; Implementation and Enforcement: John Spitz, Director, 1202 Black Lake Boulevard, Olympia, WA 98504, (206) 753-3730.

Name of Proponent: Interinstitutional Personnel Officers Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In rule amendment proposal ALTERNATIVE #2 of WAC 251-01-395, the Interinstitutional Personnel Officers Committee proposes the requirement of supervisory responsibility for a minimum of two full-time equivalent employees in order to meet the definition of supervisor and therefore be allocated to a supervisory class. This proposal for new premium pay would allow compensation of two additional steps (approximately 5%) for supervisory responsibility for at least one but less than two full-time equivalent employees without allocation to a supervisory class.

Proposal does not change existing rules.

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

Hearing Location: The Evergreen State College, Olympia, Washington, on April 2, 1992, at 10:00 a.m.

Submit Written Comments to: 1202 Black Lake Boulevard, P.O. Box 40918, Olympia, WA 98504-0918, by April 1, 1992.

Date of Intended Adoption: April 2, 1992.

February 18, 1992

John A. Spitz
Director

NEW SECTION

WAC 251-09-071 SUPERVISOR PREMIUM PAY. Whenever a classified position has a bona fide requirement to regularly perform supervisory duties for at least one but less than two FTE employees, the personnel officer shall authorize premium pay of two steps above the level normally assigned for that position, except for those instances where the position is allocated to a class that includes supervisory responsibilities.

WSR 92-05-076

PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Institutions)

[Filed February 18, 1992, 3:31 p.m.]

Original Notice.

Title of Rule: WAC 275-27-220 Family support services; and 275-27-223 Service need levels.

Purpose: This amendment purpose is to allow the department to make family support authorizations to families for periods greater than monthly. This amendment purpose redefines the department's service need levels ensuring that those individuals/families with greatest needs will be the first to receive services.

Statutory Authority for Adoption: RCW 71A.12.040.

Statute Being Implemented: RCW 71A.12.040.

Summary: This amendment will redefine family support service need levels into four distinct groups based on the families' or individual's needs, and extend the period of time families will be authorized to receive family support services.

Reasons Supporting Proposal: To ensure that families/persons with the greatest needs have access to family support services, and provide families with more flexibility, stability, and control over their authorized family support services. The amending of these WACs will preserve the health and safety of individuals living at home having intense nursing, personal care, or behavioral support needs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Stern, Division of Developmental Disabilities, 753-2773.

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 April 7, 1992, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop 5805, Olympia, Washington 98504, by April 7, 1992.

Date of Intended Adoption: April 21, 1992.

February 18, 1992
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2596, filed 2/5/88)

WAC 275-27-220 FAMILY SUPPORT SERVICES. (1) The department's intent of family support services (is) shall be to:

(a) Reduce or eliminate the need for out-of-home residential placement(s) of a client(s) wherein the in-home placement is in the client's best interest(,to);

(b) Allow a client(s) to live in the most independent setting possible(s); and (to)

(c) Have access to services best suited to (clients') a client's needs.

(2) The department's family support services shall include, but (are) not be limited to, the following services:

(a) Emergency or planned respite care;

(b) Attendant care;

(c) Therapeutic services, including:

(i) Physical therapy(,);

(ii) Occupational therapy(,);

(iii) Behavior management therapy(,); and

(iv) Communication therapy(,);

(d) The purchase, rental, loan, or refurbishment of specialized equipment, environmental modifications, and other adaptations;

(e) Other service pursuant to subsection (1) of this section approved by the director or designee.

(3) (Family support services are time-limited:) The department shall authorize services (are authorized) for a specified time-limited period.

(a) A departmental service authorization shall state the type (of), amount, and period (duration) of service. Each department authorization shall constitute(s) a new service for a new period.

(b) If requested family support services are not authorized, such actions (are) shall be deemed a denial of services.

(c) Family support services may be authorized below the (level) amount requested by the family for the period. (ff) When, during the authorized service period, family support services are reduced or terminated below the (levels) amount specified in service authorizations, the department shall deem such actions (are deemed) as a reduction or termination of services.

(4) The department shall authorize family support services in accordance with policies established by the (director) department. The department shall base (monthly) periodic service authorizations on:

(a) (Service) Requests for family support services described in subsection (2) of this section;

(b) Service need levels as described in (WAC 275-27-223) section 223 of this chapter;

(c) Availability of (requested) family support (services) funding; and

(d) (Monthly regional family support services funding allocations; except for emergencies as defined in WAC 275-27-020(1); and

(e) Authorization by a review committee, in each regional office, which reviews each request for service.

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 2596, filed 2/5/88)

WAC 275-27-223 SERVICE NEED LEVELS. (1) The department shall use service need levels to determine (monthly) periodic family support service authorizations.

(2) The department shall determine service need levels in order of priority for funding (are) as follows:

(a) Service need level 1: (The client is an active recipient of children's protective services or adult protective services.) Client is at immediate risk of out-of-home placement without the provision of family support services. The client needs intensive residential support to assist the client's family to care for the family's child or adult requiring nursing services, attendant care, or support due to difficult behaviors. The client must receive the majority of family support services in such client's home. An existing or new eligible client must have received, over the most recent three months, at least ten days or eighty hours per month of such service;

(b) Service need level 2: (Out-of-home placement will be needed within two months without provision of family support services) Client is at high risk of out-of-home placement without the provision of family support services and has one or more of the following documented in writing:

(i) The client:

(A) Currently receives adult protective services or division of children and family services as an active:

(I) Child protective service client;

(II) Child welfare service client; or

(III) Family reconciliation service client.

(B) Has returned home from foster care or group care placement within the last six months;

(C) Has a serious medical problem requiring close and ongoing monitoring and/or specialized treatment, such as:

(I) Apnea monitor;

(II) Tracheotomy;

(III) Heart monitor;

(IV) Ventilator;

(V) Constant monitoring due to continuous seizures;

(VI) Immediate life-saving intervention due to life threatening seizures;

(VII) Short bowel syndrome; or

(VIII) Brittle bone syndrome.

(D) Has a dual diagnosis based on current mental health DSM Axis I diagnosis;

(E) Has an extreme behavioral challenge resulting in health and safety issues for self and/or others which:

(I) Resulted in serious physical injury to self or others within the last year;

(II) For a client who is two years of age or older, requires constant monitoring when awake for personal safety reasons; or

(III) Is of imminent danger to self or others as determined by a psychiatrist, psychologist, or other qualified professional.

(F) Is ten years of age or older or weighs forty pounds or more, requires lifting, and needs direct physical assistance in three or more of the following areas:

- (I) Bathing;
- (II) Toileting;
- (III) Feeding;
- (IV) Mobility; or
- (V) Dressing.

(ii) The caregiver:

(A) Is a division of developmental disabilities client;

(B) Has a physical or medical problem that interferes with providing care; or

(C) Has serious mental health and substance abuse problems and:

(I) Is receiving counseling for these problems; or

(II) Has received or applied for counselling within the past six months.

(c) Service need level 3: ~~((Client))~~ The family is at risk of significant deterioration which could result in an out-of-home placement of the client without provision of family support services due to the following:

(i) ~~((Caregiver/family is:~~

~~(A) Experiencing acute and/or chronic stresses; or~~

~~(B) Has acute or chronic physical limitations; or~~

~~(C) Has acute or chronic mental/emotional impairments; and~~

~~((iii)) The client requires ~~((total))~~ direct physical assistance, above what is typical for such client's age, in ~~((at least))~~ three or more of the following areas:~~

~~(A) Bathing(;;);~~

~~(B) Toileting(;;);~~

~~(C) Feeding(;;);~~

~~(D) Mobility(;;); or~~

~~(E) Dressing(;; or~~

~~((iii)) The client has special medical support requirements:~~

~~(A) Apnea monitor;~~

~~(B) Tracheotomy;~~

~~(C) Heart monitor;~~

~~(D) Ventilator;~~

~~(E) Constant monitoring due to continuous seizures; or~~

~~(F) Immediate life-saving intervention due to life-threatening seizures).~~

~~((iv)) (ii) The client has current behavioral episodes ~~((which have resulted))~~ resulting in:~~

~~(A) Physical injury to the client or others; ~~((and/or))~~~~

~~(B) Substantial damage to property; and/or~~

~~(C) Chronic sleep pattern disturbances or chronic continuous screaming behavior.~~

~~(iii) The client has medical problems requiring substantial extra care; and/or~~

~~(iv) The family is:~~

~~(A) Experiencing acute and/or chronic stress;~~

~~(B) Has acute or chronic physical limitations; or~~

~~(C) Has acute or chronic mental or emotional limitations.~~

~~(d) Service need level 4: ~~((Caregiver may lose the ability to provide care without family support assistance due to caregiver conditions described in subsection (2)(c)(i) of this section.~~~~

~~(e) Service need level 5: Client condition as described in subsection (2)(c)(ii), (iii), and (iv) of this section is present. Family support is needed to maintain current functioning and prevent deterioration of client or family.~~

~~(f) Service level 6:)) Family needs temporary or ongoing services in order to:~~

~~(i) ~~((Get a break in care))~~ Receive support to relieve and/or prevent stress of caregiver/family; or~~

~~(ii) Enhance the current functioning of the family.~~

~~(3) The department shall determine service need level of the client's service request by reviewing information received from the client, family, and other sources about:~~

~~(a) Whether client is an active recipient of ~~((children's protective))~~ services from the division of children and family services or adult protective services;~~

~~(b) Whether indicators of risk of out-of-home placement exist, and ~~((indicators of))~~ the imminence of such an event. Assessment of such risk may include:~~

~~(i) Review of family's requests for placement;~~

~~(ii) History of family's involvement with children's protective services or adult protective services;~~

~~(iii) Client's current adjustment;~~

~~(iv) Parental history of psychiatric hospitalization;~~

~~(v) Clinical assessment of family's condition; and~~

~~(vi) Statements from other professionals.~~

~~(c) Caregiver conditions, such as:~~

~~(i) Acute and/or chronic stress(;;);~~

~~(ii) Acute and/or chronic physical limitations(;;); and~~

~~(iii) Acute and/or chronic mental and/or emotional impairments.~~

~~(d) Client's need for intense medical ~~((or))~~, physical, or behavioral support;~~

~~(e) Family's ability to use typical community resources;~~

~~(f) Availability of private, local, state, or federal resources to help meet the need for family support;~~

~~(g) Severity and chronicity of family or client problems; and~~

~~(h) Degree to which family support services will:~~

~~(i) Ameliorate or alleviate such problems; and~~

~~(ii) Reduce the risk of out-of-home placement.~~

~~(4) Beginning May 1, 1992, the department's revised service need level definitions shall be in effect. The department's service need levels currently defined under section 223 of this chapter shall remain in effect through April 1992.~~

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 92-05-077
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 3330—Filed February 18, 1992, 3:32 p.m., effective February 19, 1992, 12:01 a.m.]

Date of Adoption: February 18, 1992.

Purpose: This amendment allows the department to make family support authorizations to families for periods greater than monthly. It also redefines the department's service need levels ensuring that those individuals/families with greatest needs will be the first to receive services.

Citation of Existing Rules Affected by this Order: Amending WAC 275-27-220 Family support services; and 275-27-223 Service need levels.

Statutory Authority for Adoption: RCW 71A.12.040.

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

Reasons for this Finding: To ensure that families/persons with the greatest needs have access to family support services, and provide families with more flexibility, stability, and control over their authorized family support services. The amending of these WACs will preserve the health and safety of individuals living at home having intense nursing, personal care, or behavioral support needs.

Effective Date of Rule: February 19, 1992, 12:01 a.m.

February 18, 1992
Leslie F. James, Director
Administrative Services

AMENDATORY SECTION (Amending Order 2596, filed 2/5/88)

WAC 275-27-220 FAMILY SUPPORT SERVICES. (1) The department's intent of family support services ~~((is))~~ shall be to:

(a) Reduce or eliminate the need for out-of-home residential placement((s)) of a client((s)) wherein the in-home placement is in the client's best interest((,-to));

(b) Allow a client((s)) to live in the most independent setting possible((;-)); and ~~((to))~~

(c) Have access to services best suited to ((clients')) a client's needs.

(2) The department's family support services shall include, but ((are)) not be limited to, the following services:

(a) Emergency or planned respite care;

(b) Attendant care;

(c) Therapeutic services, including:

(i) Physical therapy((;-));

(ii) Occupational therapy((;-));

(iii) Behavior management therapy((;-)); and

(iv) Communication therapy((;-)).

(d) The purchase, rental, loan, or refurbishment of specialized equipment, environmental modifications, and other adaptations;

(e) Other service pursuant to subsection (1) of this section approved by the director or designee.

(3) ~~((Family support services are time-limited.))~~ The department shall authorize services ((are authorized)) for a specified time-limited period.

(a) A departmental service authorization shall state the type ((of)), amount, and period (duration) of service. Each department authorization shall constitute((s)) a new service for a new period.

(b) If requested family support services are not authorized, such actions ((are)) shall be deemed a denial of services.

(c) Family support services may be authorized below the ((level)) amount requested by the family for the period. ((If)) When, during the authorized service period, family support services are reduced or terminated below the ((levels)) amount specified in service authorizations, the department shall deem such actions ((are deemed)) as a reduction or termination of services.

(4) The department shall authorize family support services in accordance with policies established by the ((director)) department. The department shall base ((monthly)) periodic service authorizations on:

(a) ~~((Service))~~ Requests for family support services described in subsection (2) of this section;

(b) Service need levels as described in ((WAC 275-27-223)) section 223 of this chapter;

(c) Availability of ((requested)) family support ((services)) funding; and

(d) ~~((Monthly regional family support services funding allocations, except for emergencies as defined in WAC 275-27-020(11), and~~

~~((e))~~ Authorization by a review committee, in each regional office, which reviews each request for service.

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 2596, filed 2/5/88)

WAC 275-27-223 SERVICE NEED LEVELS. (1) The department shall use service need levels to determine ((monthly)) periodic family support service authorizations.

(2) The department shall determine service need levels in order of priority for funding ((are)) as follows:

(a) Service need level 1: ~~((The client is an active recipient of children's protective services or adult protective services.))~~ Client is at immediate risk of out-of-home placement without the provision of family support services. The client needs intensive residential support to assist the client's family to care for the family's child or adult requiring nursing services, attendant care, or support due to difficult behaviors. The client must receive the majority of family support services in such client's home. An existing or new eligible client must have received, over the most recent three months, at least ten days or eighty hours per month of such service;

(b) Service need level 2: ~~((Out-of-home placement will be needed within two months without provision of family support services))~~ Client is at high risk of out-of-home placement without the provision of family support services and has one or more of the following documented in writing:

(i) The client:

(A) Currently receives adult protective services or division of children and family services as an active:

(I) Child protective service client;

(II) Child welfare service client; or

(III) Family reconciliation service client.

(B) Has returned home from foster care or group care placement within the last six months;

(C) Has a serious medical problem requiring close and ongoing monitoring and/or specialized treatment, such as:

(I) Apnea monitor;

(II) Tracheotomy;

(III) Heart monitor;

(IV) Ventilator;

(V) Constant monitoring due to continuous seizures;

(VI) Immediate life-saving intervention due to life threatening seizures;

(VII) Short bowel syndrome; or

(VIII) Brittle bone syndrome.

(D) Has a dual diagnosis based on current mental health DSM Axis I diagnosis;

(E) Has an extreme behavioral challenge resulting in health and safety issues for self and/or others which:

(I) Resulted in serious physical injury to self or others within the last year;

(II) For a client who is two years of age or older, requires constant monitoring when awake for personal safety reasons; or

(III) Is of imminent danger to self or others as determined by a psychiatrist, psychologist, or other qualified professional.

(F) Is ten years of age or older or weighs forty pounds or more, requires lifting, and needs direct physical assistance in three or more of the following areas:

- (I) Bathing;
- (II) Toileting;
- (III) Feeding;
- (IV) Mobility; or
- (V) Dressing.

(ii) The caregiver:

(A) Is a division of developmental disabilities client;
(B) Has a physical or medical problem that interferes with providing care; or

(C) Has serious mental health and substance abuse problems and:

(I) Is receiving counseling for these problems; or
(II) Has received or applied for counselling within the past six months.

(c) Service need level 3: ((Client)) The family is at risk of significant deterioration which could result in an out-of-home placement of the client without provision of family support services due to the following:

(i) ((Caregiver/family is:

(A) Experiencing acute and/or chronic stresses; or
(B) Has acute or chronic physical limitations; or
(C) Has acute or chronic mental/emotional impairments; and

(ii)) The client requires ((total)) direct physical assistance, above what is typical for such client's age, in ((at least)) three or more of the following areas:

- (A) Bathing((;));
- (B) Toileting((;));
- (C) Feeding((;));
- (D) Mobility((;)); or
- (E) Dressing((; or

(iii) The client has special medical support requirements:

(A) Apnea monitor;
(B) Tracheotomy;
(C) Heart monitor;
(D) Ventilator;
(E) Constant monitoring due to continuous seizures;

or
(F) Immediate life-saving intervention due to life-threatening seizures).

((iv)) (ii) The client has current behavioral episodes ((which have resulted)) resulting in:

(A) Physical injury to the client or others; ((and/or))
(B) Substantial damage to property; and/or
(C) Chronic sleep pattern disturbances or chronic continuous screaming behavior.

(iii) The client has medical problems requiring substantial extra care; and/or

(iv) The family is:

(A) Experiencing acute and/or chronic stress;
(B) Has acute or chronic physical limitations; or
(C) Has acute or chronic mental or emotional limitations.

(d) Service need level 4: ((Caregiver may lose the ability to provide care without family support assistance due to caregiver conditions described in subsection (2)(c)(i) of this section.

(e) Service need level 5: Client condition as described in subsection (2)(c)(ii), (iii), and (iv) of this section is present. Family support is needed to maintain current functioning and prevent deterioration of client or family.

(f) Service level level 6:)) Family needs temporary or ongoing services in order to:

(i) ((Get a break in care)) Receive support to relieve and/or prevent stress of caregiver/family; or

(ii) Enhance the current functioning of the family.

(3) The department shall determine service need level of the client's service request by reviewing information received from the client, family, and other sources about:

(a) Whether client is an active recipient of ((children's protective)) services from the division of children and family services or adult protective services;

(b) Whether indicators of risk of out-of-home placement exist, and ((indicators of)) the imminence of such an event. Assessment of such risk may include:

(i) Review of family's requests for placement;
(ii) History of family's involvement with children's protective services or adult protective services;

(iii) Client's current adjustment;

(iv) Parental history of psychiatric hospitalization;

(v) Clinical assessment of family's condition; and

(vi) Statements from other professionals.

(c) Caregiver conditions, such as:

(i) Acute and/or chronic stress((;));

(ii) Acute and/or chronic physical limitations((;)); and

(iii) Acute and/or chronic mental and/or emotional impairments.

(d) Client's need for intense medical ((or)), physical, or behavioral support;

(e) Family's ability to use typical community resources;

(f) Availability of private, local, state, or federal resources to help meet the need for family support;

(g) Severity and chronicity of family or client problems; and

(h) Degree to which family support services will:

(i) Ameliorate or alleviate such problems; and

(ii) Reduce the risk of out-of-home placement.

(4) Beginning May 1, 1992, the department's revised service need level definitions shall be in effect. The department's service need levels currently defined under section 223 of this chapter shall remain in effect through April 1992.

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 92-05-078

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 18, 1992, 3:37 p.m.]

Supplemental Notice to WSR 91-24-010.

Title of Rule: WAC 390-24-202 Report of compensation from sales commissions.

Purpose: Reporting required of officials who receive compensation through sales commissions.

Statutory Authority for Adoption: RCW 42.17.370.

Summary: Officials receiving compensation in the form of sales commissions must identify on the statement of financial affairs additional information regarding the source.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, Attorney General, Olympia, 586-1913; Implementation and Enforcement: Graham Johnson, Public Disclosure Commission, Olympia, 753-1111.

Name of Proponent: [Public Disclosure Commission], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Listing only the company, agency, etc., through which a sales commission is paid as the source of compensation does not provide the public with sufficient information about potential conflicts of interest. The information made available through this added requirement will fill that information void.

Proposal does not change existing rules.

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

Hearing Location: Second Floor Conference Room, Evergreen Plaza, 711 Capitol Way, Olympia, WA 98501, on March 24, 1992, at 9 a.m.

Submit Written Comments to: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, by March 14, 1992.

Date of Intended Adoption: March 24, 1992.

February 14, 1992
Graham E. Johnson
Executive Director

NEW SECTION

WAC 390-24-202 REPORT OF COMPENSATION FROM SALES COMMISSIONS. When a person receives compensation in the form of a commission on sales, the reporting of the compensation, required in RCW 42.17.241, shall include:

(1) the name and address of the person or persons through whom a commission was paid;

(2) for purposes of RCW 42.17.241 (1)(f), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of \$1,000 or more in the aggregate;

(3) for purposes of RCW 42.17.241 (1)(g)(i), the name and address of each governmental unit for whom a service was rendered or to whom a product was sold that resulted in a commission;

(4) for purposes of RCW 42.17.241 (1)(g)(ii), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of \$5,000 or more in the aggregate.

WSR 92-05-079

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 18, 1992, 3:42 p.m.]

Date of Adoption: January 28, 1992.

Purpose: WAC 390-16-125 describes procedures for changing reporting options; and 390-16-310 defines the limitations on contributions.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-125 and 390-16-310.

Statutory Authority for Adoption: RCW 42.17.370.

Pursuant to notice filed as WSR 91-22-082 and 91-22-081 on November 5, 1991.

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

February 14, 1992

Graham E. Johnson

Executive Director

AMENDATORY SECTION (Amending WSR 90-16-083, filed 7/31/90, effective 8/31/90)

WAC 390-16-125 ABBREVIATED CAMPAIGN REPORTING—EXCEEDING LIMITATIONS. Whenever there is reason to believe that any of the aggregate limitations specified in WAC 390-16-105, 390-16-115, or 390-16-120 will or may be exceeded, the candidate or committee may apply to the commission for authorization to change reporting options.

(1) If the application is made more than thirty days prior to the date of the election, the application will be considered approved without further action by the commission if the person making application submits:

(a) A PDC Form C-1 or C-1pc indicating the intention of using the full reporting system provided by RCW 42.17.040 - 42.17.090;

(b) A PDC Form C-4 with Schedules A, A-s/l, B, C and L, as appropriate, disclosing all contributions and expenditures reportable under RCW 42.17.090 for the election campaign or in the case of continuing political committees for the calendar year. (~~Additionally candidates for state executive or legislative office must file a C4x report.~~)

(c) A statement affirming that all known candidates for the office being sought have been notified personally of the application stating the manner and date of such notification. In the case of a ballot proposition, the statement shall affirm that the committee treasurer of all committees identifiable from the records of the county elections officer or public disclosure commission to be opposing or supporting the proposition have been notified personally of the application stating the manner and date of such notification.

(2) If the application is made within thirty days of the date of the election, the application shall be approved only by authorization of the commission executive director.

(a) Prior to such approval being granted, the executive director shall determine that the application contains those documents shown in subsection (1)(a), (b) and (c) above.

(b) The commission staff shall investigate why the applicable requirements were not complied with in the first instance and whether or not the probability of exceeding such limitations was reasonably foreseeable. If the investigation shows that the declaration by the candidate, committee or other person filed under WAC 390-16-115 was made in good faith and that the probability of exceeding such limitations was not reasonably

foreseeable, the executive director will approve the reporting option change conditioned upon full future compliance with all applicable requirements of chapter 42.17 RCW.

(3) When one candidate or committee on either side of an election campaign has applied for permission to exceed the limitations of the exemption under subsection (1) above, all other candidates and/or committees may change reporting options by meeting the requirements of subsection (1)(a), (b), and (c).

(4) Any person who knowingly or negligently causes or permits the limitations specified in these regulations to be exceeded shall be deemed to have violated the applicable provisions of RCW 42.17.040 - 42.17.090.

AMENDATORY SECTION (Amending WSR 90-20-088, filed 9/28/90, effective 10/29/90)

WAC 390-16-310 LIMITATION ON CONTRIBUTIONS. The limitations on contributions as provided in RCW 42.17.105(8) shall be applied as follows:

(1) The limitation on contributions shall apply to a "candidate" as that term is defined in RCW 42.17.020(5) when the candidate is contributing to his or her own campaign using his or her own personal funds.

(2) The limitations on contributions shall apply separately to the contributions made by each spouse.

(3) Minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions if the contribution is properly attributed to the minor child and if;

(a) The decision to contribute is made knowingly and voluntarily by the minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under to RCW 42.17.105(8).

(5) The limitations on contributions shall apply separately to the contributions made by a partnership from the contributions made by an individual partner except that;

Contributions made from or charged against the capital account of an individual partner shall be aggregated with the partner's individual contributions for purposes of determining the limitations on contributions under RCW 42.17.105(8).

(6) The limitations on contributions shall apply separately to the contributions made by a corporation, union, association or other similar organization from the contributions made by the subsidiary corporation, or subdivision of the union, association or other similar organization except that;

(a) A contribution from a wholly owned or controlled subsidiary corporation or subdivision of a union, association or other similar organization shall be aggregated with the contributions of the parent or controlling corporation or organization for purposes of determining the limitations on contributions under RCW 42.17.105(8).

(b) A subsidiary, union subdivision or subdivision of an association or other similar organization is "controlled" by another entity, if it does not maintain executive and fiscal independence over its operations and functions as demonstrated by the factors set forth in WAC ((~~390-20-300 (i)-(vi)~~)) 390-16-308 (5)(d)(i) through (vi).

(7) The limitation on contributions shall apply separately to political committees except that;

Political committees which are established, financed, maintained or controlled by any corporation, organization or any other person, including any parent, subsidiary, branch, division, department, or local unit of such persons shall be aggregated and considered as having been made by a single political committee for purposes of determining the limitations on contributions under RCW 42.17.105(8).

WSR 92-05-080

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 18, 1992, 3:48 p.m.]

Date of Adoption: January 28, 1992.

Purpose: WAC 390-05-300 reporting requirements are suspended for jurisdictions with fewer than 1,000 registered voters unless petition with valid signatures is filed with the Public Disclosure Commission; WAC 390-05-305, describes what petition (in WAC 390-05-300) requires; WAC 390-16-041, describes forms required to be filed by candidates and political committees who use full and abbreviated reporting options; and WAC 390-28-025, allows an official to request a hearing to modify reporting requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-300, 390-05-305, 390-16-041, and 390-28-025.

Statutory Authority for Adoption: RCW 42.17.370.

Pursuant to notice filed as WSR 92-01-131 on December 19, 1991.

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

February 14, 1992
Graham E. Johnson
Executive Director

AMENDATORY SECTION (Amending WSR 85-15-020, filed 7/9/85)

WAC 390-05-300 SUSPENSION OF REPORTING REQUIREMENTS. From the effective date of RCW 42.17.405, the following reporting requirements are suspended in jurisdictions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction:

(1) The F-1 financial reports of public officials required by RCW 42.17.240 and WAC 390-24-010, 390-24-020 and 390-24-025;

(2) The L-5 public agency lobbying report required by RCW 42.17.190 and WAC 390-20-120;

(3) The C-1 through C-4 campaign finance reports required for ballot issues by RCW 42.17.040 through 42.17.090 and WAC 390-16-011, 390-16-031, 390-16-036, 390-16-041, and independent campaign expenditure reports (C-6) required for ballot issues by RCW 42.17.100 and WAC 390-16-050: PROVIDED, That reporting requirements shall be reinstated by order of the commission at its next regular or special meeting if:

(a) A certified "petition for disclosure" containing the valid signatures of ~~((five))~~ fifteen percent of the number of registered voters of the jurisdiction as of the date of the most recent general election in the jurisdiction is filed with the commission; or

(b) The jurisdiction has by ordinance, resolution or other official action petitioned the commission to void the suspension with respect to elected officials, candidates and ballot propositions for the jurisdiction.

If reporting requirements are reinstated by petition, the commission shall promptly notify all known affected candidates and incumbent elected officials of their duty to file disclosure reports. Such individuals and committees shall be ordered to file the required statements within thirty days of the commission order.

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

AMENDATORY SECTION (Amending WSR 85-15-020, filed 7/9/85)

WAC 390-05-305 PETITION FOR DISCLOSURE—FORM. (1) A petition for disclosure shall be legible, on 8-1/2 x 11" paper and shall include the following information:

- (a) The name of the jurisdiction~~((:));~~;
- (b) A request that public disclosure be required;
- (c) The names and addresses of all known candidates and ballot proposition committees in the jurisdiction who will be required to report;
- (d) The legibly printed name and address and the legal signature of at least ~~((five))~~ fifteen percent of the number of registered voters in the jurisdiction as of the date of the most recent general election in the jurisdiction.

(2) The petition shall be verified and certified by the auditor or elections officer of the county or counties in which the jurisdiction is located. The signatures shall be

verified by comparing the signatures on the petition to the signatures on the voter registration roll. The auditor shall place his seal on each verified page of the petition in order to certify it to the commission.

(3) A suggested form for ~~((the))~~ petition is:

"We, the undersigned citizens and registered voters of _____ (name of jurisdiction), request that the Public Disclosure Commission order disclosure in _____ (name of jurisdiction)."

(4) A suggested form for the petition of a jurisdiction by ordinance, resolution or other official action is:

"We, the _____ (governing board) of _____ (name of jurisdiction) request that the Public Disclosure Commission order disclosure in _____ (name of jurisdiction). This request is made pursuant to RCW 42.17.405 and WAC 390-05-305(4)."

AMENDATORY SECTION (Amending WSR 91-22-033, filed 10/31/91)

WAC 390-16-041 FORMS—SUMMARY OF TOTAL CONTRIBUTIONS AND EXPENDITURES.

(1) The official form for reports of contributions and expenditures by candidates and political committees ~~((who use the "file" reporting option))~~ who use the "full" reporting option is designated "C-4," revised 1/90, and includes Schedule A, revised 1/90, Schedule B, revised 1/90, Schedule C, revised 1/90, and Schedule L, revised 1/90.

(1) The official form for reports of contributions and expenditures by candidates for the state legislature or state executive office and who use the "full" reporting option is designated C-4, revised 1/90, and includes Schedule ~~((A-s/[[+]])~~ A-s/1, revised 10/91, Schedule B-s/1, revised 10/91, Schedule C, revised 1/90, and Schedule L, revised 1/90.

(3) The official form for reports of contributions and expenditures by candidates and political committees who use the "abbreviated" reporting option is designated "C-4abb," revised 1/90.

(4) Copies of ~~((these forms) [this form])~~ these forms are available at the Commission Office, Room 403, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8-1/2" x 11" white paper.

STATE OF WASHINGTON

SUMMARY, FULL REPORT RECEIPTS AND EXPENDITURE

PUBLIC DISCLOSURE COMMISSION

C4 1/90

PDC OFFICE USE

POST RECEIVED

Candidate or committee name (Do not abbreviate. Include full name.)

Address

City

County

Zip

Report Period Covered From: (last C-4)

To: (end of period)

RECEIPTS

- 1. Previous total cash and in kind contributions (From line 8, last C-4)
2. Cash received (From line 2, Schedule A)
3. In kind contributions received (From line 1, Schedule B)
4. Total cash and in kind contributions received this period (Line 2 plus 3)
5. Loan principal repayments made (From line 2, Schedule L)
6. Corrections (From line 1 or 3, Schedule C)
7. Net adjustments this period (Combine lines 5 & 6)
8. Total cash and in kind contributions during campaign (Combine lines 1, 4 & 7)
9. Total pledge payments due (From line 2, Schedule B)

EXPENDITURES

- 10. Previous total cash and in kind expenditures (From line 17, last C-4)
11. Total cash expenditures (From line 4, Schedule A or line 5 Schedule A-s/1)
12. In kind expenditures (goods & services) (From line 1, Schedule B)
13. Total cash and in kind expenditures made this period (Line 11 plus line 12)
14. Loan principal repayments made (From line 2, Schedule L)
15. Corrections (From line 2 or 3, Schedule C)
16. Net adjustments this period (Combine lines 14 & 15)
17. Total cash and in kind expenditures during campaign (Combine lines 10, 13 and 16)

CANDIDATES

Please complete:

Table with columns: Won, Lost, Unopposed, Name not on ballot. Rows: Primary election, General election.

CASH SUMMARY

- 18. Cash on hand (Line 8 minus line 17)
19. Liabilities: (Sum of loans and debts owed)
20. Balance (Surplus or deficit) (Line 18 minus line 19)

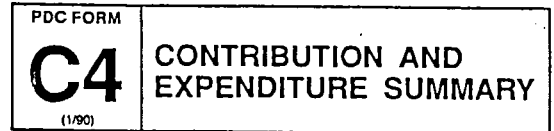
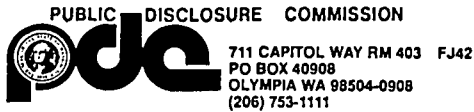
CERTIFICATION: I certify that the information herein and on accompanying schedules and attachments is true to the best of my knowledge.

Candidate's Signature

Date

Treasurer's Signature (if a political committee)

Date



INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE

Each candidate and political committee using Full Reporting.

FILING DATES

- 1) File with C-1 (Registration) if you received contributions or made expenditures before registering.
- 2) File on the 10th of each month if contributions or expenditures were over \$200 since last C-4 was filed. (Note: These 10th-of-the-month reports are not required if another C-4 must be filed during that month. See #3 below.)
- 3) For each primary, general and special election in which the candidate or political committee makes an expenditure, file
 - ◆ 21 days prior to the election
 - ◆ 7 days prior to the election
 - ◆ 10th of the first month after the election*

(*Not required after primary from candidates who will be in the general election or from continuing political committees.)

- 4) File final report when campaign is finished or committee closes operation. Often, this coincides with the primary or general post-election, 10th-of-the-month report.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

SCHEDULES AND ATTACHMENTS

State executive and legislative candidates will file Schedules A-s/1, B-s/1, C and L, as appropriate, along with the C-4. (The C-4x form has been eliminated.)

Judicial and local office candidates and all political committees will file Schedules A, B, C and L, as appropriate, along with their C-4 reports.

All candidates and committees must attach any C-3 reports that were due but not filed.

WHERE TO SEND REPORTS

Send original C-4 reports along with any attachments to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Elections Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

OTHER REPORTS

C-3 (Cash Receipts Report): Used with Full Reporting only.

C-4 (Contribution and Expenditure Report): Used with Full Reporting only.

C-4 ABB (Receipts and Expenditures Summary): Filed by candidates using Abbreviated Reporting.

Special Report E (Earmarked Contributions Report): Filed by committees that receive funds earmarked for use on behalf of another candidate or committee.

For assistance, call or write PDC!

CASH RECEIPTS AND EXPENDITURES

SCHEDULE A
to C4
(1/90)

Candidate or committee name (Do not abbreviate. Use full name)

1. CASH RECEIPTS (Contributions) which have been reported on C2? List each deposit made since last C4 report was submitted

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS

Enter also on line 2 of C4

3. CASH EXPENDITURES. List all expenses since last C-4 report was filed.

- a. Total expenditures each \$50 or less not itemized below (including petty cash)
- b. Payments and reimbursement to candidate or committee officials. Attach a sheet listing each payment, the person paid, the original vendor and the purpose of the expenditure. Attach a copy of each receipt or invoice.

EXPENDITURES OVER \$50.00. ITEMIZE EACH BELOW.

Date paid	Name and address of recipient or vendor paid	Purpose of expenditure

Check here if continued on attached sheet

Total from attached pages

4. TOTAL CASH EXPENDITURES

Enter also on line 11 of C4

PDC form C4A (rev. 1/90) -1499-

**IN KIND CONTRIBUTIONS, PLEDGES, ORDERS,
DEBTS, OBLIGATIONS**

SCHEDULE B
to C4 (1/90)

Candidate or committee name (Do not abbreviate. Use full name)

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date received	Contributor's name and address	Description of contribution	Fair market value	Total given by this person during campaign or year
TOTAL				
(Enter also on line 3 and line 12 of C4)				

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of \$100.00 or more.

Date you were notified of pledge	Name and address of person making pledge (including organizations)	Amount	Total given by this person during campaign or year
TOTAL (include new pledges above and all other outstanding pledges.)			
(Enter also on line 9 of C4)			

3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)

- a. List each debt, obligation or estimated expenditure which is more than \$250.00.
- b. List each debt, obligation or estimated expenditure which is more than \$50.00 and has been outstanding for over 30 days.

Expenditure date	Vendor's/Recipient's name and address	Amount owed	Purpose of expenditure
TOTAL			
(Include in line 19 of C4)			

CORRECTIONS

SCHEDULE C
to C4

Candidate or committee name (Do not abbreviate. Use full name.)

Date

1. CONTRIBUTIONS AND RECEIPTS (include mathematical corrections.)

Date of report	Contributor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
		Total corrections to contributions Enter on line 6 of C4. Show + or (-).		

2. EXPENDITURES (include mathematical corrections.)

Date of report	Vendor's name or description of correction	Amount reported	Corrected amount	Difference (+ or -)
		Total corrections to expenditures Enter on line 15 of C4. Show + or (-).		

3. REFUNDS. The below listed amounts have been received as refunds on expenditures previously reported. The refund has been deposited and reported on C3 report, line 1d.

Date of refund	Source/person making refund	Amount of refund
		Total refunds Enter as (-) on line 6 & line 15 of C4.

PDC form C4C (rev. 1/90) -1310-

LOANS

See instructions and examples on reverse

SCHEDULE
TO C3
OR C4

L
(1/90)

Candidate or committee name

1. LOAN RECEIVED.

Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Repayment schedule	Date due

Also include this amount on line 1c, C3 report →

Name and address of each endorser, co-signer, guarantor or other person liable for the loan:

2. LOAN PAYMENTS.

Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed

Total Principal Paid (Enter also on lines 5 and 14, C-4 report) →

Total Payments (Enter as an expenditure on Schedule A) →

3. LOAN FORGIVEN.

Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed

4. LOANS STILL OWED. List each loan which has previously been reported and still has a balance due.

Loan date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed

Subtotal _____

New loans received during this reporting period _____

Total Loans Owed (Include in total on line 19, C-4 report) _____

Check here if continued on attached sheet.



SCHEDULE TO C3 OR C4	L (1/90)	LOANS
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INSTRUCTIONS

Please consult PDC instruction manuals when completing this schedule. Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE Each candidate and political committee using full reporting that receives one or more campaign loans.

FILING DATES When a loan is received by the campaign, complete Part 1 and file the Schedule L with the C-3 report that corresponds with the loan's deposit into the account. Use a separate schedule for each loan received.

When a loan is paid or forgiven, in whole or in part, complete Part 2 and/or Part 3 and file the Schedule L with the C-4 covering the period when the payment or forgiveness occurred.

When one or more loans remain unpaid, complete Part 4 and file the schedule with each C-4 report until all loans are repaid in full or forgiven. (The same schedule may be used to show loan payments, forgiveness information and to show which loans remain unpaid.)

LOAN RECEIVED
(Information would appear on separate Schedule L)

LOAN PAYMENTS

LOAN FORGIVEN

LOANS STILL OWED

LOANS		SCHEDULE TO C3 OR C4		L	
Candidate or committee name Adrian Adams for State House					
1. LOAN RECEIVED.					
Date loaned	Lender's name and address	Amount of loan	Annual interest rate	Payment schedule	Date due
2/10/91	Candidate	\$5,000	12%	\$200/month	Not fixed
		Also include this amount on line 1a, C-3 report →			
		\$5,000			
Name and address of each endorser, co-signer, guarantor or other person liable for the loan: Commercial loan to the candidate from Washington State Bank. Loan co-signed by Sam P. Smith, 145 Boulevard Drive, Podunk, MA and Jane S. Paul, 541 B Street, Podunk, MA. Each guaranteed \$2,500 of the loan.					
2. LOAN PAYMENTS.					
Date paid	Lender's name and address	Principal paid	Interest paid	Total payment	Balance owed
3/30/91	Candidate	\$200	\$50	\$250	\$4,800
3/31/91	Michael Murray	\$100	None	\$100	\$ 400
		Total Principal Paid (Enter also on lines 8 and 14, C-4 report) →			
		\$300			
		Total Payments →			
		\$350			
3. LOAN FORGIVEN.					
Date	Lender's name and address	Original amount	Principal repaid	Amount forgiven	Balance owed
3/15/91	Kelly Adams	\$250	None	\$150	\$100
4. LOANS STILL OWED. List each loan which has previously been reported and still has a balance due					
Loan date	Lender's name and address	Original amount	Principal repaid or forgiven	Amount owed	
2/10/91	Candidate	\$5,000	\$200	\$4,800	
1/22/91	Michael Murray	500	100	400	
3/01/91	Kelly Adams	250	150	100	
3/11/91	K.M. Lawrence	1,000	0	1,000	
				Subtotal	\$6,300
				How loans repaid during this reporting period	\$
				Total Loans Owed (Include in total on line 1b, C-4 report)	\$6,300
<input type="checkbox"/> Check here if certified as endorsed sheet					

**CASH RECEIPTS AND EXPENDITURES
STATE EXECUTIVE AND LEGISLATIVE CANDIDATES**

SCHEDULE **A-S/L**
to C4 (10/91)

Candidate or Committee Name (Do not abbreviate. Use full name)

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit since last C4 report was submitted.

Date of Deposit	Amount	Date of Deposit	Amount	Date of Deposit	Amount	Total deposits

2. TOTAL CASH RECEIPTS

Enter also on line 2 of C4 _____

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are: 1) if expenditures are in-kind or earmarked contributions to another candidate or committee or independent expenditures that benefit another candidate or committee, identify that candidate or committee in the Description block; and 2) when reporting payments to vendors for travel expenses, identify the traveller in the Description block.

**CODE
DEFINITIONS
ON REVERSE**

- *C* - Contributions (monetary, in-kind & transfers)
- *I* - Independent Expenditures
- *L* - Literature, Brochures, Printing
- *B* - Broadcast Advertising (Radio, TV)
- *N* - Newspaper and Periodical Advertising
- *O* - Other Advertising (yard signs, buttons, etc.)
- *P* - Postage, Mailing Permits
- *S* - Surveys and Polls
- *F* - Fundraising Event Expenses
- *T* - Travel, Accommodations, Meals
- *M* - Management/Consulting Service's
- *W* - Wages, Salaries, Benefits
- *G* - General Operation and Overhead

3. EXPENDITURES

- a) Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures by category (Own Campaign, Contribution to Others, etc.), and show the categorical subtotals in the appropriate column on the first line below.
- b) Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount. Put the amount in the appropriate expense category column.
- c) For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of expenses or copies of receipts/ invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Own Campaign	Contribution to Others	Public Office	Non-Campaign Misc.
N/A	Expenses of \$50 or Less	N/A	N/A				
Totals From Attached Pages							
4. TOTALS BY EXPENSE CATEGORY							

1 2 3 4

5. TOTAL CASH EXPENDITURES (Sum of columns 1, 2, 3 & 4)

Enter also on line 11 of C4 _____

EXPENDITURE CODE DEFINITIONS AND USES

- "C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."
- "I" INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."
- "L" LITERATURE.** Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- "B" BROADCAST ADVERTISING.** Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- "N" NEWSPAPER & PERIODICAL ADVERTISING.** Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- "O" OTHER ADVERTISING.** Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- "P" POSTAGE.** Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- "F" FUNDRAISING EVENTS.** Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- "S" SURVEYS AND POLLS.** Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- "T" TRAVEL, ACCOMMODATIONS, MEALS.** Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.
- "M" MANAGEMENT AND CONSULTING SERVICES.** Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- "W" WAGES, SALARIES, BENEFITS.** Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- "G" GENERAL OPERATION AND OVERHEAD.** Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

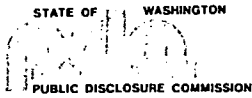
**EXPENDITURES CONTINUATION SHEET (Attachment to Schedule A-s/l)
STATE EXECUTIVE AND LEGISLATIVE CANDIDATES**

Page _____

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date _____

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Own Campaign	Contribution to Others	Public Office	Non-Campaign Misc.
Page Totals							



SUMMARY, ABBREVIATED REPORT RECEIPTS AND EXPENDITURES

ABB C4 (1/90) PDC OFFICE USE REPORT RECEIVED

Candidate or committee name (Do not abbreviate. Include full name) Address City County Zip

- 1. PERIOD COVERED BY REPORT: From: to: a. Candidates: Start of campaign through the end of the month in which the election occurred. b. Ballot Measure Committees: Start of campaign through the end of the month in which the election occurred. c. Continuing Committees filing post-election report: January 1 through end of the month in which election occurred. d. Continuing Committees filing annual report: Calendar year (January 1 through December 31).

2. RECEIPTS

- a. Cash on hand from previous campaign or year (Include money in checking, savings and other accounts)
b. Cash contributions received this campaign or year (Include monetary contributions, loans, fund raising and cash contributions by a candidate)
c. Total cash receipts (Add lines 2a + 2b)
d. Other contributions, including in-kind (Include candidates and committee workers out of pocket expenditures over \$50.00, donated goods and services, filing fees paid by others and similar non-cash contributions)
e. Total contributions (Add lines 2c + 2d)

3. EXPENSES

- a. Cash expenditures
b. Other expenditures. (Enter the amount shown on line 2d above here. Non-cash contributions are listed as both received and expended. Disregard any materials which may remain on hand.)
c. Total expenditures (Add lines 3a + 3b)

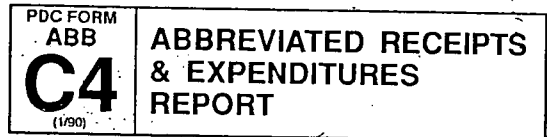
4. SURPLUS/DEFICIT

- a. Cash on hand at end of reporting period (Subtract: line 3a from 2c)
b. Debts and obligations owed
c. Surplus or deficit

Table with columns: CANDIDATES, Primary election, General election, Won, Lost, Unopposed, Name not on ballot

CERTIFICATION: I certify that this report is true and correct to the best of my knowledge.

Candidate's signature Date Treasurer's signature (if a political committee) Date



INSTRUCTIONS

Please consult PDC instruction manuals when completing this report.
 Reporting requirements are contained in and governed by chapters 42.17 RCW and 390-16 WAC.

WHO MUST FILE

Each candidate and political committee using Abbreviated Reporting.

FILING DATES

- 1) Special election candidates and political committees supporting or opposing special election candidates or ballot issues file on the 10th of the month following the election.
- 2) Candidates and political committees making expenditures supporting or opposing primary or general election candidates or ballot measures file on December 10.
- 3) Continuing political committees that do not take part in a primary or general election are only required to file an annual report on January 10 covering the preceding calendar year.
- 4) A final report is filed whenever a candidate's committee or a political committee ceases operation, disposes of any surplus campaign funds and has a zero account balance. Final reports may be filed at any time and may coincide with one of the due dates listed above.

All reports are considered filed as of the postmark date or the date hand-delivered to PDC.

WHERE TO FILE

Send original ABB C-4 report to PDC at the above address. Candidates send a duplicate copy to their County Auditor (County Election Department). Political committees send a copy to County Auditor of the county in which their headquarters is located or, if no headquarters, the county in which their treasurer resides.

For assistance, call or write PDC!

**IN KIND CONTRIBUTIONS, PLEDGES, ORDERS
DEBTS, OBLIGATIONS**

SCHEDULE to C4 **B-S/L**
(10/91)

Candidate or Committee Name (Do not abbreviate. Use full name)

1. IN KIND CONTRIBUTIONS RECEIVED (goods, services, discounts, etc.)

Date Received	Contributor's Name and Address	Description of Contribution	Fair Market Value	Total given by this person during campaign or year
		TOTAL (Enter also on lines 3 and 12 of C4)		

2. PLEDGES RECEIVED BUT NOT YET PAID. List each pledge of \$100.00 or more.

Date Notified of Pledge	Name and Address of Person Making Pledge (including organizations)	Amount	Total given by this person during campaign or year
N/A	Sum of outstanding pledges previously itemized on Schedule B →		N/A
		TOTAL (Enter also on line 9 of C4)	

3. ORDERS PLACED, DEBTS, OBLIGATIONS, ESTIMATED EXPENDITURES (Excluding loans. Report loans on Schedule L.)

- a. List each debt, obligation or estimated expenditure which is more than \$250.00.
- b. List each debt, obligation or estimated expenditure which is more than \$50.00 and has been outstanding for over 30 days.

Expenditure Date	Vendor's/Recipient's Name and Address	Amount Owed	Code* OR	Description of Obligation
		TOTAL (Include in line 19 of C4)		

EXPENDITURE CODE DEFINITIONS AND USES

- "C" MONETARY, IN-KIND AND EARMARKED CONTRIBUTIONS** (including transfers) your campaign makes to other candidates and committees. Put a "C" in the Code column, in the Description column, specify who was benefited and, if in-kind, what was purchased, and put the amount in "Contribution to Others."
- "I" INDEPENDENT EXPENDITURES** (those expenditures that benefit other candidates or committees but are made independently of them). Put an "I" in the Code column, fully describe purpose and put the amount in "Contribution to Others."
- "L" LITERATURE.** Use "L" for expenditures made for the preparation and production of campaign literature and printed solicitations, including expenditures for mailing lists, design, photography, copy, layout, printing and reproduction. Use "P" for literature mailing costs.
- "B" BROADCAST ADVERTISING.** Use "B" for expenditures associated with the production and purchase of radio and television advertising.
- "N" NEWSPAPER & PERIODICAL ADVERTISING.** Use "N" for expenditures associated with the production and purchase of advertising in newspapers, periodicals and other publications.
- "O" OTHER ADVERTISING.** Use "O" for expenditures associated with the production and purchase of advertising on billboards, yard signs and campaign paraphernalia such as buttons, bumper stickers, T-shirts, etc.
- "P" POSTAGE.** Use "P" for expenditures for stamps, postage, United Parcel Service, Federal Express and direct mail services (postage only). Use "L" for design and other production costs associated with producing campaign literature.
- "F" FUNDRAISING EVENTS.** Use "F" for expenditures associated with holding a fundraiser, including payments to restaurants, hotels, caterers, other food and refreshment vendors, entertainers and speakers. Use "L" for expenditures for printed matter produced in connection with fundraising events.
- "S" SURVEYS AND POLLS.** Use "S" for expenditures associated with designing or producing polls, reports on election trends, voter surveys, telemarketing, telephone banks, GOTV drives, etc.
- "T" TRAVEL, ACCOMMODATIONS, MEALS.** Use "T" for expenditures associated with travel. If vendor has been paid directly, identify the traveller in Description column. If travel payment was made to credit card company or traveller (for out-of-pocket expenses), itemize expenses on separate sheet and attach to Sch. A-s/l.
- "M" MANAGEMENT AND CONSULTING SERVICES.** Use "M" for salaries, fees and commissions paid to campaign management companies and contract consultants, including law firms, whether the person is retained or formally employed by the campaign (for tax withholding purposes).
- "W" WAGES, SALARIES, BENEFITS.** Use "W" for expenditures associated with hiring campaign employees and other freelance workers who provide miscellaneous services other than campaign management or consulting.
- "G" GENERAL OPERATION AND OVERHEAD.** Use "G" for general campaign operating expenses and overhead, including filing fees, miscellaneous campaign expenses, headquarters rental, utilities, and purchase or rental of office equipment and furniture. (Note: these are campaign-related expenses, not costs associated with holding public office.)

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

AMENDATORY SECTION (Amending WSR 91-22-083, filed 11/5/91)

WAC 390-28-025 HEARING TO MODIFY REPORTING REQUIREMENTS. (1) Any person who considers compliance with any of the reporting requirements of chapter 42.17 RCW to be a manifestly unreasonable hardship in a particular case may apply for a modification of such reporting requirements pursuant to RCW 42.17.370(10) and further pursuant to these rules.

(2) A hearing to modify the reporting requirements shall be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW) and its supporting regulations (chapter 10-08 WAC) shall be followed unless otherwise modified by chapter 390-28 WAC.

WSR 92-05-081

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 18, 1992, 3:52 p.m.]

Date of Adoption: January 28, 1992.

Purpose: New WAC 390-05-215, defines when a campaign contribution is "received."

Statutory Authority for Adoption: RCW 42.17.370.

Pursuant to notice filed as WSR 91-24-010 on November 22, 1991.

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

February 14, 1992

Graham E. Johnson

Executive Director

NEW SECTION

WAC 390-05-215 RECEIPT OF A CAMPAIGN CONTRIBUTION. "Receipt" of a campaign contribution, as that term is used in chapter 42.17 RCW, shall be deemed to occur at the earliest of the following:

(1) the date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official obtains possession of the contribution, or

(2) the date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or similarly situated campaign official is informed of the contribution, or becomes aware that the campaign, or in the case of an earmarked contribution, the intermediary, has possession of the contribution, or

(3) the date that the contribution becomes available for use by the candidate or committee.

WSR 92-05-082

EMERGENCY RULES

PUBLIC DISCLOSURE COMMISSION

[Filed February 18, 1992, 3:55 p.m.]

Date of Adoption: January 28, 1992.

Purpose: New WAC 390-24-202, reporting required of officials who receive compensation through sales commissions.

Statutory Authority for Adoption: RCW 42.17.370.

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: So that the rule could have application to the content of statements of financial affairs due from officials by April 15, 1992.

Effective Date of Rule: Immediately.

February 14, 1992

Graham E. Johnson

Executive Director

NEW SECTION

WAC 390-24-202 REPORT OF COMPENSATION FROM SALES COMMISSIONS. When a person receives compensation in the form of a commission on sales, the reporting of the compensation, required in RCW 42.17.241, shall include:

(1) the name and address of the person or persons through whom a commission was paid;

(2) for purposes of RCW 42.17.241 (1)(f), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of \$1,000 or more in the aggregate;

(3) for purposes of RCW 42.17.241 (1)(g)(i), the name and address of each governmental unit for whom a service was rendered or to whom a product was sold that resulted in a commission;

(4) for purposes of RCW 42.17.241 (1)(g)(ii), the name and address of each person (other than an individual) for whom a service was rendered or to whom a product was sold that resulted in a commission of \$5,000 or more in the aggregate.

WSR 92-05-083

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 92-09—Filed February 18, 1992, 4:01 p.m.]

Original Notice.

Title of Rule: Chapter 173-305 WAC, Hazardous waste fee regulation.

Purpose: To repeal WAC 173-305-060 through 173-305-090.

Statutory Authority for Adoption: Chapter 70.95E RCW.

Statute Being Implemented: Chapter 70.95E RCW.

Summary: This is a "housekeeping" amendment with no content change. This chapter amended an existing but void fee rule. When it was adopted on April 1, 1991, ecology neglected to repeal WAC 173-305-060 through 173-305-090 of the old rule. The result was language out of context with the newly adopted language.

Name of Agency Personnel Responsible for Drafting: Bob Lemcke, Eikenberry Building, 438-7632; Implementation: Stan Springer, Eikenberry Building, 438-7871; and Enforcement: William Alkire, Eikenberry Building, 438-7145.

Name of Proponent: Department of Ecology, governmental.

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

Proposal Changes the Following Existing Rules: It repeals WAC 173-305-060 through 173-305-090.

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

Hearing Location: Lacey Library, 500 College S.E., Lacey, WA, on March 24, 1992, at 4:00 p.m.

Submit Written Comments to: Bob Lemcke, Department of Ecology, P.O. Box 7600, Olympia, WA 98504-7600, by March 25, 1992.

Date of Intended Adoption: May 5, 1992.

February 18, 1992
Fred Olson
Deputy Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-305-060	FACILITY FEES.
WAC 173-305-070	SCHEDULE OF FACILITY FEES.
WAC 173-305-080	ASSESSMENTS FOR COMBINED SITES.
WAC 173-305-090	ADJUSTMENT OF FEES AND LIMITS.

WSR 92-05-084

EMERGENCY RULES

DEPARTMENT OF ECOLOGY

[Order 92-08—Filed February 18, 1992, 4:04 p.m., effective February 27, 1992]

Date of Adoption: February 18, 1992.

Purpose: Classify those forest practices subject to environmental review under the State Environmental Policy Act. Provide an approach to watershed analysis.

Citation of Existing Rules Affected by this Order: Amending WAC 173-202-020.

Statutory Authority for Adoption: RCW 90.48.420, 76.09.040, and 34.05.350.

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: Existing WAC 222-16-050(1) adopted by reference in WAC 173-202-020 was invalidated by court order in *Snohomish County and Washington Environmental Council v. DNR et al.*, Snohomish County Case No. 89-2-06923-5.

Effective Date of Rule: February 27, 1992.

February 18, 1992

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order 88-19, filed 10/27/88)

WAC 173-202-020 CERTAIN WAC SECTIONS ADOPTED BY REFERENCE. *The following sections of the Washington Administrative Code (~~as now promulgated~~) existing on February 27, 1992, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:*

WAC 222-08-035—Continuing review of forest practices regulations.
WAC 222-12-010—Authority.
WAC 222-12-040—Alternate plans.
WAC 222-12-045—Adaptive management.
WAC 222-12-070—Enforcement policy.
WAC 222-12-090—Forest practices board manual.
WAC 222-16-010—General definitions.
WAC 222-16-020—Water categories.
WAC 222-16-030—Water typing system.
WAC 222-16-046—Watershed analysis implementation.
WAC 222-16-050 (1)(a), (1)(d), (1)(e)—Classes of forest practices.
WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.
WAC 222-24-010—Policy.
WAC 222-24-020 (2), (3), (4)—Road location.
WAC 222-24-025 (5), (6), (7), (8), (9)—Road design.
WAC 222-24-030 (2), (4), (5), (6), (8), (9), (100)—Road construction.
WAC 222-24-035(1)—Landing location and construction.
WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.
WAC 222-24-050—Road maintenance.
WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.
WAC 222-30-010—Policy—Timber harvesting.
WAC 222-30-020 (2), (3)(c), (3)(e), (4), (5), (6), (7)—Harvest unit planning and design.
WAC 222-30-030—Stream bank integrity.
WAC 222-30-040—Temperature control.
WAC 222-30-050 (1), (2), (3), (4)—Felling and bucking.
WAC 222-30-060 (1), (2), (3), (4)(c)—Cable yarding.
WAC 222-30-070 (1), (2), (4), (6), (7), (8)—Tractor and wheeled skidding systems.
WAC 222-30-080 (1), (2)—Landing cleanup.
WAC 222-30-100 (1)(c), (4), (5)—Slash disposal.
WAC 222-34-040—Site preparation and rehabilitation.
WAC 222-38-010—Policy—Forest chemicals.
WAC 222-38-020—Handling, storage, application.

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 92-05-085**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(By the Code Reviser's Office)**

[Filed February 18, 1992, 4:15 p.m.]

WAC 246-816-610, 246-816-620, 246-816-630, 246-816-640, 246-816-650, 246-816-660, 246-816-670 and 246-816-680, proposed by the Department of Health in WSR 91-16-102, appearing in issue 91-16 of the State Register, which was distributed on August 21, 1991, is withdrawn by the code reviser's office 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 92-05-086**WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
(By the Code Reviser's Office)**

[Filed February 18, 1992, 4:16 p.m.]

WAC 51-20-93121, proposed by the Building Code Council in WSR 91-16-113, appearing in issue 91-16 of the State Register, which was distributed on August 21, 1991, is withdrawn by the code reviser's office 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 92-05-087**WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
(By the Code Reviser's Office)**

[Filed February 18, 1992, 4:17 p.m.]

WAC 51-24-99300, 51-24-99350, 51-24-99351 and 51-24-99352, proposed by the Building Code Council in WSR 91-16-115, appearing in issue 91-16 of the State Register, which was distributed on August 21, 1991, is withdrawn by the code reviser's office 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 92-05-088**PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed February 19, 1992, 8:41 a.m.]

Original Notice.

Title of Rule: Chapter 308-10 WAC, Public records disclosure.

Purpose: To ensure compliance by the Department of Licensing with the provisions of RCW 42.17.250 - [42.17.]320, dealing with public records.

Statutory Authority for Adoption: RCW 42.17.250.

Statute Being Implemented: Chapter 42.17 RCW.

Summary: See above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Walt Fahrner, Highways-Licenses Building, Olympia, (206) 586-3503.

Name of Proponent: Department of Licensing, governmental.

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

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

Proposal Changes the Following Existing Rules: Changes "Department of Motor Vehicles" to "Department of Licensing"; eliminates the listing of driver license examining offices; corrects the address of the administration office; corrects the names of the department divisions; eliminates reference to director of gambling; updates the professions and appointed boards administered; updates fees for copies of public records.

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

Hearing Location: 4th Floor Executive Conference Room, Highways-Licenses Building, Olympia, Washington 98504, on April 13, 1992, at 9:00 a.m.

Submit Written Comments to: Walt Fahrner, Highways-Licenses Building, Olympia, Washington 98504, by 5:00 p.m., April 1, 1992.

Date of Intended Adoption: April 13, 1992.

February 18, 1992

Linda M. Moran

Assistant Attorney General

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-005 PURPOSE. The purpose of this chapter shall be to ensure compliance by the department of ~~((motor vehicles))~~ licensing with the provisions of ~~((sections 25-32, chapter 4, Laws of 1973 (Initiative 276))~~) RCW 42.17.250-42.17.320, dealing with public records.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-010 DEFINITIONS. (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) The "department of ~~((motor vehicles))~~ licensing" is the agency created pursuant to chapter 46.01 RCW. The department of ~~((motor vehicles))~~ licensing shall hereinafter be referred to as the department. Where appropriate, the term department also refers to the staff and employees of the department of ~~((motor vehicles))~~ licensing.

(3) "Director" means the director of the department of ~~((motor vehicles))~~ licensing as appointed by the governor pursuant to RCW 46.01.090.

(4) "Raw data" means facts, symbols, or observations which have all of the following characteristics:

(a) They have not been processed, edited or interpreted.

(b) They are unevaluated and unorganized.

(c) The fact, symbol, or observation does not, of itself, impart meaning to a potential user or fulfill a recognized need.

(d) To be useable the fact, symbol, or observation must go through some transformation process.

(5) "Information" means raw data that are organized, evaluative and interpreted to impart meaning to potential users and fulfill a recognized need.

(6) "Listing (list)" means a series of items of any kind including names, words or numbers no matter what the arrangement or purpose. When applied to the release of department record information it means the names of two or more individuals contained in:

- Data processing magnetic tapes
- Data processing print-outs 1, 2, 3, or 4 part utility paper or copies of such print-outs
- Data processing print-outs in the form of labels
- Computer data bases
- Any form of writing.

(7) "Tabulation" means the systematic arrangement of facts, statistics, and similar information, except the names of individuals, in column or table format.

(8) "Individual" means a natural person.

(9) "Commercial purpose" means ((the)) using ((of information obtained;)) or intending to use ((the)) information obtained, to contact or ((in some way)) personally affect an individual identified on ((the)) a list ((when the purpose of the contact would be)) to facilitate ((that person's (the requestor's))) profit expecting business activity.

(10) "Profession," when applied to department records, or the release of department record information, means any state regulated business, profession or occupation administered by the assistant director, ((business and professions administration)) professional licensing services.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-015 ((DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF THE DEPARTMENT OF MOTOR VEHICLES)) LOCATION OF ADMINISTRATIVE OFFICE. The administrative office of the department and its staff are located in the Highways-Licenses Building, 1125 Washington Street Southeast, Olympia 98504. ((The director of gambling activities and administrative staff are located in the Thurston County Courthouse Annex, Olympia 98504. Department offices located in other cities are as follows:

<u>CITY</u>	<u>SERVICES</u>
Aberdeen 98520 2700 Simpson Ave.	Driver licensing examination
Anacortes 98221 402 Commercial	Driver licensing examination
Auburn 98002 909 "D" Street S.E.	Driver licensing examination
Bellevue 98007 513 - 156th Avenue S.E.	Driver licensing examination
Bellingham 98225 822 Alabama Street	Driver licensing examination
Bremerton 98310 4970 Auto Center Way	Driver licensing examination
Burien 98166 14635 - 9th Avenue S.E. Seattle	Driver licensing examination
Centralia 98531 112 Harrison	Driver licensing examination
Chelan 98816 313 Woodin Avenue P.O. Box 1298	Driver licensing examination
Clarkston 99403 733 - 5th Street	Driver licensing examination
Colefax 99111 No. 300 Mill Street	Driver licensing examination
Colville 99114 151 So. Oak Street	Driver licensing examination
Coulee Dam 99116 300 Lincoln - Room 101	Driver licensing examination

<u>CITY</u>	<u>SERVICES</u>
Ellensburg 98926 801 Ruby Street	Driver licensing examination
Ephrata 98823 3 Crest Drive	Driver licensing examination
Everett 98201 3531 Rucker Avenue	(a) Driver licensing examination (b) Driver improvement (analysts) (c) Gambling commission law enforcement
Forks 98331 Almar Building	Driver licensing examination
Goldendale 98620 116 W. Main	Driver licensing examination
Greenwood 98103 320 No. 85th Seattle	(a) Driver licensing examination (b) Driver improvement (c) Dealer salesman license investigation (d) Fuel tax and prorate audit (e) Real estate division (f) Gambling commission law enforcement
Kennewick 99336 2500 W. Kennewick	(a) Driver licensing examination (b) Dealer salesman license investigation
Longview 98632 773 - 3rd Avenue	(a) Driver licensing examination (b) Dealer salesman license investigation
Morton 98356 P.O. Box 774	Driver licensing examination
Moses Lake 98837 E. 500 Third Avenue	Driver licensing examination
Mount Vernon 98273 1413 E. College Way	Driver licensing examination
Okanogan 98840 121 Second Avenue N.W.	Driver licensing examination
Olympia 98504 715 E. 8th Street	Driver licensing examination
Port Angeles 98362 717 Peabody	Driver licensing examination
Port Townsend 98368 835 Washington Street	Driver licensing examination
Pullman 99163 980 So. Grand	Driver licensing examination
Puyallup 98371 1100 Meridian No.	Driver licensing examination
Raymond 98577 218 Commercial Street	Driver licensing examination
Renton 98055 800 Edmonds Avenue N.E.	Driver licensing examination
Republic 99166 Clark Avenue P.O. Box 637	Driver licensing examination
Ritzville 99169 102 East Main	Driver licensing examination
Seattle 98125 12535 - 15th Avenue N.E.	Driver licensing examination

CITY	SERVICES
Seattle 98104	Research
Public Safety Building	(S.A.F.E. project)
Third & James Streets	
Shelton 98584	Driver licensing
122 So. Third Street	examination
Spokane 99202	(a) Driver licensing
25 So. Ferrall	examination
	(b) Gambling commission law
	enforcement
Spokane 99205	(a) Driver licensing
W. 528 Indiana	examination
Avenue	(b) Driver improvement
	(c) Dealer salesman license
	investigation
	(d) Fuel tax and prorata audit
Sunnyside 98944	Driver licensing
528 So. Seventh	examination
Tacoma 98408	(a) Driver licensing
6442 So. Yakima	examination
Avenue	(b) Driver improvement
	(c) Dealer salesman license
	investigation
	(d) Gambling commission law
	enforcement
Tacoma 98407	Driver licensing
2727 No. Pearl	examination
Vancouver 98661	(a) Driver licensing
915 MacArthur Blvd.	examination
	(b) Driver improvement
	(c) Fuel tax and
	prorate audit
Walla Walla 99362	Driver licensing
145 Jade Street	examination
Wenatchee 98801	Driver licensing
1139 No. Princeton	examination
White Salmon 99672	Driver licensing
P.O. Box 1136	examination
Yakima 98901	(a) Driver licensing
7 No. Ninth Street	examination
	(b) Driver improvement
	(c) Dealer salesman license
	investigation
	(d) Fuel tax and
	prorate audit
	(c) Gambling commission law
	enforcement

All records of the department are maintained in the administrative office in Olympia.)

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-020 OPERATIONS AND PROCEDURES. (1) ~~((Basic organizational structure:))~~ The department is organized under a director, deputy director, and ~~((five))~~ six assistant directors. ~~((Through the director's policies and procedures,))~~ Each assistant director is delegated authority to act in a specific functional area. The ~~((five))~~ six major functional components are: Vehicle services, driver services, ~~((business and professions administration, management operations))~~ professional licensing services, administrative services, business license services, and information ~~((systems))~~ services. ~~((All major functional areas main offices are located at the department's main administrative office. Field office locations are as noted in WAC 308-10-015:))~~

(a) Office of the director.
 (1) (2) The director of the department is appointed by the governor, with consent of the senate, and holds office at the pleasure of the governor.

~~((1))~~ (a) Subject to statutory limitations the director has complete charge of the department. ~~((He))~~ The director may delegate any power or duty vested in the office to any assistant or subordinate, but ~~((he))~~ remains responsible for the official acts of the officers and employees.

~~((1))~~ (b) By the specific powers of legislation and delegation the director is charged with the responsibility and authority to act and direct in the following areas:

~~((A))~~ (i) Efficiently administer the laws pertaining to licensing and regulation of ~~((motor))~~ vehicles, vehicle operators, professions, occupations, real estate ~~((and))~~, securities, vessels, and businesses.

~~((B))~~ (ii) Adopt and enforce rules and regulations consistent with, and necessary to carry out, the provisions of existing laws.

~~((iv))~~ The director has delegated to the deputy director the responsibility for the management and control of internal operations of the department; (c) Each assistant director reports directly to the deputy director, unless ~~((prescribed))~~ otherwise ~~((on a specific condition or activity by the director. Resolution of issues, problems, and conditions will normally be handled at the deputy director level. When regulation is not apparent, such issues, problems, or conditions will be referred to the director for resolution.))~~ prescribed.

(d) Unless specifically delegated the director shall establish and maintain relationships with the state's executive offices, legislature, and other state agencies, other states and other states' agencies, agencies of the federal government, state and national associations, local and municipal governments, the real estate commission, and the press ~~((with, unless specifically delegated, be led by the director))~~.

~~((v))~~ The director of the department employs a full-time employee subject to approval of the gambling commission as director for gambling activities. The director for gambling activities is the administrator for the commission in carrying out its powers and duties. The gambling director, with the advice and approval of the commission, issues rules and regulations governing authorized activities and supervises assigned departmental employees. The director of the department also furnishes the administrative services and staff that are necessary to carry out the purposes and provisions of the law.

~~((v))~~ (e) The director shall have direct authority over matters pertaining to public ~~((relations))~~ information, research, ~~((gambling;))~~ and legal ~~((problems are directly under the director's cognizance))~~ issues.

~~((b))~~ (3) The assistant director, vehicle services, has authority to act in the following areas ~~((subject to defined policies and procedures))~~:

~~((1))~~ (a) Administer laws pertaining to:
~~((A))~~ (i) Vehicle and vessel licensing and excise tax programs ~~((including aircraft and pilot programs));~~

~~((B))~~ (ii) Fuel tax programs ~~((:));~~

~~((C))~~ (iii) Proration and reciprocity programs ~~((:));~~

~~((D))~~ (iv) Vehicle and vessel dealer, ~~((salesman and))~~ manufacturer licensing and inspection programs ~~((:));~~ and
~~((E))~~ (v) Miscellaneous vehicle programs ~~((to include))~~ including: Transporters, wreckers, hulk haulers, abandoned vehicles, tow truck operators, scrap processors, snowmobile and ~~((ATV))~~ ORV vehicle dealers.

~~((1))~~ (b) Adopt and enforce rules, regulations, and standards to carry out the provisions of existing law.

~~((1))~~ (c) Administer the licensing functions of county auditors, licensing agents, and subagents, who have been appointed to act ~~((in the))~~ on behalf of the department.

~~((1))~~ (4) The assistant director, driver services, has authority to act in the following areas ~~((subject to defined policies and procedures))~~:

~~((1))~~ (a) Administer the laws pertaining to driver licensing, financial responsibility, driver improvement, and examining ~~((:));~~

~~((1))~~ (b) Adopt and enforce rules, regulations, and standards to carry out the provisions of existing law ~~((:));~~ and

~~((1))~~ (c) Determine field office locations ~~((:))~~ and initiate property acquisition.

~~((1))~~ (5) The assistant director, ~~((business and professions administration))~~ professional licensing services, has authority to act in the following areas ~~((subject to defined policies and procedures))~~:

~~((1))~~ (a) Administer the laws pertaining to ~~((real estate, securities, and))~~ the following professions, occupations, and businesses:

- ~~((Animal technicians))~~
- Appraisers
- Architects
- Athlete agents
- Auctioneers
- Barbers

~~((Basic science
Charitable organizations
Chiropractors))
Camping resorts
Collection agencies
Cosmetologists
Debt adjusters
(Dentists
Dental hygienists
Drugless healers))
Embalmers
Employment agencies
Engineers
(Land surveyors))
Escrow
Estheticians
Firearm dealers
Funeral directors
(Embalmers
Hearing aid dispensers))
Land development
Land surveyors
Landscape architects
(Massage operators
Midwives))
Manicurists
Notaries public
(Nursing home administrators
Opticians
Optometrists
Osteopathic physicians
Osteopathic assistants
Physical therapists
Physician's assistants
Physicians and surgeons
Podiatrists
Practical nurses
Proprietary schools
Psychologists
Registered nurses
Sanitariums
Veterinarians))
Real estate brokers and salespersons
Private investigators
Security guards
Shorthand court reporters
Timeshares~~

~~((ii) In certain areas of professions and occupations,)) (i) The assistant director of ((business and professions administration)) professional licensing services helps administer the laws in conjunction with ((certain)) appointed boards, who exercise administrative functions. Those boards are as follows:~~

~~Appraiser advisory committee
Architects registration board
(Barber examining committee
Barber hearing board
Basic science committee
Chiropractic disciplinary board
Chiropractic examining board))
Cemetery board
Collection agency board
Cosmetology ((examining)) advisory committee
(Cosmetology hearing board
Dental examining board
Dispensing opticians examining committee
Drugless therapeutics examining board))
Employment agency advisory board
Engineers & land surveyors registration board
Escrow commission
Funeral director/embalmer examining committee
(Hearing aid council))
Landscape architects examining board
(Massage examining board
Medical disciplinary board
Medical examining board
Nursing home administrators examining board~~

~~Optometry board
Osteopathic examining committee
Physical therapist examining committee
Podiatry examining committee
Practical nurse examining board
Professional nurse registration board
Proprietary school advisory committee
Psychology examining board
Registered sanitarian board
Veterinary board of governors))
Real estate commission
Shorthand court reporters advisory committee~~

~~(ii) Correspondence to these boards should be directed to the assistant director of ((business and professions administration. In addition, when a profession has no permanently appointed disciplinary board, one may be appointed pursuant to RCW 43.24.110)) professional licensing services.~~

~~((iii)) (b) Adopt and enforce the rules ((and)), regulations ((pertaining to professions, occupations, real estate, and securities)) and standards to carry out the provisions of existing laws.~~

~~((iv)) (c) Establish and maintain relationships with commissions, boards, societies, associations, and agencies both external and internal to this state in order to enhance the department's capability for recommending improvements in legislation, rules, or regulations relative to professions, occupations, or real estate((or securities)).~~

~~((v)) (6) The assistant director, ((management operations)) administrative services, has authority to act in the following areas ((subject to defined policies and procedures)):~~

~~((vi)) (a) Develop, promote, and direct department activities and programs which relate to:~~

~~((A)) (i) Budget and management systems((-));~~

~~((B)) Personnel and resource allocation;~~

~~((C)) (ii) Supply and equipment ((procedures)) procurement;~~

~~((D)) (iii) Forms and record management((-));~~

~~((E)) Fund allocation; (iv) Fiscal and revenue accounting;~~

~~((F)) (v) Contracts ((services));~~

~~((G)) Public relations;~~

~~((vi)) (vi) Safety and risk management;~~

~~((vii)) Facilities;~~

~~((viii)) Mail operations;~~

~~(b) Organize, provide, and manage integrated staff services to best serve the overall interests of the department.~~

~~((vii)) (7) The assistant director, information ((systems)) services, has the authority to act in the following areas ((subject to defined policies and procedures)):~~

~~((vi)) (a) Develop, promote, coordinate, and direct department activities which relate to the automated processing of data.~~

~~((vii)) (b) Consult and work with other state agencies ((and the state data processing coordinating center)) in structuring and phase-in of inter-agency related programs.~~

~~((viii)) (c) Develop and implement a formal problem reporting system.~~

~~((2) Formal and informal proceedings;)) (8) The assistant director, business license services, has the authority to act in the following areas:~~

~~(a) Administer the laws pertaining to securities, uniform commercial code, business licensing and registration; and~~

~~(b) Adopt and enforce rules and regulations and standards to carry out the provisions of existing law;~~

~~(9) The department conducts informal and formal proceedings in areas of its statutory authority as related in WAC 308-10-020. These proceedings are governed by chapters ((34-04)) 34.05, 42.30 and 43.24 RCW, except that the denial, suspension, or revocation of drivers' licenses are not subject to provisions of chapter ((34-04)) 34.05 RCW, the Administrative Procedure Act, other than those actions taken pursuant to chapter 46.29 RCW. The department has adopted ((certain)) rules ((of procedure)) in Titles 308 and 460 WAC ((308-08-005 through 308-08-660. In addition, substantive rules relating to the department are contained in Title 308 WAC)).~~

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-025 PUBLIC RECORDS AVAILABLE. All public records of the department are deemed to be available for public inspection and copying during customary office hours pursuant to these rules, except as otherwise provided by ((section 34)) chapter ((+ laws of 1973;)) 42.17 RCW and WAC 308-10-050.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-030 PUBLIC ((RECORDS)) DISCLOSURE OFFICER(S). The department's public ((records)) disclosure officer shall be ((in the charge of the public records officers as)) designated by the director. The person(s) so designated shall be located in the main administrative offices of the department. The public ((records)) disclosure officer(s) 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, maintaining, keeping current, and publishing an index of all agency records ((as required by RCW 42.17.260 and WAC 308-10-065,)) and ((generally insuring)) ensuring compliance ((by the staff)) with the public records disclosure act requirements ((of chapter 1, Laws of 1973)).

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-040 REQUESTS FOR PUBLIC RECORDS. In accordance with requirements of chapter ((1, Laws of 1973)) 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the department which shall be available at its administrative office. The form shall be presented to any member of the department staff designated by the responsible ((public records officer)) assistant director to receive requests, at the administrative office of the department 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) A reference to the requested record as it is described in the current department record index.

Note: If the material is not identifiable by reference to the department's current index, an accurate description of the record is requested.

(e) The signature and other identifying information of the ((requestor)) requester.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

(3) Persons authorized by law to obtain lists of names of individuals from public records will be required to complete a statement agreeing not to release or use the information for commercial purposes.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-045 COPYING. No fee shall be charged for the inspection of public records. The department shall charge a fee in the amount necessary to reimburse the department for its actual costs incident to providing copies of public records. The schedule of charges is:

ITEM	FEE
Abstract of driving record	(\$1.50) \$4.50
Application for license for hulk hauler, scrap processor, snowmobile dealer, ((ATV)) ORV dealer, vessel dealer or transporter	\$2.00
Bond copies (dealer and manufacturer)	\$2.00
Copies produced on copying and duplicating equipment	(25) 10 cents per page
Evidence of ability to respond to damages (financial responsibility)	(\$1.50) \$4.50
(Letter of certification to accompany copy of record or document	\$2.00)

ITEM	FEE
<u>Computer generated listing, magnetic tapes, or labels</u>	Cost of services ((plus 40% for overhead))
<u>Microfilm copies</u>	75 cents per page
((Motor)) <u>Vehicles record lookups - requests for lookup on one vehicle</u>	\$2.00 per lookup
((Motor)) <u>Vehicle record lookups - listings</u>	\$2.00 per lookup up to 10. \$.20 per lookup for each lookup over 10 in any single request
((Motor)) <u>Vehicle certificate of title, photo enlargement of microfilm record, and microfiche</u>	\$1.50 per photograph
Postal charges	((With)) May be added to any copy of a public record if applicable
<u>UCC certificate of information</u>	\$7.00 each
<u>UCC certificate of information and financing statement</u>	\$12.00 each
Vehicle disposer fee schedule	\$2.00 each
Vehicle disposer insurance policy	\$2.00 each
Wrecker and disposer licensee bond application	\$2.00 each

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-050 EXEMPTIONS. (1) The department reserves the right to determine that a public record ((in accordance with the procedures outlined in WAC 308-10-040)) requested is exempt under the provisions of ((section 31, chapter 1, Laws of 1973,)) RCW 42.17-.310 or other law.

(2) In addition, pursuant to ((section 26, chapter 1, Laws of 1973,)) RCW 42.17.260, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ((1, Laws of 1973. The public records officer will fully justify such deletion in writing)) 42.17 RCW. The department shall identify and explain in writing any deletion of information from any public record.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-055 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Upon any denial of a request for a public record, the public ((records)) disclosure officer or staff member who denied the record shall initiate a prompt review of the decision by referring the request and denial to the director of the department or ((his)) designee. The director or ((his)) designee shall immediately consider the matter and either affirm or reverse such denial or call a specific meeting of the department as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision within two business days following the original denial.

(2) Administrative remedies shall not be considered exhausted until the department has returned the review of a denial with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-060 PROTECTION OF PUBLIC RECORDS. The department is primarily a licensing agency. The records consist

mainly of operational files that are subject to high usage. In order to (~~insure~~) ensure that essential functions of the agency are continually carried out, and the public records are not damaged, altered, disorganized, or lost, access to the record storage areas is restricted. Public records will be inspected in the (~~administrative~~) offices in which they are filed and maintained. Inspection shall be in the presence of (~~the~~) an authorized department staff employee. Inspection shall be denied and the records will be withdrawn if the individual inspecting the records is doing so in a manner to damage, alter, or substantially disorganize them. Inspection shall be denied and records withdrawn if the individual inspecting the records attempts to remove them from the prescribed location or is excessively interfering or will unduly interfere with other essential functions of the department.

AMENDATORY SECTION (Amending Order MV 348, filed 12/24/75)

WAC 308-10-070 COMMUNICATIONS WITH DEPARTMENT. All written communications with the department pertaining to the administration or enforcement of (~~chapter 1, Laws of 1973;~~) chapter 42.17 RCW and these rules shall be addressed as follows: Department of (~~Motor Vehicles~~) Licensing, c/o Public (~~Records~~) Disclosure Officer, Office of Budget and Program Support Highways-Licenses Building, (~~Olympia 98504~~) 1125 Washington Street S.E., Olympia, WA 98504-8001.

WSR 92-05-089
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed February 19, 1992, 10:46 a.m.]

Original Notice.

Title of Rule: WAC 480-80-049 relating to caller identification service provided by a telecommunications company. The proposed new section is shown below as Appendix A, Docket No. UT-920162. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new section on economic values, pursuant to chapter 43.21H RCW.

Purpose: This rule mandates that caller identification services offered by a telecommunications company may be blocked by the choice of per call or per line blocking at no recurring charge, with exception being made for emergency services or customer originated traces.

Statutory Authority for Adoption: RCW 80.01.040.

Statute Being Implemented: Chapter 312, Laws of 1991.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary, and Utilities Staff, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization as reflected in RCW 80.01.040.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose and Summary above.

Proposal does not change existing rules.

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

The commission has considered whether this rule is subject to the Regulatory Fairness Act and has determined that it is not because the rule will have a minor or negligible economic impact.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, on March 25, 1992, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, by March 16, 1992.

Date of Intended Adoption: March 25, 1992.

February 19, 1992

Paul Curl
Secretary

APPENDIX "A"

NEW SECTION

WAC 480-80-049

Any caller identification service provided by a telecommunications company shall include the option for calling parties to block the delivery of their numbers, names, or locations. This option shall be available on a per call or per line basis without any recurring charges. This section does not apply to the delivery of caller numbers, names, or locations to a 911 or enhanced 911 service, or other emergency service, or a customer originated trace.

WSR 92-05-090
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed February 19, 1992, 10:50 a.m.]

Original Notice.

Title of Rule: WAC 480-110-021 and 480-110-066 relating to water company distribution extensions, service installations, and service connections. The amendatory sections are shown below as Appendix A, Docket No. UW-920119. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendatory sections on economic values, pursuant to chapter 43.21H RCW.

Purpose: Under the mandate of chapter 101, Laws of 1991, the commission is required to determine the fair, just, reasonable, and sufficient charge for water company line extensions, service installations, and service connections which are not offered under tariff.

Statutory Authority for Adoption: RCW 80.01.040.

Statute Being Implemented: Chapter 101, Laws of 1991.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary, and Commission Staff, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and

Fiscal Matters: There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization as reflected in RCW 80.01.040.

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

Explanation of Rule, its Purpose, and Anticipated Effects: An applicant for a distribution extension or service installation may request the commission to review any contract for such installation and the applicant may use a contractor other than the water company for installation. The amendment then sets forth contract filing requirements.

Proposal Changes the Following Existing Rules: See Purpose and Explanation of Rule above.

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

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, on March 25, 1992, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, by March 23, 1992.

Date of Intended Adoption: April 1, 1992.

February 18, 1992

Paul Curl
Secretary

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-320, Docket No. UW-900081, filed 8/14/90, effective 9/14/90)

WAC 480-110-021 GLOSSARY. (1) Commission - the Washington utilities and transportation commission.

(2) Utility - any corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any water plant within the state of Washington for the purpose of furnishing water service to the public for hire and subject to the jurisdiction of the commission.

(3) Applicant - any person, partnership, firm, corporation, municipality, cooperative organization, governmental agency, etc., who has completed an application for a distribution extension (~~but has not requested water service~~).

(4) Customer - any person, partnership, firm, corporation, municipality, cooperative organization, governmental agency, etc., who or which is receiving service from a utility or has completed an application for water service and that application has been accepted by the utility.

(5) Meter tests

(a) Periodic test - a routine test made in the regular course of a utility's operation, and in accordance with WAC 480-110-161, frequency of periodic test.

(b) Complaint test - a test made as a result of a request by a customer, and in accordance with WAC 480-110-151, complaint meter test.

(c) Installation test - a test made prior to the installation of a meter. New meters when received by a utility may be tested by an acceptable sampling plan prior to initial installation.

(d) Special test - any test other than a periodic, complaint, or installation test.

(e) Sample test - a test made as a result of the inclusion of a meter in a random statistical sample.

(6) Commission service area - a utility service area is that area the company is providing water service to or has a signed contract to provide water service.

(7) Line extension - water mains and appurtenances required to extend the utility's existing water distribution system to make service

available to an applicant. A line extension may also be called a distribution extension or a main extension.

(8) Service connection - the pipe, valves, and fittings between the utility's distribution system and the customer's property line.

(9) Service installation - the building of facilities necessary for fire flow or service connection requested by an applicant when there is no specific customer charge in the company's tariff.

In the application of these rules, those terms used in the public service laws of the state of Washington will have the meaning therein ascribed to them.

Terms not defined in these rules or in the applicable statutes are to be given that meaning usually accepted in the water industry.

AMENDATORY SECTION (Amending Order R-320, Docket No. UW-900081, filed 8/14/90, effective 9/14/90)

WAC 480-110-066 DISTRIBUTION EXTENSIONS—SERVICE INSTALLATIONS—SERVICE CONNECTIONS. (1) Each utility shall file as a part of its tariff a distribution extension and service connection rule setting forth the conditions under which it will extend its facilities to make service available to an applicant.

(~~All distribution extension agreements or contracts in excess of the allowances or charges contained in the company distribution extension rules shall be filed with the commission for approval. The documentation to be filed with the contract shall meet the criteria contained in WAC 480-80-335.~~)

(2) When an applicant requests a distribution extension or service installation from a water company, the company shall clearly disclose that the applicant may use a qualified contractor other than the water company if the applicant so desires. The company may prescribe reasonable specifications for distribution extensions and service installations.

(3) When a water company tariff does not set forth by specific amount the charges for connection to its distribution system, then such charges shall be provided under contract. Each contract shall be filed with the commission pursuant to this rule.

(4) Each such contract shall be filed with the commission not less than thirty days prior to the proposed effective date of the contract, and shall become effective according to its terms the thirty-first day from the date of its filing unless earlier approved, suspended, or rejected by the commission: PROVIDED, That upon application and for good cause shown, the commission may approve the contract as of an effective date prior to the date that the contract would have become effective in accordance with this rule.

(5) Each contract filed for commission approval shall be accompanied by such documentation as may be necessary to show that the proposed charges are fair, just, reasonable, and sufficient. In addition, the utility shall file the following information in conjunction with each contract submitted for commission approval:

(a) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge.

(b) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract; and

(c) A statement indicating the basis for the use of a contract rather than a filed tariff for the specific service involved.

(d) A copy of all regulatory authorization required by the project (i.e., department of health) and a statement by the owner that there are no outstanding orders prohibiting such project.

(6) Each contract must contain an additional signature block with the following language which is to be used if applicable:

I do not accept the charges in this contract and request that the Washington utilities and transportation commission determine the fair, just, reasonable, and sufficient charges for such extension, installation, or connection covered by this contract.

/s/_____

(7) The proposed contract shall be submitted to the commission pursuant to this rule. However, if the charges are not accepted by the applicant, then the commission shall conduct an informal investigation and attempt to mediate the dispute. If the parties have not agreed on a contract price after thirty days from submission of the proposed contract, then the matter shall be set for formal hearing unless the parties request that the period for informal investigation and mediation be extended. In any investigation or formal hearing, the company shall have the burden of proving its proposed charges are fair, just, reasonable,

and sufficient. If as the result of a formal hearing a commission order is issued, then the parties may sign the contract and accept the charges as determined by the commission, or the applicant may decline to sign the contract.

(8) In determining the charge for a distribution extension, service installation, or service connection, the utility must determine the most economical route consistent with the utility companies' approved plan and in compliance with sound engineering practice.

(9) There will not be a direct charge or assessment for retrofitting or upgrading the system for applicants or customers within the ((commission)) service area unless the use of the property changes from that originally proposed when the system was designed or approved.

WSR 92-05-091

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Filed February 19, 1992, 10:53 a.m.]

Original Notice.

Title of Rule: WAC 480-110-018 relating to the definition of control of water companies. The proposed new section is shown below as Appendix A, Docket No. UW-920118. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new section on economic values, pursuant to chapter 43.21H RCW.

Purpose: By chapter 101, Laws of 1991, the legislature extended commission jurisdiction to water companies which are under common control. This rule defines "control."

Statutory Authority for Adoption: RCW 80.01.040.

Statute Being Implemented: Chapter 101, Laws of 1991.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary, and Commission Staff, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization as reflected in RCW 80.01.040.

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

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

Proposal does not change existing rules.

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

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, on March 25, 1992, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, by March 23, 1992.

Date of Intended Adoption: April 1, 1992.

February 18, 1992

Paul Curl
Secretary

APPENDIX "A"

NEW SECTION

WAC 480-110-018 DEFINITION OF CONTROL. (1) For purposes of determining commission jurisdiction over a water company as defined in RCW 80.04.010 "control" means the water system operator or manager has discretion over the property or finances or operations of a water company which is normally exercised by an owner. Factors indicating control include, but are not limited to, whether the operator or manager:

(a) May authorize the purchase or sale of all or part of the water system or its water rights;

(b) May authorize capital additions or improvements to the system;

(c) May accept contributed plant;

(d) May authorize the expenditure or acquisition of funds which encumber any asset of the company;

(e) May authorize the expenditure of funds for nonwater company purposes;

(f) Receives compensation of a type or amount having no reasonable relationship to the work performed or to be performed.

(2) Control shall not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

WSR 92-05-092

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Filed February 19, 1992, 10:57 a.m.]

Original Notice.

Title of Rule: WAC 480-12-375 relating to brokering or forwarding services for the transportation of property. The proposed amendatory section is shown below as Appendix A, Docket No. TV-911218. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed amendatory section on economic values, pursuant to chapter 43.21H RCW.

Purpose: This rule requires that any interstate broker or forwarder doing business in Washington state shall register their ICC authority with the commission and all brokers or forwarders must provide proof of a surety bond or satisfactory security in the amount of \$10,000.

Statutory Authority for Adoption: RCW 80.01.040.

Statute Being Implemented: Chapter 146, Laws of 1991.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Curl, Secretary, and Transportation Staff, 1300 South Evergreen Park Drive S.W., Olympia, WA, (206) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization as reflected in RCW 80.01.040.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

Small Business Economic Impact Statement: Pursuant to chapter 19.85 RCW, a small business economic impact statement is required if more than ten percent of any one industry within a three-digit standard industry classification code is affected. Motor carrier brokers and freight forwarders fall within industry group number 473—Arrangement of Transportation of Freight and Cargo.

Since the proposed rule affects more than ten percent of the broker and forwarder industry within the classification, an economic impact statement is required. However, the proposed rule will have minimal economic impact on intrastate and interstate motor carrier brokers and forwarders. Currently, there are approximately 173 motor carrier brokers and forwarders located in Washington state that have Interstate Commerce Commission authority to operate. There are two carriers that have intrastate authority to operate as a broker and forwarder. Under federal rules, all motor carrier brokers and forwarders operating in interstate commerce must have a minimum of \$10,000 surety bond or other deposit of satisfactory security. This ensures financial responsibility of the broker or forwarder by providing for payment to shippers or motor carriers if the broker fails to carry out its contract, agreement, or arrangement for the supplying of transportation. The cost for each interstate or intrastate broker or forwarder to carry a \$10,000 bond is \$100, paid annually to the financial institution or insurance company.

The proposed rule would require motor carrier brokers and forwarders operating in interstate commerce physically doing business in Washington state to register with the Utilities and Transportation Commission, and file a uniform application for registration of operating authority issued by the ICC and pay a one-time filing fee of \$25. With the filing of their registration application, brokers and forwarders must provide proof that they have a surety bond, or deposit satisfactory security in the amount of \$10,000. Any broker or forwarder operating in intrastate commerce would also provide proof that they have a bond or report satisfactory security in the amount of \$10,000. A check of commission records reveals that the two intrastate broker/forwarders operating in Washington have on file proof that they carry surety bonds of \$1,000 minimum. The additional cost for these carriers to comply with the proposed rules would be minimal, in that an additional \$90 a year would be required to carry a \$10,000 bond as stipulated in the proposed rule.

In summary, the economic impact of the proposed rule is minimal, since interstate brokers and forwarders affected by the rule already carry the \$10,000 bond or other security deposit. The only additional cost to these carriers operating in the state of Washington is a one-time \$25 registration fee filed with their application and proof that they meet the minimum bond requirements.

The economic impact affecting intrastate brokers and forwarders is also minimal in that the additional cost of carrying a \$10,000 bond or other security deposit amounts to only \$100 a year.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, on March 25, 1992, at 9:00 a.m.

Submit Written Comments to: Paul Curl, Secretary, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, by March 16, 1992.

Date of Intended Adoption: March 25, 1992.

February 18, 1992

Paul Curl
Secretary

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

WAC 480-12-375 BOND REQUIRED—BROKER—FORWARDER. (1) Each intrastate broker or forwarder and each interstate broker or forwarder shall file with the commission, and keep in effect, a surety bond, or deposit satisfactory security (~~(, in a sum to be determined by the commission,)~~) in the amount of ten thousand dollars conditioned upon such broker or forwarder making compensation to shippers, consignees and carriers for all moneys belonging to them and coming into (~~(his)~~) the broker's or forwarder's possession in connection with such transportation service.

(2) It is unlawful for an interstate broker or forwarder to conduct business as such in this state without first securing appropriate authority from the Interstate Commerce Commission, if such authority is required, and registering with the Washington utilities and transportation commission. The commission shall grant such registration without hearing upon filing a uniform application for registration of operating authority issued by the ICC and payment of a one-time registration fee of twenty-five dollars.

(3) Failure to file such bond or deposit such security (~~(shall be)~~) is sufficient (~~(ground)~~) cause for refusal of the commission to grant the application for a permit (~~(, and)~~) or registration. Failure to (~~(make promptly the remittances provided for herein and in WAC 480-12-100 shall be deemed)~~) maintain the bond or the deposit of security is sufficient cause for cancellation of a permit or registration.

(4) For the purposes of this section, "intrastate broker or forwarder" means a person who provides brokering or forwarding services for the transportation of property in intrastate commerce. "Interstate broker or forwarder" means a person who provides brokering or forwarding services for the transportation of property in interstate commerce when such person, its employees, or agents are physically present in the state.

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.

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16-228-430	NEW-P	92-03-133		16-752-650	NEW-P	92-03-106	132K-12-246	REP	92-03-031
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