

# Washington State Register

APRIL 17, 1996

OLYMPIA, WASHINGTON

ISSUE 96-08



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filed not later than April 3, 1996

## 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 (360) 753-7470.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

(Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of April 1996 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.

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# WASHINGTON STATE REGISTER

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

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*Subscription Clerk*

## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section 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 with a section's material.

### 2. 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 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**.

### 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) 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.

### 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one 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.

### 5. 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].

**1995 - 1996**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
95-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
95-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
95-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
95-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
95-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
95-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
95-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
95-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
95-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1996
96-01	Nov 22	Dec 6	Dec 20, 1995	Jan 3, 1996	Jan 23
96-02	Dec 6	Dec 20, 1995	Jan 3, 1996	Jan 17	Feb 6
96-03	Dec 27, 1995	Jan 10, 1996	Jan 24	Feb 7	Feb 27
96-04	Jan 10	Jan 24	Feb 7	Feb 21	Mar 12
96-05	Jan 24	Feb 7	Feb 21	Mar 6	Mar 26
96-06	Feb 7	Feb 21	Mar 6	Mar 20	Apr 9
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96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
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96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1997

<sup>1</sup>All 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.

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

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



## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

There is less than minor economic impact on business;

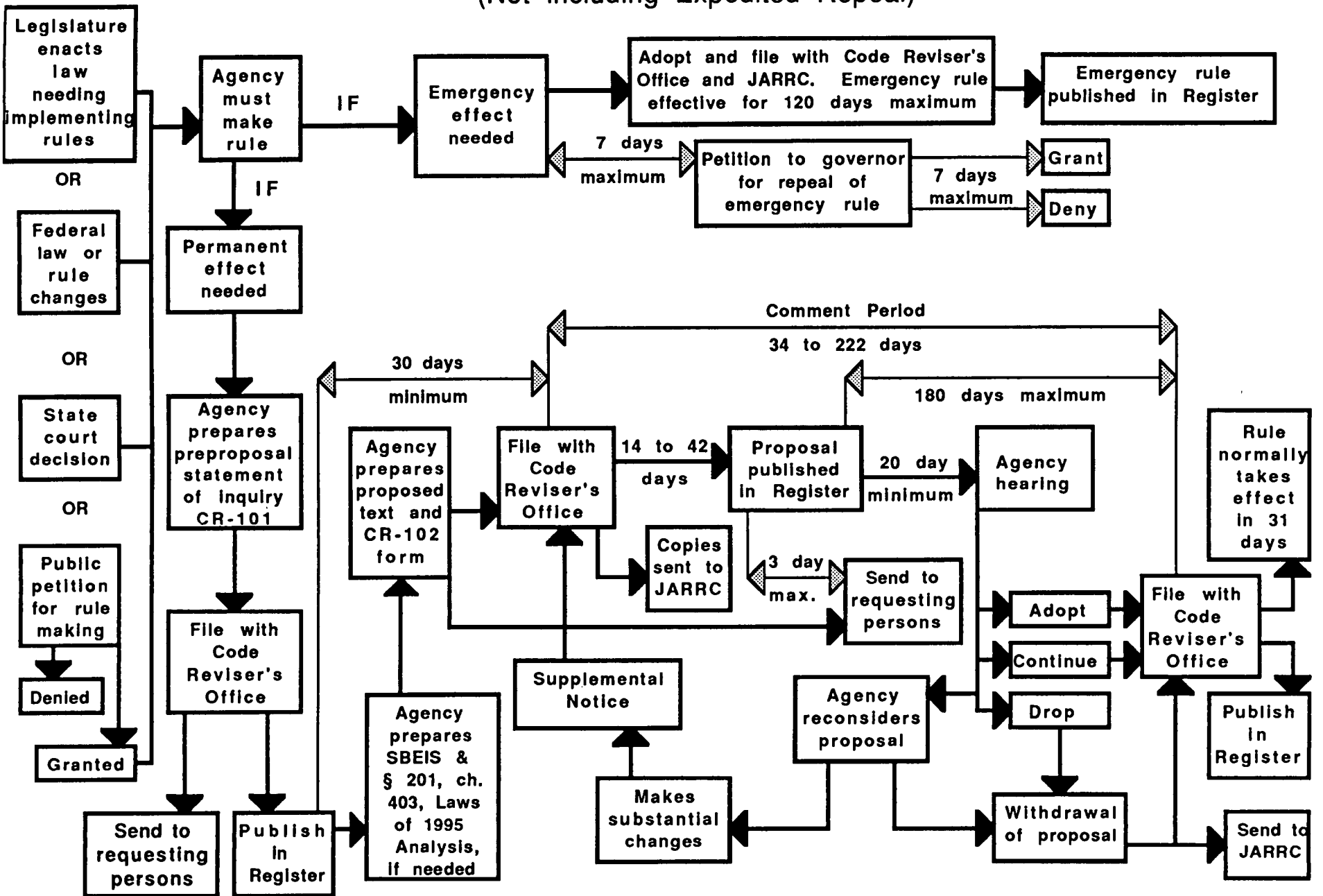
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS

(Not including Expedited Repeal)



**WSR 96-08-004**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**LOTTERY COMMISSION**

[Filed March 21, 1996, 12:36 p.m.]

Subject of Possible Rule Making: Instant game rules, and amendments and new sections to chapter 315-34 WAC, Lotto 6 of 49 rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering proposing rules for Instant Game Numbers 178, 179, 180, 181, 182 and 183, during the next six months. These rules will explain how the games function to retailers and players. Rigid validation requirements will prevent prize payment on invalid tickets. The lottery is also considering amending all existing sections, and adding new sections, to chapter 315-34 WAC. These changes will enact a "Double Lotto" enhancement to the existing Lotto game.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Judith Giniger, Rules Coordinator, at (360) 586-1088, FAX (360) 586-6586, P.O. Box 43000, Olympia, WA 98504-3000, with any comments or questions regarding this statement of intent.

March 15, 1996  
 Evelyn P. Yenson  
 Director

**WSR 96-08-019**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 (Public Assistance)

[Filed March 26, 1996, 3:32 p.m.]

Subject of Possible Rule Making: WAC 388-508-0805, 388-517-1720, 388-517-1740, and 388-517-1760.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Federal standards. Provide rules allowing the appropriate federal poverty level income guidelines.

Process for Developing New Rule: The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

March 26, 1996  
 Merry A. Kogut, Supervisor  
 Rules and Policies Assistance Unit

**WSR 96-08-029**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed March 27, 1996, 2:14 p.m.]

Subject of Possible Rule Making: Instructions for reporting destroyed vehicles.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 26, Laws of 1996 (SSB 6271) amended RCW 46.12.005, amending the meaning of vehicles, whose titles have been surrendered to the department under RCW 46.12.070, to "Salvage vehicles."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Adoption of amended statute.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3773, FAX (360) 664-0831, TDD (360) 664-8885. Comments are requested by June 6, 1996.

March 27, 1996  
 Nancy Kelly, Administrator  
 Title and Registration Services

**WSR 96-08-030**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed March 27, 1996, 2:24 p.m.]

Subject of Possible Rule Making: Dental-related services, chapter 388-535 WAC, to add a Medicaid managed care dental program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A dental managed care program would increase access to dental care for Medicaid clients. Increase continuity of care for low-income eligible clients.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health.

Process for Developing New Rule: Develop language with the help of interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bobbe J. Andersen, Program Manager, or Anne DeJarnette, Medical Assistance Adminis-

tration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, (360) 664-2320, FAX (360) 753-7315, TDD 1-800-848-5429.

March 27, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**WSR 96-08-031**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed March 27, 1996, 2:26 p.m.]

Subject of Possible Rule Making: WAC 388-535-1100 Noncovered dental services, and 388-535-1000 Dental-related services—Scope of coverage.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are being changed to allow children under age eight to receive oral health education to include prophylaxis.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Rule will be drafted by the department and sent to interested parties for review and comments. All comments will be considered before final adoption.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, Washington 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

March 27, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**WSR 96-08-032**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed March 27, 1996, 2:28 p.m.]

Subject of Possible Rule Making: WAC 388-538-080 Managed care exemptions, to enhance the definition of when a client may be exempted on the basis of transportation difficulties.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure client's access to medical care by enrolling in the state's managed care program. This change is to encourage enrollment into the managed care plans.

Process for Developing New Rule: The department will draft language and send to interested parties for review and comment. All comments will be considered before final adoption.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

March 27, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**WSR 96-08-033**

**PREPROPOSAL STATEMENT OF INQUIRY  
WESTERN WASHINGTON UNIVERSITY**

[Filed March 27, 1996, 4:10 p.m.]

Subject of Possible Rule Making: Chapter 516-13 WAC, Bicycle traffic and parking regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update bicycle and regulations on campus.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study, Parking Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Wallace, Director, Parking Services, Western Washington University, Mailstop 9098, Bellingham, Washington 98225, phone (360) 650-2945, FAX (360) 650-3412.

March 25, 1996

Gloria A. McDonald  
Rules Coordinator

**WSR 96-08-034**

**PREPROPOSAL STATEMENT OF INQUIRY  
WESTERN WASHINGTON UNIVERSITY**

[Filed March 27, 1996, 4:15 p.m.]

Subject of Possible Rule Making: Chapter 516-15 WAC, Skateboards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Broadens the skateboard policy by including "in-line skates."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study, Parking Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication by contacting Ann Wallace, Director, Parking Services, Western Washington University, Mailstop 9098, Bellingham, Washington 98225, phone (360) 650-2945, FAX (360) 650-3412.

March 25, 1996  
Gloria A. McDonald  
Rules Coordinator

**WSR 96-08-035**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed March 28, 1996, 8:14 a.m.]

Subject of Possible Rule Making: Modifying bear seasons.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.040, 77.12.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Responding to federal district court decision.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Brittell, Wildlife Management Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2504. Contact by: June 1, 1996. Expected Rule Proposal Filing: June 5, 1996.

March 29 [28], 1996  
Evan Jacoby  
Rules Coordinator

**WSR 96-08-039**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**WASHINGTON STATE UNIVERSITY**

[Filed March 29, 1996, 9:15 a.m.]

Subject of Possible Rule Making: Parking at Washington State University at Vancouver.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.30.125, 28B.30.150, 28B.10.560, and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Washington State University is initiating a new campus in Vancouver, and there are no parking rules for the campus. Washington State University needs mechanisms for the orderly control and distribution of limited parking.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The university will solicit comments from the public and will go through an internal campus review with relevant campus offices and groups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication by contacting Glenn Ford, Director of Finance/Operations, Washington State University at Vancouver, 1812 East McLoughlin Boulevard, Vancouver, WA 98663-3597, phone (360) 737-2010, FAX (360) 690-4611; and John Shaheen, Assistant Director, Department of Public Safety, Safety Building, Washington State University, Pullman, WA 99164-7300, phone (509) 335-8548, FAX (509) 335-7731.

March 26, 1996  
Lou Ann Pasquan  
Rules Coordinator

**WSR 96-08-040**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF REVENUE**

[Filed March 29, 1996, 9:49 a.m.]

Subject of Possible Rule Making: WAC 458-20-13601, this is a new rule which will explain the retail sales and use tax exemptions available for machinery and equipment used directly in a manufacturing operation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300. This rule also implements RCW 82.08.02565 and 82.12.0265.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is needed to implement chapter 3, Laws of 1995 sp. sess., which provides retail sales and use tax exemptions for machinery and equipment used directly in a manufacturing operation. This rule provides important information on the statutory definitions of "machinery and equipment," "used directly," and "manufacturing operations;" and examples explaining how the law is applied. It also provides a sample exemption certificate which the purchaser is required by law to provide to the seller. The department intends to make further revisions to this rule draft prior to adopting a permanent rule to incorporate 1996 legislation which broadened these exemptions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies specifically impose a retail sales or use tax.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments should be submitted by the public meeting date to ensure full consideration, but will be accepted if they are received two weeks before the date of adoption. Written comments may be submitted by mail, FAX, or at the public meeting. Oral comments will be accepted at the public meeting or later public hearing. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Ron Rosenbloom, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 753-1971, FAX (360) 664-0693.

Location and Date of Public Meeting: Evergreen Plaza Building, 711 Capitol Way South, 2nd Floor Conference Room, Olympia, WA 98501, on May 14, 1996, at 9:30 a.m.

March 28, 1996  
 Russell W. Brubaker  
 Assistant Director  
 Legislation and Policy Division

## NEW SECTION

**WAC 458-20-13601 Manufacturing machinery and equipment sales and use tax exemption.** (1) **Introduction.** RCW 82.08.02565, Chapter 3, Laws of 1995, 1st Special Session, (Second Engrossed Substitute Senate Bill 5201) provides a sales tax exemption for sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation. The sales tax exemption applies to labor and services for installing the machinery and equipment. The law also provides a corresponding use tax exemption, RCW 82.12.02565, for the use by a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation.

(2) **Effective Date.** The effective date of the law is July 1, 1995.

(3) **Definitions.** The following definitions apply to this section:

(a) "Manufacture" means the application of labor or skill, by hand or machinery, to materials, resulting in the production for sale or commercial or industrial use of a new, different, or useful substance or article, including special made or custom made articles. The term does not include conditioning of seed for use in planting or activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen or canned outside this state. See RCW 82.04.120.

(b) "Manufacturer" means a person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures articles for sale or for his or her own commercial or industrial use from his or her own materials. See RCW 82.04.110.

(c) "Processor for hire" means a person who performs labor and mechanical services upon materials belonging to others resulting in the production for sale or commercial or industrial use of a new, different, or useful article of tangible personal property. A processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials. See WAC 458-20-136.

(d) "Machinery and equipment" means industrial fixtures, devices, and support facilities. The term includes pollution control equipment installed and used in a manufacturing operation to prevent air pollution, water pollution, or contamination that might otherwise result. See RCW 82.08.02565 (2)(a).

"Machinery and equipment" does not include:

- (i) Hand tools;
- (ii) Property with a useful life of less than one year;
- (iii) Repair parts required to restore machinery and equipment to normal working order;
- (iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment;

(v) Building fixtures that are not integral to the manufacturing operation, such as utility systems for heating,

ventilation, air conditioning, communications, plumbing, or electrical. See RCW 82.08.02565 (2)(b).

(e) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment:

(i) Acts upon or interacts with an item of tangible personal property;

(ii) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site;

(iii) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property;

(iv) Provides physical support for or access to tangible personal property;

(v) Produces power for, or lubricates machinery and equipment;

(vi) Produces another item of tangible personal property for use in the manufacturing operation; or

(vii) Places the tangible personal property in the container, package or wrapping in which the tangible personal property is normally sold or transported. See RCW 82.08.02565 (2)(c).

(f) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. The manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the finished product leaves the manufacturing site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include research and development, the production of electricity by a light and power business as defined in RCW 82.16-010, or the preparation of food products on the premises of a person selling food products at retail. See RCW 82.08-02565 (2)(d).

(4) **Requirements for exemption.** The sales (or use) tax exemption applies to "sales to (or use by) a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation, . . . ." Thus, there are four distinct elements of the exemption, all of which must be present in order for the sales or use tax exemption to apply:

(i) There must be a sale to (or use by) "a manufacturer or processor for hire;"

(ii) The item sold (or used) must qualify as "machinery and equipment;"

(iii) The machinery and equipment perform a function that falls within the definition of "used directly;" and

(iv) The machinery and equipment must be used in "manufacturing operation."

(5) **Manufacturer or Processor for hire.** There must be a sale to (or use by) "a manufacturer or processor for hire." This includes businesses that report business and occupation tax under the Manufacturing - Other classification and the Processing for Hire classification. The term also includes businesses engaged in manufacturing activities that are reported under special manufacturing classifications, such as Slaughtering, Breaking and/or Processing Perishable Meat Products; Manufacturing Wheat into Flour, Barley into Pearl Barley, Soybeans into Soybean Oil, Canola into Canola Oil, Canola Meal, or Canola Byproducts, or Sunflower Seeds into Sunflower Oil; Manufacturing Raw Seafood Products;

Splitting or Processing Dried Peas; Manufacturing Fresh Fruit and Vegetables; and Printing and Publishing.

(6) **Machinery and Equipment.** The item sold (or used) must qualify as "machinery and equipment." "Machinery and equipment" means industrial fixtures, devices, and support facilities. "Industrial fixtures" means major mechanical devices that perform an essential function in a manufacturing operation. "Devices" means items separate from industrial fixtures but essential to a manufacturing operation. "Support facilities" means items, other than the structure itself, integral to the manufacturing operation and necessary for the operation of the industrial fixtures and devices.

(a) Computer hardware or embedded software that is a physical part of the machinery and equipment is considered a component of the machinery and equipment of which it is a part and is therefore exempt. Pre-written software or computer hardware that regulates or controls the activities of the machinery and equipment is integral to the manufacturing operation and qualifies as "support facilities." Computers and software used for research and development or for administrative functions do not qualify for exemption.

(b) "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation to prevent air pollution, water pollution, or contamination that might otherwise result. The pollution control equipment does not have to be required by state or federal environmental laws in order to qualify.

(c) The following items are specifically excluded from the definition of "machinery and equipment:

(i) Hand tools do not qualify for exemption. "Hand tools" means manually-operated devices that can be picked up in the hand to perform a specific task. Examples include screw drivers, wrenches, pliers, and hand saws. Small powered devices, such as orbital sanders, electric drills, and pneumatic wrenches are not hand tools, even though they can be picked up in the hand. Larger manually-operated devices, such as spinning wheels and hand looms, are not considered hand tools because they can not be picked up in the hand.

(ii) Items that, when first placed in service, are reasonably anticipated to have a useful life of less than one year do not qualify for exemption.

(A) Items that are subject to intermittent use in a manufacturing operation are deemed to have a useful life of less than one year if they could not reasonably be expected to last a year or more if placed in continuous use. Thus an item that would wear out after six months of continuous use, but which in fact lasts a number of years because it is subject only to intermittent use, does not qualify. "Intermittent use" means the item is placed in service occasionally or infrequently, and is not available for use at other times. For example, a printing plate used by a printer to produce printed material for sale and then placed in storage in case the printer receives an order to reprint the material. "Continuous use" does not mean that the item is available for use on a regularly and continuing basis, the term it does not require that the item in fact be operated constantly. For example, a power tool located at a work station and available for use whenever needed is in continuous use, notwithstanding that the power tool is not operated constantly.

(B) Likewise, items that are consumed in a manufacturing operation have a useful life of less than one year and are

taxable unless they independently qualify as ingredients and components, or as chemicals used in processing new articles for sale. See WAC 458-20-113.

(iii) Repair parts required to restore machinery and equipment to normal working order do not qualify for exemption. Repair parts are those parts which replace worn or broken parts of machinery and equipment. In the case of leased machinery and equipment, the lessor and lessee are liable in the alternative for sales tax on charges for tangible personal property consumed and for labor and services rendered in respect to repairing machinery and equipment. See RCW 82.04.190(7).

(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment do not qualify for exemption.

(A) For example, it is common for machinery and equipment to contain components that wear out in a shorter time period than the rest of the machine. It is anticipated that these components will be replaced during the life of the machine, either because of failure or as part of routine maintenance prior to failure. These kind of replacement parts do not qualify for exemption.

(B) In contrast, those replacement parts that do increase productivity, improve efficiency, or extend the useful life of the machinery and equipment (as compared with the productivity, efficiency or useful life of the machinery and equipment when new) can qualify for exemption. For example, if a machine has a useful life of eight years, and after six years of use the machine is substantially overhauled so that the useful life is extended an additional six years from the time of the overhaul (i.e., it will last a total of twelve years rather than eight), the replacement parts would qualify as machinery and equipment. The replacement parts, and labor and services for installing them, can qualify for exemption.

(C) The size and function of an item will sometimes determine whether it is a replacement part or whether it qualifies as machinery and equipment in its own right. For example, a motor that is attached to a larger piece of machinery and equipment is a replacement part, while a free-standing motor that provides mechanical power for other machinery and equipment is separate piece of machinery and equipment. In the latter instance, the motor performs a separate and discrete function in the manufacturing operation, because it meets one of the definitions of "used directly" in that it provides power for other machinery and equipment.

(v) Building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical do not qualify for exemption. These items are not considered machinery and equipment because they are a portion of the structure itself.

(A) However, certain items of tangible personal property installed in the structure can qualify if they are integral to the manufacturing operation whether or not the property becomes part of the realty by virtue of installation. Items necessary to the operation of the machinery and equipment (i.e. support facilities) can themselves qualify as machinery and equipment, notwithstanding that they are physically attached to and become part of the realty.

(B) For example, a building's electrical transmission and distribution system does not qualify for exemption. Howev-

er, conduit and wiring that carries power from the transformer, switch, or other device at which point usable power is diverted from the building's transmission and distribution circuits for use in manufacturing qualifies as a "support facility". That is, wiring that is part of the electrical system of the building itself is not exempt, but wiring that connects the building's electrical system to the machinery and equipment is considered part of the machinery and equipment. The cost of the latter, including charges for labor and services to install it, would qualify for exemption.

(C) Machine foundations are another example of a "support facility" that qualifies for exemption. For example, suppose a manufacturing facility has a 6-inch concrete floor throughout the structure, but a 18-inch concrete pad is required to provide a foundation to support the weight of a large piece of machinery. The 6-inch concrete floor is part of the building and is not exempt. But the materials used to construct the 18-inch concrete foundation, including charges for labor and services to install the materials, would qualify for exemption.

(7) **Used Directly.** The machinery and equipment must be "used directly" in a manufacturing operation in order to qualify for exemption.

(a) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment acts upon or interacts with an item of tangible personal property. Machinery or equipment "acts or interacts" with tangible personal property when it causes a direct physical or chemical change in materials used to produce the manufactured product, the manufactured product itself, or byproducts of the manufacturing process (as in the case of pollution control equipment).

(b) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site. This includes conveyer belts, forklifts, pallets, storage bins and containers and other items that convey, transport, handle, or store raw materials or manufactured product at the manufacturing site.

(c) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property. This includes equipment used to test or measure raw materials or the manufactured product.

(d) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment provides physical support for or access to tangible personal property. This includes such items as sawhorses and other devices that hold raw materials or the manufactured product during the manufacturing operation. It also includes items such as scaffolding or other devices which provide support to the workers themselves to allow access raw materials or manufactured product.

(e) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment produces power for or lubricates machinery and equipment. This includes machinery and equipment that provides mechanical power (e.g. steam or compressed air) to operate other machinery and equipment. It also includes electrical conduit and wiring that is not part of the building's electrical

system. It does not include the generation of electrical power, other than by a qualified cogeneration facility.

(f) Machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment produces another item of tangible personal property for use in the manufacturing operation. This includes so-called "use-on-use" equipment. "Use-on-use" is a term used to describe machinery and equipment that does not directly produce an article for sale, but is used to produce another item that in turn is used to produce an article for sale. For example, a manufacturer may produce tooling as an intermediary step in the manufacturing operation. The tooling is not sold as such, but is in turn used to produce a manufactured product for sale. The machinery and equipment used to produce the tooling would qualify as "use-on-use" equipment. (Note: The tooling itself may or may not qualify as machinery and equipment. For example, if the tooling had a useful life of less than one year, the tooling would not qualify even though the machinery and equipment used to produce it would.)

(g) Finally, machinery and equipment is "used directly" in a manufacturing operation if the machinery and equipment places the tangible personal property in the container, package or wrapping in which the tangible personal property is normally sold or transported.

(h) Machinery and equipment is not "used directly" in a manufacturing operation if the machinery and equipment is used to clean, repair, or maintain machinery and equipment.

(8) **Manufacturing Operation.** The machinery and equipment must be used directly in a "manufacturing operation" in order to qualify for exemption. "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property.

(a) Even though the definition of "manufacturer" includes a person who manufactures articles for his or her own commercial or industrial use, such a person is not engaged in a "manufacturing operation" because the article, substance, or commodity is not manufactured "for sale." For example, a printing business purchasing a copy machine can qualify for exemption since it manufactures printed goods for sale, but a business office purchasing the same copy machine to make copies for its own use would pay the tax because the business office is not a "manufacturing operation."

(b) The article, substance, or commodity must be manufactured for sale "as tangible personal property." For example, a building contractor who buys a table saw to fabricate building components for incorporation into a construction project is constructing or improving real property and is not manufacturing an article for sale "as tangible personal property." However, a cabinet maker purchasing the same table saw to manufacture cabinets for sale as cabinets would qualify.

(c) The manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the finished product leaves the manufacturing site. "Manufacturing site" means a fixed location on which a manufacturing operation is conducted. Thus, transportation equipment that delivers raw materials to the location at which the manufacturing operation is conducted does not qualify for exemption, because it is not used at the manufacturing site and is therefore not used in a manu-



facturing operation. Likewise, transportation equipment used to deliver the finished product from the location at which it is manufactured to its ultimate destination does not qualify for the same reason. Portable manufacturing equipment does not qualify because there is no manufacturing site.

(d) Machinery and equipment that is regularly moved from place to place and has not permanent location is not used in a manufacturing operation because there is no manufacturing site. For example, cement mixing trucks and portable saw mills mounted trucks do not qualify for the exemption.

(e) "Manufacturing operation" includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part.

(f) "Manufacturing operation" does not include research and development, the production of electricity by a light and power business as defined in RCW 82.16.010, or the preparation of food products on the premises of a person selling food products at retail.

(g) The exclusion for preparation of food products on the premises of a person selling food products at retail precludes restaurants, delis, and so forth, from claiming the exemption for ovens, grills, and other equipment used to prepare food for immediate consumption, whether on or off the premises. The exclusion does not apply to businesses that manufacture food products for sale as food products, as opposed to those who prepare food for immediate consumption, even though food products may be sold at retail on the premises.

(i) A bakery whose principal activity is manufacturing baked goods for sale as food products, is not disqualified merely because it also operates a lunch counter or otherwise makes retail sales of food products. However, only the machinery and equipment used to manufacture baked goods qualifies for exemption. Machinery and equipment used in the preparation, storage, heating, cooling, or serving of food for immediate consumption is taxable.

(ii) However, a restaurant, pizzeria, delicatessen, or fast food establishment whose principal business activity is preparing food for immediate consumption on or off the premises is not a manufacturing operation.

(h) "Manufacturing operation" does not include logging operations, mining and quarrying operations, fishing operations, or other extracting activities that do not constitute manufacturing. See WAC 458-20-135.

(i) "Manufacturing operation" does not include harvesting, washing, sorting, or packaging fresh fruit and vegetables; conditioning seed for use in planting; and other horticultural or agricultural activities that do not constitute manufacturing.

(9) **Installation charges.** The sales tax exemption applies not only to machinery and equipment used directly in a manufacturing operation, but also to "sales of or charges made for labor and services rendered in respect to installing the machinery and equipment."

(a) "Labor and services" includes both the hourly charges for labor and hourly charges for the rental of equipment with an operator. For example, a buyer of exempt machinery and equipment hires a rigging crew to move the machinery and equipment into place for installation. The rigging company bills the buyer an hourly rate for

the rigging crew's labor, and an hourly rate for rental of a crane with operator. The entire charge would qualify as exempt labor and services.

(b) "Labor and services" does not include the sale or rental of tangible personal property used by the buyer to install machinery and equipment. For example, a buyer of exempt machinery and equipment rents a forklift on a bare lease basis (i.e. without an operator) to move the machinery and equipment into place for installation. The rental charge for the forklift would not qualify for exemption.

(10) **Dual-use machinery and equipment.** An individual article of machinery and equipment that is purchased for both exempt and non-exempt purposes is not exempt under this section, if the non-exempt use is anything other than de minimis. "De minimis" means that non-exempt use is infrequent or nonrecurring, and does not exceed 5% of the total use. If non-exempt use is other than de minimis, the property is taxable in its entirety based on the selling price or the value of the article at the time of first use.

(11) **Purchases for dual purposes.** A buyer who purchases quantities of machinery and equipment, and who is not able to determine at the time of purchase whether an individual article of machinery and equipment will be used in an exempt or nonexempt manner, must purchase according to the general nature of his or her business. If machinery and equipment is principally purchased for non-exempt purposes, the buyer should not give an exemption certificate for any part of the purchase. If machinery and equipment is principally purchased for exempt purposes, the buyer may issue an exemption certificate for the entire purchase. For the purposes of this subsection, the term "principally" means greater than fifty percent of the value of the machinery and equipment purchased.

(a) If the buyer gives an exemption certificate for all purchases and thereafter uses some of the machinery and equipment for non-exempt purposes, the buyer must indicate in his or her books of account the value of the article used and remit to the department of revenue the applicable deferred sales tax. The deferred sales tax liability should be reported under the use tax classification on the buyer's excise tax return.

(i) Buyers making purchases for dual purposes under the provisions of an exemption certificate must remit deferred sales tax on all property used for non-exempt purposes. If the buyer fails to make a good faith effort to remit this tax liability, the fifty percent evasion penalty will apply to the unremitted portion of the deferred sales tax liability. A buyer will generally be considered to be making a good faith effort to report its deferred sales tax liability if the buyer discovers a minimum of eighty percent of the tax liability within one hundred twenty days of the taxable use, and remits the full amount of the discovered tax liability upon the next excise tax return. However, if the buyer does not satisfy this eighty percent threshold but can show by other facts and circumstances that it made a good faith effort to report the tax liability, the penalty will not be assessed. Likewise, even if the eighty percent threshold is satisfied, if the department can show by other facts and circumstances that the buyer did not make a good faith effort in remitting its tax liability the penalty will be assessed. See WAC 458-20-102.

(ii) Example. ABC Manufacturing purchases sheet metal and other building materials. Over fifty percent of these materials are used to construct machinery and equipment used directly in a manufacturing operation (exempt). Less than half of these materials are used to repair machinery and equipment or for other non-exempt uses. ABC Manufacturing may provide the seller of these materials with an exemption certificate, but must remit deferred sales tax on all materials used to repair machinery and equipment or for other non-exempt uses. Failure to make a good faith effort to identify and remit this tax liability may result in the assessment of the fifty percent penalty.

(b) If the buyer has not given an exemption certificate, but has paid sales tax on all purchases of such articles and subsequently uses a portion of the article for exempt purposes, the buyer may claim a credit or refund in the amount of the sales tax previously paid.

(i) The credit or refund must include a description of the machinery and equipment, the purchase price, and the local sales and use tax code of the principal location in which the machinery and equipment will be used, and the exempt machinery and equipment should be listed on the annual summary described in section (8) for the year in which the machinery and equipment was used for a non-exempt purpose.

(ii) Example. Manufacturer A is located in Spokane, Washington and purchases property for dual purposes from a supplier located in Seattle, Washington. Manufacturer A does not issue an exemption certificate for the purchase, and remits retail sales tax to the supplier at the Seattle tax rate. A portion of the property is later used by Manufacturer A to construct machinery and equipment used directly in a manufacturing operation. Manufacturer A would claim a credit or refund of tax previously paid on the parts used to construct the exempt machinery and equipment.

(iii) Claim for the credit or refund will be allowed only if the taxpayer keeps and preserves adequate records. The taxpayer should show on the records the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the amount of tax paid.

(iv) Should the buyer use property in an exempt manner on which sales tax has previously been paid, but does not have sufficient tax liability against which to take credit or refund, the department will issue a credit notice that may be used against future tax liabilities. However, a refund will be issued upon written request.

(12) **Documentation requirements, sales tax.** Prior approval is not required from the Department of Revenue in order to claim the sales tax exemption. However, the buyer is required to provide the seller with an exemption certificate. Both the buyer and the seller must retain a copy of the certificate to document the exemption. Detailed information is required to facilitate the legislative fiscal committees' assessment of economic impacts of the exemption. RCW 82.02.1001.

(a) The exemption certificate may be in the form shown below, or may be in any other form that substantially contains the following information and language:

Manufacturing Machinery and Equipment  
Exemption Certificate

The buyer (user) certifies that it is engaged in manufacturing activities and that the items listed below are machinery and equipment that will be used directly in a manufacturing operation or charges for labor and services to install the machinery and equipment.

Name of Seller ..... Date .....

Name of Buyer (User) .....

Address .....

UBI/Registration # .....

Type of Business .....

Item or category of items .....

Authorized agent for buyer (print) .....

Authorized signature .....

Title .....

(b) In addition, the buyer is required to provide the department with an annual summary of exempt purchases by January 31 of the year following the calendar year in which the items were purchased. The annual summary must state the purchase price of exempt purchases, and the local sales and use tax code of the principal location in which the machinery and equipment will be used, broken down into the following categories:

- (i) Specialized industry machinery;
- (ii) Metalworking machinery;
- (iii) Materials handling equipment/storage;
- (iv) Instruments - test equipment;
- (v) Computers - peripherals;
- (vi) Pollution control equipment;
- (vii) Cogeneration equipment;
- (viii) Materials used to lubricate machinery and equipment;
- (ix) Installation labor for machinery and equipment;
- (x) Other.

(c) Buyers who make infrequent purchases may, at their option, file copies of each exemption certificate with the department rather than filing an annual summary. In this case, the certificate must be filed by the end of the month following the month in which the item is purchased, and the certificate must provide the purchase price and a description of the item.

(13) **Blanket exemption certificates.** Buyers who file an annual summary of exempt purchases as described above may issue a blanket exemption certificate to each seller from whom exempt purchases are made rather than issuing a separate certificate on each transaction. Such blanket exemption certificates must be renewed at least every four years, or whenever a change in ownership of the buyer's business requires a new "registrations and license document." (See WAC 458-20-101 on tax registration.) Buyers who elect to file copies of each exemption certificate rather than filing an annual summary may not issue blanket exemption certificates but must issue a separate exemption certificate on each purchase.

(14) **Documentation requirements, use tax.** The user of exempt manufacturing machinery and equipment is required to file an annual summary of exempt machinery and

equipment similar to that described for the sales tax exemption.

(a) The user may elect to file an exemption certificate, similar to the sales tax exemption certificate described in subsection (12) of this section, with the Department of Revenue instead of the annual summary. If so, the certificate must be filed within sixty days of the first use of the machinery and equipment in this state, and the certificate must provide the purchase price and a description of the item.

(15) **Time of sale.** The existing rules pertaining to time and place of sale and when tax liability arises apply for purposes of whether a given transaction occurred on or after the effective date of the law, July 1, 1995, for purposes of the sales and use tax exemption. See WAC 458-20-103 and 458-20-197

(a) In the case of an outright purchase of goods, the sale takes place when the goods are delivered to the buyer in this state. Thus, machinery and equipment delivered to the buyer on or after July 1, 1995 can qualify for exemption, regardless of when the order for the goods was placed.

(b) If property is acquired without payment of retail sales tax, use tax is due at the time of first use. "Use" includes any act by which the person assumes dominion and control of the property in this state (as a consumer), including installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within this state.

(c) In the case of leases or rentals of tangible personal property, liability for sales tax arises as of the time the lease or rental payment falls due. Thus, in the case of leased machinery and equipment, rental payments that fall due on or after July 1, 1995 can qualify for exemption, regardless of when the lease was initiated.

(16) **Credits or Refunds of Tax Paid in Error.** Both the sales tax and use tax exemption contain certain documentation requirements. These requirements are imposed to ensure sufficient data to perform meaningful analysis of the effects of the exemption on economic development. These requirements were not imposed to preclude refund of sales or use tax paid in error on qualifying machinery and equipment. Accordingly, a person who has paid sales or use tax in error on qualifying machinery and equipment may, within the time permitted by RCW 82.32.060, apply for a credit or refund. The application for credit or refund shall state the name of the seller and provide the purchase price and a description of the item.

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

**WSR 96-08-041A**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed March 29, 1996, 1:49 p.m.]

**Subject of Possible Rule Making:** WAC 388-235-5050 Waiver of medical documentation and progressive evaluation process (PEP).

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** The 1995 legislature required the Department of Social and Health Services (in E2SHB 1908) to focus access to services for chronic, long-term care clients to one location, home and community services (HCS) in the aging and adult services administration (AASA).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** This revision will allow HCS to authorize assistance under the general assistance-unemployable (GAU) program for their clients without having to gather medical evidence. This population routinely meets state GAU disability guidelines.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Agency study, internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barbara Hargrave, SSI Program Manager, AES Section, Division of Income Assistance, P.O. Box 45400, Olympia, WA 98504-5400, phone (360) 438-8317, FAX (360) 438-8258.

Philip A. Wozniak  
for Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**WSR 96-08-050**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
(Health Professions Quality Assurance)

[Filed April 1, 1996, 3:23 p.m.]

**Subject of Possible Rule Making:** Statutory language directing Department of Health (DOH) to register adult family home providers and resident managers does not include language that establishes registration time periods, registration procedures, related fees or proof of required AIDS education and training.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 18.48 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Rules would be needed to provide enforcement of registration and renewal registration of adult family home providers and resident managers and the related fees, and to also enforce proof of AIDS education and training (AIDS education and training per RCW 70.24.270 Health professionals and 70.24.310 Health care facilities employees).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Social and Health Services (DSHS) licenses adult family home facilities for operation. Facilities' notification of this possible rule making is coordinated with DSHS. There is no overlap of jurisdiction between DSHS and DOH.

Process for Developing New Rule: Development of these rules will include public meetings with constituency groups and citizens who are likely users of adult family home facilities. Mailings will go to all parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Two public meetings to be advertised: Seattle-area and Spokane. Comments and questions may be directed to: Barbara Hayes, Health Professions and Quality Assurance, P.O. Box 47869, Olympia, WA 98504-7869, phone (260) [(360)] 664-3245, FAX (360) 586-7774.

March 29, 1996  
Bruce Miyahara  
Secretary of Health

employees and to protect privacy rights of those employees undergoing checks.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (360) 753-4201, TDD (360) 664-3631. For assistance by telephone contact Richard Wilson, at (360) 753-2298.

March 29, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 96-08-056**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed April 2, 1996, 11:35 a.m.]

Subject of Possible Rule Making: Establish rules for the regulating of sellers of travel.

Specific Statutory Authority for New Rule: Chapter 19.138 RCW.

Reasons Why the New Rule is Needed: New laws regulating sellers of travel passed by the legislature. Rules needed to establish the program.

Goals of New Rule: Establish rules and regulations to implement the laws promulgated under chapter 19.138 RCW.

Process for Developing New Rule: Agency study.

Interested parties can participate in formulation of the new rule by contacting Pat Brown, Administrator, Business and Professions Division, P.O. Box 9045, Olympia, WA 98507-9045, phone (360) 664-2356, FAX (360) 753-3747, TDD (360) 586-2788.

April 3 [2], 1996  
Pat Brown  
Administrator

**WSR 96-08-059**

**PREPROPOSAL STATEMENT OF INQUIRY  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed April 2, 1996, 3:40 p.m.]

Subject of Possible Rule Making: Fingerprint record checks of educational employees under SSB 6272, access to records and protection of privacy interests.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter \_\_\_\_ [126], Laws of 1996, SSB 6272.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Required by legislation to insure access to fingerprint record information to educational

**WSR 96-08-060**

**PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed April 2, 1996, 3:41 p.m.]

Subject of Possible Rule Making: Chapter 180-20 WAC, School bus transportation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.160.210.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments are necessary in order to align rules with the legislative intent of RCW 28A.160.210, as such intent has been clarified by the Legislative Joint Administrative Rules Review Committee.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Rules will be coordinated with the Superintendent of Public Instruction.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

April 2, 1996  
Larry Davis  
Executive Director

**WSR 96-08-065**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**CLOVER PARK**  
**TECHNICAL COLLEGE**

[Filed April 2, 1996, 4:30 p.m.]

**Subject of Possible Rule Making:** Addition of a hazing policy to meet new state laws; revision of student conduct code; and housekeeping items.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28B.50.10.900 et. seq., 28B.50.140(13).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To bring Clover Park Technical College District 29 into compliance with new state law requiring public institutions to adopt rules for hazing violations; to modify the student conduct code; to make housekeeping changes.

**Process for Developing New Rule:** Agency study; and compliance with RCW 28B.50.10.900 et. seq.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments accepted by Cathie Reid, Vice-President for Administrative Services, Clover Park Technical College, 4500 Steilacoom Boulevard S.W., Lakewood, WA 98499, (206) 589-5558, FAX (206) 589-5601.

April 1, 1996  
 Cathie Reid  
 Vice-President  
 Administrative Services

**WSR 96-08-071**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**LOTTERY COMMISSION**

[Filed April 3, 1996, 10:14 a.m.]

**Subject of Possible Rule Making:** Instant game rules.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 67.70.040(1).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The lottery is considering amending WAC 315-11A-164 at the July 12, 1996, commission meeting. The proposed amendment would change the play symbols for Instant Game No. 164.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Judith Giniger, Rules Coordinator, at (360) 586-1088, FAX (360) 586-6586, P.O. Box 43025 [43000], Olympia, WA 98504-3000, with any comments or questions regarding this statement of intent.

March 28, 1996  
 Evelyn P. Yenson  
 Director

**WSR 96-08-073**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed April 3, 1996, 10:26 a.m.]

**Subject of Possible Rule Making:** The purpose of this inquiry is to determine whether and the extent to which rule making may be necessary for implementation of the requirements of the federal Telecommunications Act of 1996, Public Law No. 104-104, 110 Stat. 56 (1996), to be codified at 47 USC § 151, et seq., consistent with chapter 34.05 RCW and chapter 480-09 WAC, including but not limited to interconnection; interconnection agreements (negotiation, mediation, arbitration, approval) and expanded filing and public inspection of interconnection agreements under § 252(h) of the act; exemptions from interconnection requirements for rural telecommunications companies and carriers; designation of "eligible telecommunications carriers" under Section 214(e); and other matters requiring state regulatory action arising under the act. Docket No. UT-960269.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 80.01.040.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The federal Telecommunications Act of 1996 establishes a number of new requirements to be met by telecommunications providers in Washington state and, in addition, provides for certain actions to be taken by the commission in order to implement the act. Administrative rules may be needed to provide procedures and adopt standards where necessary for the orderly implementation of the act.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Federal Communications Commission has broad regulatory authority over telecommunications and is conducting rule making and other proceedings to implement the act. Division of responsibilities between federal and state regulatory jurisdictions is provided by the act; coordination will be accomplished by monitoring FCC proceedings. No other Washington state agency has regulatory authority over the matters to be taken up under this notice of inquiry.

**Process for Developing New Rule:** The commission will call for written comments, and may provide the opportunity for additional written comments. The commission will schedule an informal workshop with interested persons in a manner designed to develop consensus on any rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested persons may contact the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 753-6451, FAX (360) 586-1150.

Written comments from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. UT-960269, not later than April 26, 1996. All commenters are asked to file an original and ten copies of their written comments. The commission also requests comments be provided on a 3 1/2 inch, high-density disk, in WordPerfect version 5.1 or 6.0, labeled with the commenter's name and type of software used. Interested persons may also file additional written comments and attend and participate in any workshops, to be

announced by written notice to all commenters and to other persons specifically asking to receive notice in this rule making proceeding.

Notice of Workshop: A workshop will be held at 9:30 a.m., Thursday, May 9, 1996, in the Main Hearing Room of the Commission's Headquarters Office, 1300 South Evergreen Park Drive S.W., Olympia.

April 2, 1996  
Terrance Stapleton  
for Steve McLellan  
Secretary

**WSR 96-08-074**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed April 3, 1996, 10:28 a.m.]

Subject of Possible Rule Making: Amendments to chapter 16-156 WAC, Organic producer and transition to organic producer certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.86.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to chapter 16-156 WAC are needed to increase the effectiveness and efficiency of the organic food program and clarify the rules for certifying producers of organic and transition to organic food. The amendments will institute new fees for late applicants which will offset some of the additional costs for handling late applications. Other amendments will clarify the policies and procedures for assessing application fees and for issuing organic food certificates.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The department has worked with the Organic Advisory Board for over two years on the proposed changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department will individually mail to all certified organic producers and other interested parties copies of the proposed language when the department files the CR-102. Anyone who would like input into the process may contact Miles McEvoy at (360) 902-1924, FAX (360) 902-2087, or TTD [TDD] 902-1996.

April 1, 1996  
Candace A. Jacobs  
Assistant Director

**WSR 96-08-077**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed April 3, 1996, 10:58 a.m.]

Subject of Possible Rule Making: Big horn sheep horn marking.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recent developments in horn identification have made the Washington brand obsolete. The rule will look at use of an aluminum pin with an identification number engraved on the head of the pin.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Dauma, Enforcement Program, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2380.

Contact by: May 17, 1996.

Expected Proposal Filing: May 22, 1996.

April 3, 1996  
Evan Jacoby  
Rules Coordinator

**WSR 96-08-078**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed April 3, 1996, 11:00 a.m.]

Subject of Possible Rule Making: Sport fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will compliment the 1996-1997 sport rules proposed in WSR 95-22-111 and 95-22-113. Changes for seasonal rules have noted inconsistencies that will be corrected. Examples are shellfish pot rules. Additionally, the states of Oregon and Washington have come to agreement on sturgeon management which will require amending sturgeon harvest rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Oregon Department of Fish and Wildlife has been consulted for sturgeon rules in the Columbia River.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rich Lincoln, Fish Management Program, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2325.

Contact by: May 17, 1996.

Expected Proposal Filing: May 22, 1996.

April 3, 1996  
Evan Jacoby  
Rules Coordinator

**WSR 96-08-079**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (General Provisions)

[Filed April 3, 1996, 11:01 a.m.]

**Subject of Possible Rule Making:** Add new sections to chapter 440-22 WAC to establish rules to certify and decertify employers to the Department of Labor and Industries for the worker compensation premium discount.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** 2SSB 5516, an act relating to providing for drug-free workplaces; adding a new chapter to Title 49 RCW; and providing an expiration date.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** New legislation establishes a time limited demonstration project in Washington state to study reduction in workplace accidents and associated costs related to drug and alcohol involvement. Rules are required by statute to ensure that employers receiving the discount implement the required program elements.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Washington state Department of Labor and Industries (L&I). Representatives of L&I, including the designated project coordinator, will be participating in advisory committee meetings and all aspects of development.

**Process for Developing New Rule:** Agency study. We will hold both an internal and external review process; all comments will be considered. In addition, we will hold meetings to allow input from the regulated community and the public.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Henry Govert, Drug Free Workplace Specialist, Division of Alcohol and Substance Abuse, Department of Social and Health Services, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 438-8092, FAX (360) 438-8057, TDD (360) 438-8203.

April 3, 1996  
 Merry A. Kogut  
 Supervisor of Rules and Policy

**WSR 96-08-091**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed April 3, 1996, 11:50 a.m.]

**Subject of Possible Rule Making:** WAC 388-87-020 Subrogation and 388-505-0540 Assignment.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.08.090, 74.09.185.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Clarify assignment of rights and properly address different types of subrogation.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** The department shall draft language and send to interested parties for review and comment. All comments will be considered before final adoption.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

April 3, 1996  
 Merry Kogut, Supervisor  
 Rules and Policies Assistance Unit





**WSR 96-06-040**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)  
 [Filed March 1, 1996, 4:15 p.m.]

## SMALL BUSINESS ECONOMIC IMPACT STATEMENT

**Summary of Rule Development**

Chapter 388-76 WAC is proposed to replace WAC 388-76-010 through 388-76-530, Adult family homes minimum licensing requirements. The primary statute authorizing the development and adoption of these rules is chapter 70.128 RCW, Adult family homes. This statute was substantially amended by E2SHB 1908 and SSB 5799, which were passed by the 1995 legislature and became effective in July 1995.

Although many of the requirements in these proposed rules are identical or similar to those found in current WAC, the 1995 amendments to the adult family home statute require substantial revisions to the regulations governing adult family homes. The rewritten rules reflect the new statutory mandates. Additionally, the rules have been reorganized to minimize confusion and promote clarity.

The specific statutes authorizing the development and adoption of these rules include RCW 70.128.040, 70.128.-060, 70.128.120, 70.128.130, 43.43.842, 18.88A.210, and 18.88A.230.

**Introduction**

One of the goals of E2SHB 1908 was to expand the number of cost-effective, community based residential options available to consumers for whom the state participates in the cost of care. The legislation also directed the department to develop a quality improvement system for these programs that is consumer centered and promotes privacy, independence, dignity, choice, and a homelike environment.

In addition to E2SHB 1908, the 1995 legislature passed SSB 5799. This bill identifies adult family homes as an essential component of the long-term care system which can meet the broadly diverse service needs of persons with functional limitations. The bill directs the department to recognize that different populations living in adult family homes, such as the elderly and the developmentally disabled, can have significantly different needs and capacities.

SSB 5799 amends minimum qualification requirements to prohibit issuing an adult family home license to an applicant if the provider, or any partner, officer, director, managerial employee, or owner of five percent or more of the provider has a history of significant noncompliance with federal or state regulations governing the provision of care or services to vulnerable adults or children. In addition, providers must register with the Department of Health and are made subject to the Uniform Disciplinary Act.

The bill also authorizes the department to develop, through rule, standards appropriate to the differences between individual and corporate providers, and standards to be used to license nonresident and multiple facility providers. The department is also mandated to establish, by rule, educational standards for multiple facility operators substantially equivalent to recognized national certification standards for residential care administrators.

SSB 5799 also increased the maximum adult family home capacity from four to six residents and eliminated limitations on the number of homes a provider could be licensed to operate.

SSB 5799 directs the department to develop, in rule, training and continuing education criteria for providers and

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-17-025.

Title of Rule: Chapter 388-76 WAC, Adult family homes minimum licensing requirements.

Purpose: To establish in rule minimum licensing requirements for adult family homes (AFH).

Statutory Authority for Adoption: RCW 70.128.040, 70.128.060, 70.128.120, 70.128.130, 43.43.842, 18.88A.210, and 18.88A.230.

Statute Being Implemented: Chapter 70.128 RCW and RCW 18.88A.210 and 18.88A.230.

Summary: The statute governing AFH licensing was significantly amended by the 1995 legislature with the passage of E2SHB 1908 and SSB 5799. Through these amendments, the legislature mandated the department to develop new rules on specific subjects and changed the department's authority for others. These rules establish requirements for AFH licensing, consistent with those amendments to the governing statute. Topics covered include minimum licensure qualifications, standards for multiple facility providers, optional designation of specialty homes, service standards, training requirements, remedies, nurse delegation, AFH administration, and physical plant requirements. These rules will repeal and replace existing rules governing adult family homes.

Reasons Supporting Proposal: The legislature enacted significant amendments to the governing AFH licensing statute, chapter 74.128 RCW, requiring major changes to existing rules. These proposed rules accommodate the major changes required by legislation and make the regulations governing adult family homes better organized and easier to understand. The goal or desired outcome of rule development is to enhance and strengthen adult family homes as a viable long-term residential care option that provides quality services in a homelike environment.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Gaskell and Stacy Winokur, P.O. Box 45600, Olympia, WA 98504, (360) 438-7937/407-0505.

Name of Proponent: Department of Social and Health Services, Aging and Adult Services Administration; rules are being done in compliance with E2SHB 1908 and SSB 5799, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: The proposal repeals WAC 388-76-010 through 388-76-530, Adult family homes minimum licensing requirements, much of which is incorporated into these rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

PROPOSED

caregivers, including training criteria to be satisfied before a provider may provide special care services to residents. The bill requires providers to ensure that staff are competent and receive necessary training before those staff perform assigned tasks.

SSB 5799 also mandates that adult family home providers offer resident activities as defined by the department in rule.

In E2SHB 1908, the legislature placed a high priority on the provision of consumer centered quality care to adult family home residents by requiring that each resident have a care plan that promotes the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice. The legislation stressed the values of choice and self-determination by mandating that each resident be accorded the right to participate in the development of the care plan and in other major decisions involving the resident and his or her care.

E2SHB 1908 enhances the viability of and quality of care in adult family homes by authorizing the use of nurse delegation in licensed homes. Conditions and requirements for nurse delegation implementation are defined with the intent of allowing residents to remain as independent as possible while maintaining maximum safeguards to quality of care and resident well-being.

E2SHB 1908 also authorizes the implementation of unannounced inspections to ensure that adult family homes and providers are in compliance with the provisions of chapter 70.128 RCW. The department is directed to inspect licensed homes at least every eighteen months, subject to available funds. Providers must develop corrections for violations found by inspections and the department is to include those corrections in the inspection report. The legislation also allows the department to provide consultation and technical assistance in the development of effective corrective measures.

The legislation also requires the department to have a toll-free telephone number for receiving complaints regarding adult family homes. It also broadens the enforcement actions available to the department including the imposition of reasonable conditions on a license, the assessment of civil penalties, and the use of stop placement orders.

Finally, E2SHB 1908 makes willful interference with representatives of the state's long-term care ombudsman program a violation subject to a mandatory one thousand dollar fine.

The legislature expected and the department believes that outcome oriented consumer focused standards and an effective quality assurance program will lead more consumers to choose adult family homes as a community residential care option. Barriers to operating multiple facilities were removed by the 1995 legislature and should make adult family homes a more appealing business opportunity to providers who want to be licensed to operate more than one home.

#### **Who is Affected?**

The entities affected by these regulations are all licensed adult family homes in Washington state and are listed with the Department of Revenue under SIC number 8361-Residential Care. There are over 1,850 licensed adult family homes in Washington state and those homes provide services

and care to over 8,000 persons. Over 130 new homes were licensed in the last four months of 1995. Approximately 2,700 adult family home residents receive public funds for their cost of care.

#### **Are Small Businesses Disproportionately Affected?**

In reviewing the adult family home industry, we determined that the vast majority of licensed providers in Washington state satisfy the definition of a small business found in RCW 19.85.020; "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees." All providers in the industry will be equally impacted by these regulations, and therefore, no disproportionate affect will result.

#### **Industry and Public Involvement**

Throughout the rule-making process, the department has placed a high priority on obtaining input and feedback from stakeholders, providers, consumers, and the public. Over 2,000 copies of public draft regulations were mailed out for review and comment, including copies to every licensed adult family home provider in Washington state. Notice of public meetings and procedures for submitting written comments were included with the draft regulations to promote and facilitate maximum public participation in the process.

In November 1995, six public meetings were conducted across the state to solicit comments and recommendations regarding the draft regulations. Meeting sites included Spokane, Tri-Cities, Bellevue, Vancouver, Tacoma, and Bellingham, and all the meetings were extremely well attended. Three meetings with stakeholders were also held to resolve some of the more difficult issues in the draft regulations. In addition, a separate meeting was held with consumer advocates for persons with developmental disabilities to listen to and address their unique concerns. Another meeting was conducted to obtain comments from persons with hearing impairments.

As directed by the legislature, Aging and Adult Services Administration (AASA) also involved DSHS's Divisions of Developmental Disabilities and Mental Health, as well as the Attorney General's office in the rule-making process. In particular, AASA worked very closely with the Division of Developmental Disabilities (DDD) as many of their clients reside in adult family homes. Meetings were initiated with DDD early in the rule-making process to obtain input regarding the development of rules to govern specialty adult family homes that would be working with residents with developmental disabilities. Special meetings and discussions occurred with DDD and their advocate groups to discuss their recommendations and concerns regarding the rules.

In response to public meeting comments, written comments, and input from the meetings described above, numerous changes have been made to the draft regulations. AASA is mailing a copy of these proposed rules to the entire adult family home mailing list, which currently numbers over 2100.

#### **The Proposed Regulations**

The major sections from the proposed regulations follow with a summary of each individual section. The summary describes what the requirements are, their costs and benefits, an overview of public comments received regarding that particular section, and changes that were made in response to public comments, including mitigation of requirements that were in or considered for inclusion in the initial draft regulations.

## Licensing Standards

### Requirements

SSB 5799 and E2SHB 1908 mandate the development of quality adult family homes which have the capability to deliver appropriate personal care and special care services to residents. Following clear statutory mandate, the purpose of the licensing section of the proposed adult family home rules is to assure that applicants who are granted an adult family home license have the qualities necessary to provide needed services to residents. The proposed rules are designed to identify and screen out unqualified applicants.

The rules identify specific criteria which may or shall be used to deny an applicant's initial or renewal application for an adult family home license. For example, license denial, suspension, revocation, or nonrenewal must occur if the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been convicted of crimes against children and other persons, or crimes relating to financial exploitation as defined under RCW 43.43.830 and 43.43.842. Such license action is also required for other convictions of abuse and exploitation of children, persons with developmental disabilities, and vulnerable adults. The proposed rules also make a license subject to these actions if someone living in the adult family home or having unsupervised access to residents has been convicted of abuse or exploitation. SSB 5799 provides for mandatory license denial when the applicant has a history of significant noncompliance with federal or state regulations in providing care or services to vulnerable adults or children. Instances of "significant noncompliance" are set forth in the proposed rules.

The proposed rules provide that a license application may be denied if the applicant has unlawfully operated or had revoked or suspended a license to operate a hospital or facility for the care of children or vulnerable adults. Other reasons for which a license may be denied, suspended, revoked, or not renewed include such things as fraudulent acquisition of a license, misappropriation of resident property, and interference with department representatives and ombudsmen in the performance of their duties.

SSB 5799 authorized the department to establish licensing standards for multiple facility and corporate providers, including educational standards for multiple facility providers. Accordingly, the proposed rules establish additional, more rigorous criteria which must be satisfied before a provider will be licensed to operate multiple adult family homes. Before being licensed to operate more than one adult family home, an applicant must have successfully operated one home for at least a year or submit satisfactory evidence of the capacity to operate more than one home. A poor credit history can be the basis for a license denial for a provider who operates more than two homes.

Multiple facility providers are also required to complete forty-eight hours of residential care administrator's training including but not limited to such topic areas as business planning and marketing, human resource planning, working with the elderly, nutrition and food service, and resident rights. In addition, multiple facility providers must have a qualified resident manager for each home and no resident manager may manage more than one adult family home.

The proposed rules provide that an adult family home may, under specified conditions, be designated as a "specialty" home to serve and meet the needs of persons with developmental disabilities, mental illness, or dementia. The primary requirement for a "specialty" designation is satisfactory completion of a department approved specialized training program in addition to the basic training required of all providers.

### Costs

- While the expense of residential care administrator's training will have a cost impact on multiple facility providers, this requirement is mandated by statute.
- Credit history checks for providers who operate more than two adult family homes will not result in any increased cost to providers.
- Implementation of unannounced inspections will have no fiscal impact to adult family home providers.
- Providers would incur additional training expenses to satisfy the requirements for designation as a specialty adult family home. However, designation as a specialty home is voluntary and is not required by these proposed regulations.

### Benefits

- The training requirements specified for multiple facility providers should help promote the success of these providers. Such training should enable providers to be better prepared for the complexities and demands of operating multiple adult family homes. More highly skilled and trained multiple facility providers will translate into consistently high quality services to residents.
- It is expected that the licensing standards defined in these regulations will screen out unqualified applicants and assure that only those providers with the capacity to meet resident needs are licensed and remain in business.
- Screening out unqualified providers during the initial application process means the department will have to devote less time and resources to corrective action activity and reduces the likelihood that residents will be at risk in lower quality adult family homes.

### Mitigation

The most frequently heard concern at public meetings and in written comments was regarding the use of a poor credit history as a basis for denying a license application. There was strong opposition to the concept of using an applicant's poor credit history as a basis to deny an adult family home license. We often heard the opinion that a poor credit history was not necessarily a reliable indicator of an applicant's capacity to operate an adult family home. Concern was expressed that otherwise qualified applicants could be refused a license for such things as an ex-spouse's

poor credit history or an occasional failure to make timely credit card or loan payments due to unavoidable periods of unemployment.

In response to these comments and concerns, language in the draft regulations was changed so that credit history would only be a consideration for multiple facility providers who operate more than two adult family homes. Language was also modified to specify that a poor credit history could only be a basis for denial if that history was directly related to the provider's ability to care for vulnerable adults. Based upon experience, aging and adult services believes that as a provider expands to operate multiple facilities, there is a greater need to demonstrate financial solvency and sound fiscal management skills and practices. When a provider's growth rate exceeds its financial resources and management skills, higher numbers of residents become at risk in terms of meeting basic needs (e.g., maintenance of adequate food supplies, regular payment of utility bills). Under these circumstances, residents' health and well-being are jeopardized and relocation may become necessary. For such providers, credit history could be one indicator of their financial capacity to meet the basic needs of residents in their care.

In the initial draft rules, all the reasons defined which could or would result in a license denial, suspension, revocation, or nonrenewal applied to the applicant or any partner, officer, director, managerial employee or owners of five percent or more of the applicant. A significant number of public responses stated that it was excessive and too restrictive to apply some of these criteria to someone with a relatively low interest in the entity applicant, such as a five percent owner. In response to these comments, the proposed rules have been amended so that many of the license denial criteria will apply to "owners who own fifty percent or more of the applicant or who exercise control over daily operations." As mandated by the statute, the department will deny a license if five percent owners have a history of significant noncompliance in providing care or services to vulnerable adults or children.

Public comments, both written and from the public meetings, revealed strong opposition to the requirement to have license applications notarized. It was felt that notarization was an unnecessary bureaucratic step. This requirement has been eliminated from the proposed WACs.

Feedback from the public was also negative regarding the draft rule requiring multiple facility and entity providers to provide evidence of sufficient financial resources to operate an adult family home for sixty days. Commentors indicated that this was not necessarily an accurate indicator of a provider's financial capacity to operate an adult family home. It was argued that cash flow demands could make it difficult to always have sixty days operating expenses on hand. This requirement could therefore eliminate otherwise capable providers from operating an adult family home and inhibit the development and growth of a needed resource. The department found these arguments valid and persuasive and deleted the requirement from proposed regulations.

Strong opposition was also voiced concerning the requirement that multiple facility providers have professional bonding for at least one hundred thousand dollars. It was felt this would be an unnecessary expense for providers without any positive benefit or outcome. Provider associa-

tions recommended it would be much more beneficial to residents and providers to mandate the acquisition of professional liability insurance. In response, the department eliminated professional bonding from the proposed rules and added a requirement for liability insurance.

In SSB 5799, the 1995 legislature directed the department to develop adult family home license levels based upon the education, training, and caregiving experience of licensed providers and staff. During the rule development process, various options for license levels were discussed with stakeholders, providers, advocates, and department staff. Two options for consideration were included in the initial draft regulations, one of those options being a proposal submitted by the Washington state residential care conference of adult family homes. Comments and recommendations regarding the license level options were widely diverse and no consensus of opinion could be reached. There was strong and widespread opinion that the development of license levels was premature at this time and needed extensive work over a longer period. As a result, the department removed license levels from these proposed rules with the intent of collaborating with the industry and other stakeholders to develop a more acceptable proposal in the near future.

In regard to the residential care administrator's training required for multiple providers, the rules provide great flexibility. The rules specify only the topics that must be covered and the timeline for doing so, and do not mandate a specific training program. Early in the rule-making process, consideration had been given to requiring the successful completion of a specific training curriculum. The department decided that such a requirement was unreasonably restrictive and could result in higher costs to providers.

The department also sought to mitigate the proposed licensing regulations by eliminating or reducing some of the requirements found in current WAC. For example, adult family homes are no longer limited in the number of residents they can admit who are nonambulatory or who have physical or mental handicaps. Instead, the proposed rules state that the provider shall not admit a resident unless the provider can meet the resident's assessed needs and that the resident's admission will not adversely affect the provider's ability to meet the needs of other residents in the home. This language eliminates arbitrary admission restrictions placed upon providers who have the capacity to serve multiple residents with more complex, acute needs.

The department also deleted the requirement that the provider or resident manager live in the home and be available twenty-four hours a day. Under the proposed rules, the provider or resident manager does not have to live in the home if the home has twenty-four-hour staffing coverage and if a qualified staff person who can make needed decisions is always present. Also eliminated was the provision allowing the department to deny a license on the basis of a provider's employment outside the adult family home.

## **Resident Rights and Service Standards**

### Requirements

The intent of the proposed regulations regarding resident rights and services is to promote the availability and delivery of services in a homelike environment for persons with a

range of service needs, preferences, and functional capacities, and for the protection of the resident's exercise of rights granted under law.

The service requirements defined in the proposed regulations reflect the statutory requirements found in E2SHB 1908 which emphasizes the values of choice, self-determination, dignity, individuality, and quality of life.

The proposed rules require providers to have a current assessment of resident needs and preferences. Based upon this assessment, the provider must develop a negotiated service plan that encourages and respects resident participation, involvement, and choices, including the resident's right to accept or refuse service plan recommendations. Assessments and service plans must be reviewed and revised only when needed or at the resident's request.

Parameters for the implementation of nurse delegation in adult family homes are defined as allowed by E2SHB 1908. Penalties for violations of nurse delegation requirements are also prescribed.

SSB 5799 addresses quality of life values by mandating adult family home providers to offer activities to residents as defined by the department in rule. These proposed rules state that adult family homes shall provide and promote opportunities for the resident to participate in activities of the resident's choice which are consistent with identified resident needs and functional capacity. Resident preferences also must be considered in deciding what foods will be served and in the process of meal planning and scheduling.

The resident rights requirements state that adult family homes must comply with the provisions of chapter 70.129 RCW, Long-term care resident rights, including the prohibition on using physical and chemical restraints. Adult family homes have been subject to this statute since 1994. Providers are also required to disclose certain information prior to a resident's admission, including the home's policies regarding refunds and deposits. Providers are prohibited from asking or requiring residents to waive any of their rights as a condition of admission.

#### Costs

- There will be some additional costs to complete resident assessments for providers admitting residents whose cost of care is not paid for with public funds. The department completes an assessment for publicly funded clients. For private pay residents, costs will range from value of the time it takes a provider to complete an assessment, to the cost of having an outside professional complete an assessment. Many providers already perform this assessment and for those providers, there will be no additional cost.
- The requirement to offer resident activities is mandated by SSB 5799 and should result in only minimal cost increases, if any. The primary change here would involve a redirection of staff time and emphasis to identify resident preferences regarding activities. Most adult family homes already have at least a minimum of activities available to residents.
- The increased focus required upon resident choice and preferences regarding food services and service planning should also result in only minimal cost increase to providers. Again, these costs can be minimized by a redirection of staff time and emphasis devoted to the

statutory requirements to consider and respect resident choice and self determination.

#### Benefits

- Higher consumer satisfaction and quality of life due to increased emphasis placed upon resident involvement and choice regarding activities, food services, and service planning.
- Increased viability and desirability of adult family homes as a homelike, long-term care option. Less resident turnover in adult family homes due to increased resident satisfaction.
- Enhanced quality of care and service delivery resulting from the development of service plans based upon accurate assessment of resident needs.
- Reduction in staff time devoted to managing difficult resident behaviors resulting from inaccurate or incomplete assessments, service plans poorly designed to meet resident needs, and quality of life dissatisfaction when resident choices and preferences are not considered.
- Increased likelihood of successful and mutually satisfactory admissions resulting from the disclosure of comprehensive information regarding the adult family home before the resident's admission. Such information will allow a prospective resident to make more informed decisions regarding which adult family homes are most suitable to the resident's needs and preferences.
- It is expected that nurse delegation will enhance the viability and quality of care in adult family homes. It should facilitate residents remaining as independent as possible while maintaining maximum safeguards to quality of care and resident well-being.

#### Mitigation

The department originally considered assessment and service plan requirements which were more comprehensive and prescriptive than those in the proposed rules. However, early in the rule-making process concern arose that if requirements were made too prescriptive, the homelike quality of adult family homes could be compromised.

Written comments and public meeting feedback expressed some anxiety that some of the draft rule requirements were too similar to those expected of more institutional settings like nursing homes.

With the above comments and concerns in mind, the department has attempted to minimize and simplify assessment and service plan requirements without jeopardizing the provision of needed services and quality care to residents. Changes that were made are noted below.

The draft regulations required that at the time of the resident's admission, providers obtain, from the resident's physician, information needed to provide care. Feedback from the public indicated that information necessary to the provision of care is usually available and obtained from other sources. People indicated that it generally was very difficult to obtain information from physicians. In response, the department deleted this requirement from the proposed rules.

The draft rules also required that the assessment describe the resident's "psychosocial functioning." Confusion was expressed regarding what this meant and the intent and value of this requirement. Some people thought the rule

was too broad and vague in addition to being too similar to nursing home requirements. It was dropped from these proposed rules.

Under the draft rules, providers were required to include a plan of activities in the resident's service plan. Public comments reflected the belief that this requirement was excessive, would generate additional paperwork for providers, and could negatively impact the more spontaneous, less regimented atmosphere of adult family homes. The department compromised by reducing this requirement in the proposed rules. Instead of requiring a specific plan of activities, the proposed rules now only ask that providers identify a resident's preferred activities in the resident's assessment.

Assessment and service plan review and revision requirements have been made minimal in order to mitigate provider time and costs. Programs such as nursing homes and assisted living must review and update assessments and service plans within prescribed time frames. These proposed rules require adult family home providers to review and revise assessments and service plans only as needed or at the resident's request.

The department helps reduce a provider's cost by assuming the responsibility to complete all assessments for residents whose cost of care is paid for with public funds. In addition, the department makes assessment forms available to providers which can be used for residents who pay for their care with private funds.

Strenuous objections were raised, both in writing and at public meetings, regarding the draft rule requirements to post weekly menus and for staff who prepare food to have food handler's permits. It was argued that such requirements would institutionalize adult family homes and that they disregarded the day-to-day reality of planning and serving meals to small groups of people in a homelike setting. The department found these objections and concerns valid and eliminated both requirements from the proposed rules.

## General Training Requirements

### Requirements

All caregivers must complete the department designated twenty-two-hour fundamentals of caregiving training, and ten hours of continuing education credits per calendar year on topics relevant to caregiving.

Adult family homes that choose to use nurse delegation as a part of their program, must ensure that staff successfully complete the department designated nine-hour nurse delegation training before performing any delegated nursing tasks.

### Costs

- The cost of the fundamentals of caregiving training is approximately \$88 per employee.
- The cost of continuing education is estimated at approximately \$40 per employee annually.
- The cost of nurse delegation training is estimated at approximately \$36 per staff person who will be performing any delegated nursing task.
- For adult family homes that have a contract with the department to serve state clients, the department will reimburse the homes through an enhancement in their rate to cover the share of the cost of the caregiver

training associated with the proportion of residents who are state clients.

- There may be a cost for replacement staff when others attend training.

### Benefits

- By complying with these training requirements adult family homes will have better trained staff and be able to provide better care to residents, hopefully encouraging more consumers to choose adult family homes as their preferred residential care option.
- Having trained staff is expected to cause more job satisfaction and therefore, less costs from staff turnover. It is also expected to result in fewer problems identified when the provider is inspected, and therefore, less staff time to correct.
- Nurse delegation can be a very cost-effective method for service delivery as it allows nursing tasks to be performed by nonnursing staff. This means that adult family home staff (who have completed the nurse delegation training module and who agree to follow detailed protocols) can have specified nursing tasks delegated to them by a registered nurse.

### Mitigation

At the public meetings, providers told us that it will be difficult to send all of their staff to caregiver training and provide the coverage needed to serve residents. They also said that nurses and those who had successfully completed certified nurse aide training should not be required to take the entire caregiver training program. It was also suggested that we not require completion of the full caregiver training for persons who had already completed the department approved adult family home training program or an approved personal care training program. In response to their comments the changes listed below were made.

The time frame for completion of the fundamentals of caregiving training was increased from ninety days to one hundred twenty days for staff hired after the effective date of this chapter.

The time frame for completion of the fundamentals of caregiving training for staff hired prior to the effective date of this chapter was extended to March 1, 1997.

The fundamentals of caregiver training and the first year continuing education requirement were waived for registered or licensed practical nurses, physical or occupational therapists, nursing assistants certified, and for those who have successfully completed the department approved adult family home training or personal care training from an area agency on aging or its subcontractor. Instead, these caregivers only need to complete a ten-hour modified fundamentals of caregiving training course.

It should be mentioned that we heard from some commentors who were opposed to waiving the fundamentals of caregiving training. They also felt that twenty-two hours was much too short for a thorough and effective training class.

## Administration

### Requirements

SSB 5799 requires that providers ensure that adult family home staff are competent and receive necessary training to perform assigned tasks. The proposed rules include this requirement and state that the provider is responsible for ensuring the adult family home's compliance with state law.

SSB 5799 also subjects providers to the provisions of the Uniform Disciplinary Act and requires that they register with the Department of Health (DOH). This requirement is included in the proposed rules and states that providers must register with DOH.

A new requirement which was suggested and supported by the Washington state residential care conference of adult family homes (WSRCC) is mandatory liability insurance coverage. WSRCC argued and the department concurs that such insurance coverage is vital to the protection of both residents and providers and is an important element in making the adult family home industry a viable long-term care option. The proposed rules require liability insurance of at least \$300,000 per occurrence to cover damage or loss of resident property or injury or harm to the resident. Single home providers are given until January 1, 1997, to obtain this coverage.

RCW 70.128.007 encourages the establishment of adult family homes that are safe and that are subject to regulatory standards that adequately protect residents. To this end, the proposed rules include requirements for providers to maintain a seventy-two-hour emergency supply of food and water.

E2SHB 1908 requires the department to maintain of a toll-free telephone number for receiving complaints regarding adult family homes. The proposed rules state that providers must immediately notify this toll-free number of any incidents involving allegations of resident abuse, neglect, exploitation, or abandonment.

The proposed rules also specify standards for resident records, infection control, criminal background inquiries, and advance directives and decision making. None of these rules are substantively different from requirements found in current regulations. The only new requirement is that the provider must keep a person's background inquiry for twelve months following that person's employment termination.

A new section has been added to these rules describing liquidation or transfer procedures for resident funds when a resident dies or is absent from the adult family home for an extended period without notification.

### Costs

- The cost for providers and resident managers to register with the Department of Health is expected to be \$55 annually. This is, however, a statutory, not a regulatory mandate.
- The primary cost item under the administration requirements will be liability insurance coverage. While this is a new requirement, many adult family homes already have insurance coverage and should therefore experience little if any cost impact. The average homeowner's insurance coverage for the minimum of \$300,000

will cost providers approximately \$800 per year. Professional liability coverage for injury or harm to residents related to services provided would cost approximately \$250 additional per year. The actual cost impact to each provider will depend on the provider's current insurance coverage status.

- Most adult family homes already maintain food and water supplies sufficient to meet resident needs in a seventy-two-hour emergency. It is not expected that this requirement will have more than a minimal cost impact to providers.
- The development of written procedures for disasters and emergencies is expected to require a one-time commitment of administrative time that will incur minimal cost.
- The requirement to keep criminal background inquiries twelve months following an employee's termination should have a minimal cost impact. Any additional costs will be associated with the need for storage space and supplies such as file folders.

### Benefits

- The statutory requirement for Department of Health registration helps to further professionalize the adult family home industry and adds another mechanism for quality assurance.
- The requirement for liability insurance should be mutually beneficial to adult family home residents and providers. Residents are afforded protection and an avenue for recourse in the event of injury or harm or the damage or loss of property resulting from the provider's action or inaction. Liability insurance and its protections will also make adult family homes a more attractive residential option to consumers. It is also expected to improve the professional image of the adult family home industry and serve to make the lowest possible insurance rates available to all providers.
- The vulnerable populations served by adult family homes have a diminished ability to provide for themselves in an emergency. An emergency food and water supply will help ensure that the health and safety of residents are protected in emergency situations.
- Written procedures for disasters and emergencies will help ensure maximum resident protection and safety. Such procedures will promote staff competence and consistency in assisting residents during an emergency.
- The availability of past criminal background inquiries can be vital when the department must investigate allegations of abuse, neglect, and exploitation. Without this information, investigations could be incomplete resulting in weakened, compromised resident protection.

### Mitigation

The draft rules stated that caregivers must be at least sixteen years of age. Current regulations require that caregivers be at least eighteen years old. Advocate groups defended the current regulation and strongly argued that sixteen years of age was too young and could result in poor care and unnecessary risk to residents. Proposed rules were amended to require that caregivers be at least eighteen years of age.

Draft rules stated that "legal documents" must be kept in the resident's record. Public comments indicated that



this was nebulous and unclear. The proposed rules were changed and attempt to clarify by adding examples of "legal documents" to include powers of attorney, advance health care directives, and guardianship papers.

Public feedback stated that the draft rule requirement for monthly disaster and emergency drills was excessive and inconsistent with another rule requiring fire drills every other month. This requirement was eliminated from these proposed rules.

Numerous public comments objected to the requirement that providers immediately contact local emergency medical services in the event of a resident medical emergency. Some people argued that such action could be contrary to a resident's advance health care directive. The department's position is that only certain health care practitioners are qualified to determine whether or not specific actions are consistent with a person's advance health care directive. In response, the department modified this requirement to exempt licensed physicians and registered nurses from its provisions.

The department also attempted to mitigate proposed rules governing adult family home management and administration by reducing or eliminating some requirements found in current WAC. For example, the department has eliminated mandatory staffing levels or ratios when five or six residents live in a home. Also deleted was the requirement for a twenty-four per day assistant when more than one nonambulatory resident lives in the home. The elimination of these requirements will give providers more flexibility and control in staffing their homes at the level necessary to meet resident needs.

These rules also propose to eliminate the requirement that relief care must be provided for resident managers on a weekly basis, leaving that as a management decision.

In addition, circumstances and information that a provider must report to the department have been lessened. For example, providers will no longer have to report employment of new staff to the department.

The department has also attempted to balance any new requirements for written policies and procedures by eliminating current requirements where possible. For example, the proposed rules require providers to develop written policies and procedures to meet potential emergencies and disasters. To mitigate this requirement, current rules to have written policies and procedures including first aid, care of minor illnesses, and general health practices have been deleted.

## Remedies and Dispute Resolution

### Requirements

As mandated by statute, the department has outlined actions that may be taken when an adult family home does not comply with this chapter and lists enforcement remedies that are available for problems that are serious, recurring, or that have been uncorrected.

### Costs

- The regulations in this section are mandated by statute and do not themselves add any cost.

### Benefits

- Compliance with the regulations focus on consumer satisfaction and positive outcomes for residents, not on paperwork compliance. We expect that compliance will assure consumers that quality care is being provided, thereby encouraging demand for these services.

### Mitigation

There were relatively few questions raised at the public meetings concerning the remedies section. Additionally, the department has established in the proposed regulations an informal dispute resolution process for providers that disagree with the department's findings.

## Physical Plant Requirements

### Requirements

The intent of the proposed regulations pertaining to physical plant requirements is to satisfy the statutory mandate that adult family homes provide a humane, safe, and homelike environment subject to regulatory standards that adequately protect residents. The proposed rules represent only minor changes to regulations currently in effect.

Compared to current regulations, the only new requirement which is significant is the rule that providers give residents lockable storage space or a lockable storage container if requested by the resident.

### Costs

- The requirement to provide lockable storage space or a lockable container could result in a one-time expense to providers of up to fifty dollars per resident.

### Benefits

- Increased safety and security for resident belongings. Should make adult family homes a more attractive residential option because of the availability of a means to protect possessions important to residents.

### Mitigation

Some persons questioned whether language in the draft rules intended that fire extinguishers be located at each exit of the home. It was felt that such a requirement did not promote a homelike environment and that fire extinguishers so located could be obstructions. In response, language in the proposed rules was modified to allow more flexibility in the location of the fire extinguishers.

Comments received reflected the view that requiring plug-in rechargeable flashlights was too prescriptive. This rule was loosened to allow for emergency lighting devices, such as flashlights, that are in working order and available to residents.

The draft rules prohibited providers, resident managers, or family members from sleeping in areas designated as living areas. Some commentors felt this was too restrictive and prevented staff from sleeping in living areas under any circumstances. In response, the department changed the wording in the proposed rules to prohibit "common use areas" from being used as bedrooms.

Concerns were raised that the draft rules requirement to provide residents a bed at least thirty-six inches wide



eliminated the flexibility for residents to provide their own beds, including alternate types such as futons or waterbeds. The proposed rules have been amended to allow such resident choice.

### Conclusion

The department believes these proposed requirements are equitable, will not disproportionately impact small businesses, and will help ensure that care in adult family homes is of high quality, and is delivered in a manner that recognizes individual needs, privacy, autonomy, and quality of life. Efforts were devoted to developing rules that would preserve the homelike qualities of adult family homes and not subject them to the more prescriptive requirements suitable to institutional settings. We are optimistic that these proposed requirements will help achieve the 1995 legislature's mandate to expand cost-effective long-term care in residential settings where the delivery of services upholds the values of choice, individuality, independence, dignity, and privacy. The rules are designed to promote these values in an environment that also ensures resident safety and protection. It is expected that the implementation of these rules will help to increase business for adult family homes by making them a more viable and attractive residential care option to consumers.

A copy of the statement may be obtained by writing to Sherrill Mitchell, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 493-2631, FAX (360) 438-7903.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is exempt from this provision.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on May 10, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by April 26, 1996, (360) 664-2954, or TDD (360) 664-2136.

Submit Written Comments to and Identify WAC Numbers: Merry A. Kogut, Supervisor, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504-5800, FAX (360) 664-0118, by May 3, 1996.

Date of Intended Adoption: May 21, 1996.

March 1, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

The rules in this chapter apply to licensing adult family homes and replace any rules on licensing adult family homes found in previous editions of chapter 388-76 WAC.

## PART I AUTHORITY AND DEFINITIONS

### NEW SECTION

**WAC 388-76-535 Authority.** The following rules are adopted under RCWs 70.128.040, 70.128.060, 70.128.120, 70.128.130, 43.43.842, 18.88A.210, and 18.88A.230.

### NEW SECTION

**WAC 388-76-540 Definitions.** (1) "Abandonment" means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means a nonaccidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a person through action or inaction by another individual.

(3) "Adult family home" means the same as the definition in RCW 70.128.010.

(4) "Applicant" means an individual, partnership, corporation, or other entity seeking a license to operate an adult family home.

(5) "Capacity" means the maximum number of persons in need of personal or special care permitted in an adult family home at a given time. This number shall include related children or adults in the home who receive special care.

(6) "Caregiver" means any person responsible for providing direct personal care to a resident and may include but is not limited to the provider, resident manager, employee, relief caregiver, volunteer, student, or household member.

(7) "Case Manager" means the department staff person or designee assigned to negotiate, monitor, and facilitate a service plan for residents receiving services fully or partially paid for by the department.

(8) "Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms.

(9) "Department" means the Washington state department of social and health services.

(10) "Entity provider" means any corporation, partnership, association, or limited liability company that is licensed under this chapter to operate an adult family home.

(11) "Exploitation" means the illegal or improper use of a frail elder or vulnerable adult or that person's income or resources, including trust funds, for another person's profit or advantage.

(12) "Frail elder or vulnerable adult" means the same as the definition in RCW 74.34.020.

(13) "Individual provider" means a natural person who is licensed to operate an adult family home.

(14) "Inspection" means an on-site visit by department personnel to determine the adult family home's compliance with this chapter and chapter 70.128 RCW.

(15) "Multiple facility provider" means an individual or entity provider who is licensed to operate more than one adult family home.

(16) "Neglect" means a pattern of conduct or inaction resulting in deprivation of care necessary to maintain a resident's physical or mental health.

(17) "Nursing assistant" means the same as the definition in chapter 18.88A RCW.

(18) "Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs as defined in WAC 388-15-202(38). Personal care services do not include assistance with tasks performed by a licensed health professional.

(19) "Physical restraint" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms.

(20) "Provider" means any person or entity that is licensed under this chapter to operate an adult family home.

(21) "Resident" means any adult unrelated to the provider who lives in the adult family home and who is in need of care. "Resident" includes former residents when examining complaints about admissions, readmissions, transfers or discharges. For decision-making purposes, the term "resident" includes the resident's surrogate decision maker in accordance with state law or at the resident's request.

(22) "Resident manager" means a person employed or designated by the provider to manage the adult family home.

(23) "Special Care" means care beyond personal care services as defined by subsection (18) of this section.

(24) "Unsupervised" means the same as the definition in RCW 43.43.830(8).

## PART II ADULT FAMILY HOME LICENSE

### NEW SECTION

**WAC 388-76-545 License required.** No person or entity shall operate an adult family home without a license under this chapter. An adult family home license is required to provide care to more than one but not more than six adults unrelated to the person(s) providing care in the home.

### NEW SECTION

**WAC 388-76-550 License application—Initial and renewal.** (1) All applications for adult family home licensure or renewal are subject to review under this chapter.

(2) To apply for an adult family home license, an applicant shall complete and submit a license application on department provided forms at least sixty days before the requested effective date of that license.

(3) For renewal of an adult family home license, the provider shall complete and submit a renewal application on department provided forms at least sixty days before the current license's expiration date. The license must be renewed annually to remain valid.

(4) The applicant shall complete the department designated application form providing all information necessary, including information regarding any facilities and homes for the care or provision of services to children or vulnerable adults that the applicant is or has been affiliated with, so the department can determine whether the applicant meets all applicable qualifications and requirements. An entity shall provide this information with regard to any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant.

(5) All entity providers shall include their Uniform Business Identifier (UBI) and Federal Employer Identification numbers on the application.

(6) Married couples may not apply for separate adult family home licenses for each spouse.

(7) The license applicant shall be the person or entity ultimately responsible for the daily operation of the adult family home. The license applicant or the applicant's authorized representative shall sign the adult family home license or renewal application.

(8) An applicant who enters into a lease or contractual agreement with a landlord who takes an active interest in the operation of the adult family home, shall include the landlord's name and address on the license or renewal application. Active interest includes but is not limited to:

- (a) The charging of rent as a percentage of the business;
- (b) Assistance with start up and operational expenses;
- (c) Collection of resident fees;
- (d) Recruitment of residents;
- (e) Management oversight;
- (f) Assessment and negotiated service plan development for residents; or

(g) The provision of personal or special care to residents.

(9) The department shall not commence review of an incomplete license or renewal application, and incomplete applications shall become void sixty days following the department's written request for additional documentation or information to complete the application.

(10) An adult family home license shall be valid for one year.

### NEW SECTION

**WAC 388-76-555 License fees.** (1) The adult family home license fee is fifty dollars per home per year.

(2) The provider shall submit the annual license fee to the department at the time of the application for license renewal. The annual license fee shall be refundable if the department denies the license renewal application.

(3) For the initial licensure of a new adult family home, the license applicant shall submit the annual license fee with the license application. The annual license fee shall be refundable if the department denies the license application.

(4) Applicants completing an initial license application shall submit a fifty dollar processing fee with the application in addition to the required annual license fee payment. The processing fee is nonrefundable.

### NEW SECTION

**WAC 388-76-560 License eligibility—Initial and renewal.** (1) The department shall consider separately and jointly as applicants each person and entity named in an application for an adult family home license. If the department finds any person or entity unqualified, the department shall deny the license.

(2) In making a determination whether to grant an adult family home license, the department shall review:

- (a) The information in the application; and
- (b) Other documents and information the department deems relevant, including inspection and complaint investigation findings in each facility or home for the care or provision of services to children or vulnerable adults with which the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant is or has been affiliated with in the last ten years.

(3) The applicant and the home for which the license is sought shall comply with all requirements established by chapter 70.128 RCW and this chapter. The department may deny a license for noncompliance with any such requirements.

(4) An individual provider shall be twenty-one years of age or older and all providers shall be registered with the department of health as required by RCW 70.128.120.

(5) The department shall deny a license if an applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant has a history of significant noncompliance with federal or state regulations in providing care or services to vulnerable adults or children. The department shall consider, at a minimum, the following as a history of significant noncompliance requiring denial of a license:

(a) Revocation or suspension of a license for the care of children or vulnerable adults;

(b) Enjoined from operating a facility for the care of children or adults; or

(c) Revocation, cancellation, suspension, or nonrenewal of a Medicaid or Medicare provider agreement, or any other agreement with a public agency for the care or treatment of children or vulnerable adults.

(6) The department shall deny, suspend, revoke, or refuse to renew a license if an applicant or any partner, officer, director, managerial employee, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations has been:

(a) Convicted of a crime against a person as defined under RCW 43.43.830 and RCW 43.43.842;

(b) Convicted of a crime relating to financial exploitation as defined under RCW 43.43.830 and RCW 43.43.842;

(c) Found by a court in a protection proceeding under chapter 74.34 RCW to have abused or financially exploited a vulnerable adult;

(d) Found in any final decision issued by a disciplinary board to have sexually or physically abused or exploited any minor or a person with a developmental disability or to have abused or financially exploited any vulnerable adult;

(e) Found in any dependency action under RCW 13.34.030 (2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor; or

(f) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor.

(7) The department shall deny, suspend, revoke, or refuse to renew a license if any person who lives in the home or who has unsupervised access to residents meets any of the criteria defined under subsection (6) of this section.

(8) The department may deny, suspend, revoke, or refuse to renew a license if an applicant or any partner, officer, director, managerial employee, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations has:

(a) Obtained or attempted to obtain a license by fraudulent means or misrepresentation;

(b) Permitted, aided, or abetted the commission of any illegal act on the adult family home premises;

(c) Been convicted of a felony or a crime against a person if the conviction reasonably relates to the competency of the person to own or operate an adult family home;

(d) Had sanction, corrective, or remedial action taken by federal, state, county, or municipal health or safety officials related to the care or treatment of children or vulnerable adults;

(e) Engaged in the illegal use of drugs or the excessive use of alcohol;

(f) Operated a facility for the care of children or adults without a license;

(g) Failed to meet financial obligations as the obligations fell due in the normal course of business;

(h) Misappropriated property of residents;

(i) Been denied a license or license renewal to operate a facility that was licensed for the care of children or vulnerable adults;

(j) Relinquished or returned a license in connection with the operation of any facility for the care of children or vulnerable adults, or did not seek the renewal of such license, following written notification of the licensing agency's initiation of denial, suspension, cancellation or revocation of the license;

(k) Had resident trust funds or assets of an entity providing care to children or vulnerable adults seized by the IRS or a state entity for failure to pay income or payroll taxes;

(l) Refused to permit authorized department representatives to interview residents or have access to resident records;

(m) Interfered with a long term care ombudsman in the performance of his or her official duties; or

(n) Exceeded licensed capacity in the operation of an adult family home.

(9) The department shall not issue an adult family home license to an applicant who is licensed to care for children in the same home unless:

(a) It is necessary in order to allow a resident's child(ren) to live in the same home as the resident or to allow a resident who turns eighteen to remain in the home;

(b) The applicant provides satisfactory evidence to the department of the home's capability to meet the needs of children and adults residing in the home; and

(c) The total number of persons receiving care in the home does not exceed the number permitted by the licensed capacity of the adult family home.

#### NEW SECTION

**WAC 388-76-565 Resident manager and live-in requirements.** (1) The adult family home provider shall either:

(a) Reside at the adult family home; or

(b) Employ or otherwise contract with a qualified resident manager who resides at the adult family home and who is responsible for the care of residents at all times.

(2) An entity provider must designate a qualified resident manager.

(3) The provider or resident manager shall be exempt from the requirement to live at the adult family home if:

(a) The adult family home has twenty-four hour staffing coverage; and

(b) A qualified staff person or caregiver who can make needed decisions is always present.

(4) Multiple facility providers shall have a qualified resident manager for each adult family home who is responsible for the care of residents at all times. Resident managers may not manage more than one adult family home.

(5) A resident manager shall be twenty-one years of age or older.

#### NEW SECTION

**WAC 388-76-570 Additional license requirements—Multiple facility providers.** (1) The department shall not issue a license to a provider to operate more than one adult family home unless:

(a) The applicant has operated an adult family home for at least one year in this state without any significant violation of the rules of this chapter; or

(b) The applicant has submitted evidence demonstrating that it has the capability to operate multiple adult family homes.

(2) An applicant that is applying to be licensed for more than one adult family home shall submit to the department for each adult family home:

(a) A twenty-four hour per day, seven days per week, staffing plan; and

(b) A plan for covering administrative responsibilities.

(3) The department may consider the applicant's credit history in determining whether to license the applicant for more than two adult family homes.

(4) When operating two or more adult family homes, a provider shall successfully complete forty-eight hours of residential care administrator's training, including training in at least the following areas:

(a) Business planning and marketing;

(b) Fiscal planning and management;

(c) Human resource planning;

(d) Resident health services;

(e) Nutrition and food service;

(f) Working with people who are elderly, chronically mentally ill, or developmentally disabled;

(g) The licensing process;

(h) Social and recreational activities;

(i) Resident rights;

(j) Legal issues;

(k) Physical maintenance and fire safety; and

(l) Housekeeping.

(5) A provider who is operating more than one adult family home prior to the effective date of this chapter, shall have until June 1, 1997 to complete the residential care administrator's training.

(6) A provider who applies for a license to operate more than one adult family home on or after the effective date of this chapter, shall complete the residential care administrator's training prior to operating more than one family home.

#### NEW SECTION

**WAC 388-76-575 Licensing of state employees.** (1) Aging and adult services administration employees and any member of an employee's household shall be prohibited from obtaining an adult family home license.

(2) Department employees and any member of the employee's household shall be prohibited from obtaining an

adult family home license when the employee's duties include:

(a) Placement of persons in a licensed adult family home; or

(b) Authorizing payment for such persons.

#### NEW SECTION

**WAC 388-76-580 License capacity.** (1) The department shall license an adult family home for no more than six residents. The license capacity includes:

(a) All unrelated adults who need personal or special care; and

(b) Other household members, including relatives, who receive special care.

(2) The department shall license an adult family home for the care of two to six residents. In determining the appropriate capacity, the department shall consider:

(a) The structural design of the house;

(b) The number and qualifications of staff;

(c) The total household composition, including children and other household members who require personal or special care;

(d) The number of persons for whom the home provides respite or adult day care;

(e) The needs of all persons residing in the home; and

(f) Safe evacuation of all people living in the adult family home.

#### NEW SECTION

**WAC 388-76-585 Change of provider or provider address.** (1) A change of provider occurs when there is a substitution of:

(a) The provider ultimately responsible for the daily operational decisions of the adult family home; or

(b) Control of an entity provider.

(2) Events which constitute a change of provider include but are not limited to the following:

(a) The form of legal organization of the provider is changed (e.g., an individual provider forms a partnership, corporation, or association);

(b) Operational responsibilities are transferred by the initial provider to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the adult family home is also transferred;

(c) Two individuals are both licensed as a married couple to operate the adult family home and an event, such as divorce, occurs which results in only one of the individuals operating the home;

(d) If the provider is a partnership, any event occurs which dissolves the partnership;

(e) If the provider is a corporation, and the corporation:

(i) Is dissolved;

(ii) Merges with another corporation which is the survivor; or

(iii) Consolidates with one or more corporations to form a new corporation;

(f) If the provider is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four month period, fifty percent or more of the stock is transferred to one or more:

(i) New or former stockholders; or

(ii) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(g) Any other event or combination of events which results in a substitution or substitution of control of the provider.

(3) An adult family home license is not transferable and is only valid for the location and provider listed on the license. A change in either the provider or the location requires a new license.

(4) The operation or ownership of an adult family home shall not be transferred until the new provider has been issued a license to operate the home. The new provider shall comply with license application requirements.

(5) The provider shall not commence operation of an adult family home at a new location until the department has approved a license for that location.

(6) The provider shall notify the adult family home's residents, in writing, at least thirty days prior to the effective date of a change of provider or location.

#### NEW SECTION

**WAC 388-76-590 Specialty adult family homes.** (1) Beginning September 1, 1996, an applicant or provider may apply for a designation as a specialty adult family home to serve and meet the unique needs of residents with:

- (a) Developmental disabilities;
- (b) Mental illnesses; or
- (c) Dementia.

(2) An adult family home is not required to have a specialty designation to serve residents identified in subsection (1) above.

(3) **Developmental Disabilities.** To be designated as a home specializing in services to residents with developmental disabilities the provider or resident manager, in addition to complying with all other rules in this chapter, shall:

(a) Complete the department approved supplemental training addressing the residential support needs for persons with developmental disabilities prior to being designated as a specialty adult family home. Training shall include, at a minimum, courses in positive behavior supports addressing behavior as a means of communication, and the division of developmental disabilities residential services guidelines;

(b) Each calendar year, complete a minimum of ten hours of continuing education credits that relates to providing care to persons with developmental disabilities. Training is to be obtained through regional division of developmental disabilities core training courses as offered for community service providers;

(i) The continuing education requirement listed above in subsection (3)(b) shall also qualify for the continuing education requirement in WAC 388-76-660 (2)(c);

(ii) The continuing education requirement begins the calendar year after the year in which the provider or resident manager completes the training listed above in subsection (3)(a); and

(c) Demonstrate an ability to accommodate for communication barriers of residents and recognize how behaviors may be a means for communication.

(4) A home specializing in services to residents with developmental disabilities shall provide the degree of supervision needed by residents and specified in the residents'

negotiated service plans, which may be less than twenty-four hour supervision.

(5) **Mental Illness.** To be designated as a home specializing in services to residents with mental illnesses, the provider or resident manager shall, in addition to complying with all other rules in this chapter:

(a) Complete the department approved specialized mental health training addressing the needs of persons who have a mental illness prior to being designated as a specialty adult family home;

(b) Each calendar year, complete a minimum of ten hours of continuing education credits that relates to mental health issues;

(i) The continuing education requirement listed above in subsection (5)(b) of this section shall also qualify for the continuing education requirement in WAC 388-76-660 (2)(c);

(ii) The continuing education requirement begins the calendar year after the year in which the provider or resident manager completes the training listed above in subsection (5)(a) of this section;

(c) Have a documented crisis response plan in place, know how to access emergency mental health services, and assure all caregivers are knowledgeable and capable of implementing the plan in a crisis; and

(d) Hire qualified caregivers and assure coverage of the home during periods of absence in order to meet residents' identified service needs, and have a documented staffing plan in place at all times.

(6) **Dementia.** To be designated as a home specializing in services to residents with dementia, the provider or resident manager shall, in addition to complying with all other rules in this chapter:

(a) Complete the department approved training course in providing care to persons with dementia prior to being designated as a specialty adult family home;

(b) Each calendar year, complete a minimum of ten hours of continuing education credits that relate to providing care to persons with dementia;

(i) The continuing education requirement listed above in subsection (6)(b) of this section shall also qualify for the continuing education requirement in WAC 388-76-660 (2)(c);

(ii) The continuing education requirement begins the calendar year after the year in which the provider or resident manager completes the training listed above in subsection (6)(a) of this section;

(c) Hire qualified caregivers and assure coverage of the home during periods of absence in order to meet residents' identified service needs, and have a documented staffing plan in place at all times; and

(d) Be designed to accommodate residents with dementia in a homelike environment. The design and environment of the home shall support residents in their activities of daily living; enhance their quality of life; reduce tension, agitation, and problem behaviors; and promote their safety.

NEW SECTION**WAC 388-76-595 Inspections and ombudsman visits.**

(1) The department shall conduct unannounced inspections and complaint investigations to determine the provider's compliance with this chapter and chapter 70.128 RCW.

(2) The provider shall ensure that department staff have access to the home, residents, and all resident records therein and shall not willfully interfere with department staff in the performance of official duties.

(3) The adult family home shall not willfully interfere with a representative of the long term care ombudsman in the performance of official duties, as defined under chapter 43.190 RCW, Long-term care ombudsman program.

(4) The department's inspection report shall be mailed to the provider and made available to the public within ten working days of the inspection of the adult family home. If a provider gives the department a plan of correction for deficiencies, the department shall include a statement of the provider's planned corrective measures in the department's inspection report.

### PART III RIGHTS AND SERVICES

NEW SECTION

**WAC 388-76-600 General resident rights.** (1) The provider shall comply with all requirements of chapter 70.129 RCW, Long-term care resident rights. The provider shall promote and protect the resident's exercise of all rights granted under that law.

(2) The provider shall have written policies for the services provided, house rules, financial arrangements expected, and the home's policy on refunds and deposits. Prior to admitting any resident, the provider shall provide this information to the prospective resident and his or her surrogate decision maker, if applicable.

(3) The provider shall inform the resident both orally and in writing in a language the resident understands when there are changes in:

- (a) House rules governing resident conduct and responsibilities during the resident's stay in the adult family home;
- (b) Services available in the adult family home;
- (c) Charges for available services including charges for services not covered by the home's per diem rate or applicable public benefit programs; and
- (d) Refund and deposit policies.

(4) House rules implemented by the provider shall be reasonable and may not conflict with rights granted to the resident under chapter 70.129 RCW, Long-term care resident rights or this chapter.

(5) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including, but not limited to, his or her medical condition as defined under RCW 7.70.060.

(6) The resident has the right to be fully informed in advance about recommended care and treatment and of any recommended changes in that care or treatment.

(7) The provider shall not require or ask the resident to sign any contract or agreement that waives any rights of the resident.

(8) The resident shall be free from abuse, neglect, abandonment, or financial exploitation.

(9) The provider shall comply with all applicable federal and state statutory requirements regarding nondiscrimination.

NEW SECTION

**WAC 388-76-605 Restraints.** (1) The resident has the right to be free from physical and chemical restraint and involuntary seclusion.

(2) Adult family homes are prohibited from using any and all forms of physical restraint that are used for the purposes of discipline or convenience and are not required to treat the resident's medical symptoms.

(3) The provider shall ensure that the resident is free from chemical restraints which are:

- (a) Used for discipline or convenience; and
- (b) Not required to treat the resident's medical symptoms.

(4) In any situation where a psychopharmacological drug is used for the resident, the provider shall ensure:

- (a) That it is not used for the purpose of discipline or convenience;
- (b) That it has been prescribed by a physician;
- (c) The resident's negotiated service plan provides strategies and approaches to diminish or eliminate use of the psychopharmacological drug, where possible; and
- (d) The resident or surrogate decision maker has given informed consent for its use.

NEW SECTION

**WAC 388-76-610 Resident assessment.** (1) The provider shall not admit a resident unless:

- (a) The adult family home can meet the resident's assessed needs;
- (b) The resident's admission will not adversely affect the provider's ability to meet the needs of other residents in the home; and
- (c) All residents and household members can be safely evacuated in an emergency.

(2) For each resident, the provider shall have a current written assessment which describes the resident's:

- (a) Medical status;
- (b) Strengths and needs;
- (c) Activities preferences; and
- (d) Preferences and choices regarding issues important to the resident (e.g., food, daily routine).

(3) The provider shall:

- (a) Obtain sufficient assessment information to develop a negotiated service plan within fourteen days of the resident's admission; and
- (b) Complete the assessment within thirty days of the resident's admission.

(4) The provider shall ensure that the resident's assessment is reviewed and updated for accuracy:

- (a) As needed; and
- (b) At the resident's request.

**NEW SECTION**

**WAC 388-76-615 Negotiated service plan.** (1) Within fourteen days of the resident's admission the provider shall develop a negotiated service plan with the resident which identifies:

- (a) The services to be provided;
- (b) Who will provide the services; and
- (c) When and how the services will be provided.

(2) The provider shall ensure that the negotiated service plan is:

(a) Designed to meet resident needs currently identified in the assessment; and

(b) Agreed to and signed by the resident or the resident's surrogate decision maker, if applicable.

(3) The negotiated service plan shall be completed with input from:

- (a) The resident to the greatest extent practicable;
- (b) The resident's family, if approved by the resident;
- (c) The resident's surrogate decision maker, if applicable;

(d) Appropriate professionals;

(e) Other individuals the resident wants included; and

(f) The case manager, if the resident is receiving services paid for fully or partially by the department.

(4) The provider shall ensure that the resident's negotiated service plan is reviewed and revised:

(a) As needed;

(b) At the resident's request; and

(c) If changes or additions to assessment information result in significant changes to the resident's identified needs or preferences and choices.

**NEW SECTION**

**WAC 388-76-620 Provision of services and care.** (1) The provider shall ensure that the resident receives necessary services and care to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with resident choice.

(2) The provider shall encourage and promote resident participation in service planning and delivery.

(3) The provider shall respect the resident's right to decide negotiated service plan goals and treatment choices, including acceptance or refusal of service plan recommendations.

(4) The provider shall ensure that resident services are delivered in a manner and in an environment that:

(a) Promotes maintenance or enhancement of each resident's quality of life; and

(b) Reasonably accommodates the resident's individual needs and preferences, except when the health or safety of the resident or other residents would be endangered.

(5) The provider shall ensure that appropriate professionals provide needed services to the resident based upon the resident's assessment and negotiated service plan.

**NEW SECTION**

**WAC 388-76-625 Nurse delegation—Training and registration.** Before performing any delegated nursing task, adult family home staff must:

- (1) Be a nursing assistant certified or registered; and

(2) Attend and successfully complete department designated core delegation training.

**NEW SECTION**

**WAC 388-76-630 Performance of delegated nursing care tasks.** (1) Adult family home staff who have been delegated a nursing care task in compliance with requirements established by the nursing care quality assurance commission shall perform the task:

(a) In compliance with all requirements and protocols established by the commission in WAC 246-840-910 through 246-840-980;

(b) Only for the specific resident who was the subject of the delegation; and

(c) Only with the resident's consent.

(2) The delegated authority to perform the nursing care task is not transferable to another nurse assistant.

(3) The adult family home staff may consent to perform a delegated nursing care task, and shall be responsible for their own actions with regard to the decision to consent to the performance of the delegated task.

**NEW SECTION**

**WAC 388-76-635 Nurse delegation—Penalties.** The department shall impose a civil fine on any provider or resident manager that knowingly performs or knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18.79 RCW and chapter 246-840 WAC as follows:

(1) Two hundred fifty dollars for the first time the department finds an unlawful delegation;

(2) Five hundred dollars for the second time the department finds an unlawful delegation; and

(3) One thousand dollars for the third time or more the department finds an unlawful delegation.

**NEW SECTION**

**WAC 388-76-640 Resident medications.** (1) Prescription medications may be administered only under the order of a physician or health care professional with prescriptive authority.

(2) The provider shall ensure that all prescription and over the counter medications are kept in:

(a) Locked storage; and

(b) The medication's original containers with the legible, original label.

(3) Medication organizers may be used when they are filled by:

(a) The resident;

(b) A resident's family member;

(c) The resident's surrogate decision maker acting in accordance with state law; or

(d) A health care professional licensed in Washington state who has had specialized training in medication administration.

(4) Medication organizers shall carry a label which clearly identifies the:

(a) Name of the resident;

(b) Medications included; and

(c) Frequency of dosage.

(5) Adult family home caregivers may assist the resident to self medicate with the consent of the resident or the resident's surrogate decision maker acting in accordance with state law.

(6) Unless he or she is a licensed health professional or has been authorized and trained to perform a specifically delegated nursing task, the caregiver may only assist the resident to self medicate by:

(a) Reminding the resident when it is time to take a medication;

(b) Handing the resident the medication container; and

(c) Opening the resident's medication container.

(7) The adult family home caregiver may administer the resident's oral medication only when the caregiver:

(a) Is a health care professional licensed in Washington state with specialized training in medication administration; or

(b) Has been authorized and trained to perform oral medication administration for the resident as a delegated nursing task in accordance with the requirements established by the nursing care quality assurance commission.

(8) The provider shall maintain a record of all medications administered to and taken by the resident.

(9) The provider shall ensure that injections are only administered to the resident by:

(a) The resident when he or she is capable;

(b) A resident's family member;

(c) The resident's surrogate decision maker acting in accordance with state law; or

(d) A health care professional licensed in Washington state who has had specialized training in medication administration.

#### NEW SECTION

**WAC 388-76-645 Resident activities.** (1) The resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the adult family home.

(2) The provider shall provide and promote opportunities for the resident to participate in activities of the resident's choice which are consistent with identified resident needs and functional capacity.

#### NEW SECTION

**WAC 388-76-650 Food services.** The provider shall:

(1) Ensure that food served to the resident meets the nutritional needs of the resident, and takes into consideration the resident's:

(a) Preferences;

(b) Caloric need;

(c) Cultural and ethnic background; and

(d) Any physical condition making food intake difficult;

(2) Provide a minimum of three nutritious meals in each twenty-four hour period, at regular times comparable to normal meal times in the community;

(3) Make nutritious snacks available to residents between meals and in the evening;

(4) Obtain input from residents in meal planning and scheduling;

(5) Serve nutrient concentrates, supplements, and modified diets only on the written approval of the resident's physician;

(6) Use only pasteurized milk;

(7) Ensure any home-canned foods are processed according to the latest guidelines of the county cooperative extension service;

(8) Serve meals in the home where the residents live; and

(9) When meals are prepared at a separate kitchen facility, ensure that persons preparing food have a food handler's permit and that the food is transported in airtight containers to prevent contamination. The provider or resident manager shall ensure that the food is transported and served at the appropriate and safe temperature.

### **PART IV ADMINISTRATION**

#### NEW SECTION

**WAC 388-76-655 General management and administration.** (1) The provider shall not admit any resident whose needs the provider cannot meet.

(2) The provider shall ensure:

(a) That staff are competent, and receive necessary training to perform assigned tasks;

(b) The adult family home is in compliance with the requirements of this chapter and other applicable state laws; and

(c) The home employs sufficient staff to meet the needs of the residents.

(3) The provider shall maintain liability insurance of at least three hundred thousand dollars per occurrence to cover:

(a) Damage or loss of the resident's property; and

(b) Injury or harm to the resident resulting from:

(i) The provision of services or failure to provide needed services; or

(ii) Incidents occurring in the adult family home or on the home's premises.

(4) A provider who operates only one adult family home shall have evidence of the insurance coverage required by subsection (3) of this section beginning January 1, 1997.

(5) The provider shall ensure that all caregivers are at least eighteen years of age or older.

(6) The provider shall ensure that the provider or resident manager and all caregivers:

(a) Are able to communicate or make provisions for communicating with the resident in his or her primary language;

(b) Have a clear understanding of job responsibilities and knowledge of residents' negotiated service plans in order to be able to provide care specific to each resident's needs;

(c) Not engage in the illegal use of drugs or the excessive use of alcohol; and

(d) Possess a valid first aid and CPR card.

(7) The provider shall ensure that there is at all times on the premises at least one caregiver who is literate and capable of understanding written and oral instructions communicated in English in order to be able to respond appropriately to emergency situations.



NEW SECTION<sup>7</sup>

**WAC 388-76-660 Training.** (1) Before operating and providing services in an adult family home, individual providers and resident managers shall successfully complete the department's:

(a) Fundamentals of caregiving training; or

(b) Modified fundamentals of caregiving training if they meet the requirements listed in subsection (3) of this section.

(2) Providers shall ensure that:

(a) All caregivers working in the adult family home on or after the effective date of this chapter successfully complete the department designated fundamentals of caregiving training within one hundred twenty days of employment, unless he or she meets the requirements in subsection (3) below;

(b) All caregivers working in the adult family home prior to the effective date of this chapter successfully complete the department designated fundamentals of caregiving training prior to March 1, 1997, unless he or she meets the requirements in subsection (3) below; and

(c) All caregivers complete a minimum of ten hours of continuing education credits per calendar year, on topics relevant to caregiving:

(i) Topics include, but are not limited to residents' rights, personal care, dementia, mental illness, developmental disabilities, depression, medication assistance, communication skills, alternatives to restraints, and activities for residents;

(ii) Caregivers must receive a certificate of completion to meet the requirement for continuing education credit and each hour of completed instruction will count as one hour of continuing education credit; and

(iii) The continuing education requirement begins the calendar year after the year in which the caregiver completes the fundamentals or modified fundamentals of caregiving training.

(3) A caregiver who is a registered or licensed practical nurse, a physical or occupational therapist, a nursing assistant certified, or who has successfully completed department approved adult family home training, or department approved personal care training from an area agency on aging or their subcontractor, is exempt from the fundamentals of caregiving training in subsection (2) of this section if the caregiver successfully completes the department designated modified fundamentals of caregiving training in accordance with the dates specified in subsection (2) of this section.

(4) Volunteers are exempt from the training requirements listed above unless they provide unsupervised direct personal care to residents.

(5) The provider shall document that caregivers have met the education and training requirements.

NEW SECTION

**WAC 388-76-665 Resident records.** (1) The provider or resident manager shall:

(a) Keep confidential all information contained in the resident's records, regardless of the form or storage method of the records (e.g., computer files); and

(b) Protect information in the resident's record against alteration, loss, destruction, and unauthorized use.

(2) The provider or resident manager shall release information from the resident's record when required by:

(a) The resident's transfer to a health care institution;

(b) Law;

(c) Representatives of the department when acting in accordance with state law; or

(d) The resident.

(3) The provider shall retain the resident's record for three years following the resident's discharge or death.

(4) The adult family home shall ensure that the resident's record includes at least the following:

(a) Resident identification including the name, address, and telephone number of the person or persons the resident designates as significant;

(b) The name, address, and telephone numbers for the resident's:

(i) Surrogate decision maker, if any; and

(ii) Health care providers;

(c) A current medical history;

(d) An inventory of personal belongings which is:

(i) Updated as additional belongings accrue; and

(ii) Dated and signed by the resident and the provider or resident manager;

(e) The resident's assessment;

(f) The current negotiated service plan;

(g) Legal documents, including but not limited to:

(i) Power of attorney (POA) if the resident has appointed a POA;

(ii) Advance health care directives if the resident has executed such directives; and

(iii) A court order, if any, appointing a legal guardian and detailing the guardian's responsibility;

(h) Financial records;

(i) Medication records;

(j) The resident's social security number; and

(k) Admission, discharge, and absences information.

(5) The provider or resident manager shall keep the resident's record at the adult family home in which the resident lives.

NEW SECTION

**WAC 388-76-670 Disaster and emergency preparedness.** (1) The provider shall develop written plans and procedures to meet potential emergencies and disasters, such as fires, earthquakes, and floods.

(2) The provider shall ensure that all staff are trained in those emergency procedures when they begin to work at the home.

(3) The provider shall periodically review disaster and emergency procedures with staff, caregivers, and residents.

(4) The provider shall maintain a seventy-two hour food and water supply at the home to meet resident needs in an emergency.

(5) The provider shall ensure the adult family home has readily available first-aid supplies and a first-aid manual.

NEW SECTION

**WAC 388-76-675 Reporting requirements.** (1) The provider shall immediately notify the department's toll free complaint telephone number of any incidents involving allegations of resident abuse, neglect, exploitation or aban-

donment in accordance with the provisions of chapter 74.34 RCW.

(2) The provider shall keep a log of injuries and accidents to residents.

(3) When there is a significant change in a resident's condition, or a serious injury, trauma, or death of a resident, the provider shall immediately notify:

(a) The resident's family, surrogate decision maker, appropriate professionals, and other persons identified in the negotiated service plan; and

(b) The case manager, if the resident is receiving services paid for fully or partially by the department.

(4) The adult family home shall immediately report to the department's aging and adult services administration:

(a) Any event, actual or potential, requiring the evacuation or relocation of all or part of the home's residents to another address; and

(b) Circumstances which threaten the home's ability to ensure continuation of services to residents.

(5) The provider shall immediately notify local law enforcement anytime the provider has reason to believe that the resident has been the victim of a crime.

(6) The provider shall notify the local public health officer and the department of any occurrence of food poisoning or communicable disease as required by the state board of health.

#### NEW SECTION

**WAC 388-76-680 Infection control and communicable disease.** (1) The provider or resident manager shall institute appropriate infection control measures when the resident or any household member or caregiver has, or is suspected of having, a communicable disease.

(2) The provider shall, in addition to following WISHA requirements, protect residents from tuberculosis by requiring the provider, and each resident manager and caregiver to have, upon employment:

(a) A tuberculin skin test by the Mantoux method, unless the staff person:

(i) Documents a previous positive Mantoux skin test, which is ten or more millimeters of induration read at forty-eight to seventy-two hours;

(ii) Documents meeting the requirements of this subsection within the six months preceding the date of employment; or

(iii) Provides a written waiver from skin testing from the department of health or authorized local health department;

(b) A second test one to three weeks after a negative Mantoux skin test for staff thirty-five years of age or older; and

(c) A chest X-ray within seven days of any positive Mantoux skin test.

(3) The provider or resident manager shall report positive chest X-rays to the appropriate public health authority, and follow precautions ordered by a physician or public health authority.

(4) The provider shall retain records of tuberculin test results, reports of X-ray findings, physician or public health official orders, and waivers in the adult family home.

(5) The provider or resident manager shall:

(a) Use infection control standards and educational material consistent with the current curriculum for infection control as defined in the department's fundamentals of caregiving training and the adult family home provider's handbook;

(b) Dispose of used syringes, razor blades, and other sharp items in a manner that will not jeopardize the health and safety of residents, staff, and the public;

(c) Ensure disposals are placed in rigid containers, impervious to liquids and penetration by puncture. These containers shall be such that they cannot be opened either intentionally or accidentally; and

(d) Use all disposable and single-service supplies and equipment as specified by the manufacturer.

#### NEW SECTION

**WAC 388-76-685 Criminal history disclosure and background inquiries.** (1) Before the adult family home employs, directly or by contract, a resident manager or caregiver, or accepts as a caregiver any volunteer or student, the home shall:

(a) Require the person to complete the residential care services background inquiry form which includes:

(i) A disclosure statement; and

(ii) A statement authorizing the adult family home, the department, and the Washington state patrol to conduct a background inquiry;

(b) Verbally inform the person:

(i) That he or she may request a copy of the background inquiry result; and

(ii) Of the inquiry result within ten days of receipt; and

(c) Notify the appropriate licensing or certification agency of any person resigning or terminated as a result of having a conviction record.

(2) The adult family home provider shall not employ any person, directly or by contract, or accept as a volunteer or student any person who may have unsupervised access to residents if the person or background inquiry discloses that the person was:

(a) Convicted of a crime against persons as defined under RCW 43.43.830;

(b) Convicted of a crime related to financial exploitation as defined under RCW 43.43.830;

(c) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;

(d) Subject to an order of protection under chapter 74.34 RCW for abuse, neglect, abandonment or financial exploitation of a vulnerable adult;

(e) Found in a final decision issued by a disciplinary board to have:

(i) Sexually or physically abused or exploited any minor or developmentally disabled person; or

(ii) Abused, neglected, abandoned or financially exploited any vulnerable adult; or

(f) Found in any dependency action under RCW 13.34.-030 (2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor.

(3) The adult family home may choose to employ a person with a conviction of a crime against persons only if

the conviction is one of the crimes listed in RCW 43.43.842 and the required number of years has passed.

(4) An adult family home may conditionally employ a person pending the result of a background inquiry, provided the home requests the inquiry within seventy-two hours of the conditional employment.

(5) The adult family home shall establish procedures ensuring:

(a) All disclosure statements and background inquiry applications and responses and all copies are maintained in a confidential and secure manner;

(b) All background inquiry results and disclosure statements are used for employment purposes only;

(c) Background inquiry results and disclosure statements are not disclosed to any person except:

(i) The person about whom the adult family home made the disclosure or background inquiry;

(ii) Authorized state and federal employees; and

(iii) The Washington state patrol auditor.

(6) A record of inquiry results shall be retained by the adult family home for twelve months beyond the date of employment termination.

(7) The provider shall secure and submit any additional documentation and information as requested by the department to satisfy the requirements of this section.

#### NEW SECTION

**WAC 388-76-690 Advance directives, guardianship, and decision making.** (1) The provider or resident manager shall provide or ensure that the resident, at the time of admission, has received the department's current booklet on health care rights.

(2) The provider or resident manager shall:

(a) Immediately contact the local emergency medical services in the event of a resident medical emergency regardless of any order, directive, or other expression of resident wishes involving the provision of medical services;

(b) Have readily available for emergency medical services personnel the resident's advance directives if the resident has executed an advance directive;

(c) Inform the resident of this policy; and

(d) Include this policy in the home's operational policies.

(3) A licensed physician or registered nurse acting within his or her scope of practice shall be exempt from the provisions of subsection (2) of this section.

(4) Owners, administrators, providers, provider's family members, and employees shall not act as legal guardian, or attorney-in-fact, for any resident residing in or receiving care in the home, unless he or she is the parent, spouse, adult child, or sibling of the resident.

(5) The adult family home shall provide care and services in compliance with the federal patient self determination act and with applicable state statutes related to surrogate and health care decision making, including chapters 7.70, 70.122, 11.88, 11.92, and 11.94 RCW.

#### NEW SECTION

**WAC 388-76-695 Protection of resident funds—Liquidation or transfer.** (1) Upon the death of a resident, the adult family home shall promptly convey the resident's personal funds held by the adult family home with a final accounting of such funds to the department or to the individual or probate jurisdiction administering the resident's estate no later than forty-five calendar days after the date of the resident's death.

(2) If the deceased resident was a recipient of long-term care services paid for in whole or part by the state of Washington, then the personal funds held by the adult family home and the final accounting should be paid to the secretary, department of social and health services and mailed to the office of financial recovery, estate recovery unit, P.O. Box 9501, Olympia, WA 98507-9501 or such address as may be directed by the department in the future:

(a) The check and final accounting accompanying the payment shall contain the name and social security number of the deceased individual from whose personal funds account the monies are being paid; and

(b) The department of social and health services shall establish a release procedure for use of funds necessary for burial expenses.

(3) In situations where the resident is absent from the adult family home for an extended time without notifying the home, and the resident's whereabouts is unknown:

(a) The adult family home shall make a reasonable effort to find the missing resident; and

(b) If the resident cannot be located after ninety days, the home shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The home shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(4) Prior to the sale or other transfer of ownership of the adult family home the provider shall:

(a) Provide each resident with a written accounting of any personal funds held by the home;

(b) Provide the new provider with a written accounting of all resident funds being transferred; and

(c) Obtain a written request for those funds from the new provider.

#### NEW SECTION

**WAC 388-76-700 Resident relocation due to closure.** (1) When the department revokes, suspends, or does not renew the license for an adult family home, the department shall:

(a) Notify residents and, when appropriate, residents' surrogate decision makers of the action; and

(b) Assist with residents' relocation and specify the location of possible residential alternatives.

(2) When the resident's relocation occurs due to the adult family home's voluntary license relinquishment:

(a) The provider shall send written notification, thirty days before ceasing operation, to the appropriate adult family home area manager and to all residents except when shorter notice is required due to emergency circumstances;

(b) The provider shall provide appropriate discharge planning and coordination for all residents;

(c) The department shall provide relocation assistance to department clients; and

(d) The department may provide relocation assistance to residents whose cost of care is not fully or partially paid for by the department.

## PART V REMEDIES AND DISPUTE RESOLUTION

### NEW SECTION

**WAC 388-76-705 Remedies.** (1) The department may take one or more of the actions listed in subsection (3)(a) of this section in any case in which the department finds that an adult family home provider has:

(a) Failed or refused to comply with the applicable requirements of chapters 70.128 and 70.129 RCW or of this chapter;

(b) Operated without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a license or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2)(a) For failure or refusal to comply with any applicable requirements of chapters 70.128 and 70.129 RCW or of this chapter, the department shall allow the provider a reasonable opportunity to correct before imposing remedies under subsection (3)(a) unless the violations pose a serious risk to residents, are recurring or have been uncorrected.

(b) When violations of this chapter pose a serious risk to residents, are recurring or have been uncorrected, the department shall impose a remedy or remedies listed under subsection (3)(a). In determining which remedy or remedies to impose, the department shall take into account the severity of the impact of the violations on residents and which remedy or remedies are likely to improve resident outcomes and satisfaction in a timely manner.

(3)(a) Actions and remedies the department may impose include:

(i) Denial of an application for a license;

(ii) Imposition of reasonable conditions on a license, such as correction within a specified time, training, and limits on the type of residents the provider may admit or serve;

(iii) Imposition of civil penalties of not more than one hundred dollars per day per violation;

(iv) Suspension, revocation, or refusal to renew a license; or

(v) Order stop placement of persons under a license.

(b) When the department orders stop placement, the adult family home shall not admit any person until the stop placement order is terminated. The department may approve readmission of a resident to the adult family home from a hospital or nursing home during the stop placement. The department shall terminate the stop placement when the department determines that:

(i) The violations necessitating the stop placement have been corrected; and

(ii) The provider exhibits the capacity to maintain adequate care and service.

(c) Conditions the department may impose on a license include, but are not limited to the following:

(i) Correction within a specified time;

(ii) Training related to the violations;

(iii) Limits on the type of residents the provider may admit or serve;

(iv) Discharge of any resident when the department determines discharge is needed to meet that resident's needs or for the protection of other residents;

(v) Change in the license capacity;

(vi) Removal of the adult family home's designation as a specialized home;

(vii) Prohibition of access to residents by a specified person; and

(viii) Demonstration of ability to meet financial obligations necessary to continue operation.

(d) When a provider fails to pay a fine when due under this chapter, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from any contract payment due to the provider from the department.

(e) When the department finds that a licensed provider also operates an unlicensed adult family home, the department may impose a remedy listed under (3)(a) on the provider and the provider's licensed adult family home or homes.

(f) When the department determines that violations existing in an adult family home are of such a nature as to present a serious risk of harm to residents of other homes operated by the same provider, the department may impose remedies on those other homes.

### NEW SECTION

**WAC 388-76-710 Notice, hearing rights, and effective dates relating to imposition of remedies.** (1) Chapter 34.05 RCW applies to department actions under this chapter and chapter 70.128 RCW, except that orders of the department imposing license suspension, stop placement, or conditions on a license are effective immediately upon notice and shall continue pending any hearing.

(2) Civil monetary penalties shall become due twenty-eight days after the provider is served with a notice of the penalty unless the provider requests a hearing in compliance with chapter 34.05 RCW and RCW 43.20A.215. If a hearing is requested, the penalty becomes due ten days after a final decision in the department's favor is issued. Interest shall accrue beginning thirty days after the department serves the provider with notice of the penalty at a rate of one percent per month in accordance with RCW 43.20B.695.

(3) A person contesting any decision by the department to impose a remedy shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) The grounds for contesting the department decision; and

(ii) A copy of the contested department decision.

(4) Administrative proceedings shall be governed by chapter 34.05 RCW, RCW 43.20A.215, where applicable, this section, and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

#### NEW SECTION

**WAC 388-76-715 Dispute resolution.** (1) When a provider disagrees with the department's finding of a violation under this chapter, the provider shall have the right to have the violation reviewed under the department's dispute resolution process. Requests for review shall be made to the department within ten days of receipt of the written finding of a violation.

(2) When requested by a provider, the department shall expedite the dispute resolution process to review violations upon which a department order imposing license suspension, stop placement, or a condition on a license is based.

(3) Orders of the department imposing license suspension, stop placement, or conditions on a license are effective immediately upon notice and shall continue pending dispute resolution.

### **PART VI PHYSICAL PLANT REQUIREMENTS**

#### NEW SECTION

**WAC 388-76-720 Common use areas.** The provider shall provide, within the adult family home, sufficient common use space, such as a living room, recreation area, or entertainment area, to create a homelike environment and meet the needs of the residents.

#### NEW SECTION

**WAC 388-76-725 Bedrooms.** (1) Every resident bedroom shall be an outside room permitting entrance of natural light.

(2) Window screens shall be:

(a) Of such design that escape is not hindered; and

(b) Adequate to prevent entrance of flies and other insects.

(3) The provider shall ensure that residents' bedrooms have direct access to hallways and corridors, and unrestricted access to living rooms, day rooms, and common use areas.

(4) The provider shall make separate sleeping quarters available for each sex and shall make reasonable efforts to accommodate residents wanting to share the same room.

(5) Single occupancy bedrooms shall be at least eighty square feet or more of floor space.

(6) Double occupancy bedrooms shall be at least one-hundred twenty square feet or more of floor space exclusive of closets.

(7) There shall not be more than two residents to a bedroom.

(8) Unless the resident chooses to provide his or her own furniture and bedding, the provider shall provide each resident a bed thirty-six inches or more wide with:

(a) A clean, firm mattress with waterproof cover for use when needed or requested by the resident;

(b) Clean sheets and pillow cases;

(c) Adequate blankets; and

(d) Clean pillows.

(9) The provider shall not use the upper bunk of double-deck beds for a resident's bed.

(10) If the provider's bedroom is not within hearing distance of resident bedrooms, the department may require the provider provide a call bell or intercom system.

(11) The provider, resident manager, or family members shall not use as bedrooms those areas of the home designated as common use areas, or share bedrooms with residents.

(12) A resident may not share a bedroom with a person under eighteen years of age, unless it is the resident's own child.

#### NEW SECTION

**WAC 388-76-730 Toilets and bathing facilities.** The adult family home shall be equipped with toilet and bathing facilities that provide residents with privacy and include:

(1) One indoor flush toilet for each five persons in the home;

(2) A bathing facility with securely fastened, conveniently located grab bars or other safety measures; and

(3) A sink with hot and cold running water.

#### NEW SECTION

**WAC 388-76-735 Kitchen facilities.** The adult family home shall:

(1) Provide kitchen facilities that allow for proper food storage, preparation, and service; and

(2) Ensure the premises and equipment are maintained in a clean and sanitary manner including proper food handling.

#### NEW SECTION

**WAC 388-76-740 Telephones.** The provider shall ensure that residents have reasonable access to at least one operating, nonpay telephone on the premises where calls may be made and received in privacy.

#### NEW SECTION

**WAC 388-76-745 Storage.** The provider shall:

(1) Provide adequate space for resident's storage of clothing and a reasonable amount of personal possessions;

(2) Upon request, provide the resident with a lockable container or other lockable storage space for small items of personal property, unless the resident's individual room is lockable by the resident.

#### NEW SECTION

**WAC 388-76-750 Laundry.** (1) For each licensed home, the provider shall provide laundry services as needed; and

(2) The provider shall launder sheets and pillowcases weekly or more frequently as needed.

NEW SECTION

**WAC 388-76-755 Local ordinances.** The adult family home shall meet all applicable building and housing codes, and state and local fire safety regulations as they pertain to a single family residence. The provider shall be responsible for checking with local authorities to ensure all local codes are met.

NEW SECTION

**WAC 388-76-760 Site.** An adult family home shall be located on a well-drained site free from hazardous conditions, excessive noise, dust, smoke or odors, and be accessible to other facilities or services necessary to carry out the program.

NEW SECTION

**WAC 388-76-765 Fire safety.** (1) Every room used by residents shall have a fully opening window of sufficient size and free of obstructions for emergency escape or rescue unless the room has:

- (a) Two separate doors; or
- (b) One door leading directly to the outside.

(2) When resident bedroom windows are fitted with storm windows, the provider shall equip the storm windows with approved release mechanisms which are easily opened from the inside without the use of a key or special knowledge or effort.

(3) The provider shall assure that every occupied area used by persons under care shall have access to one exit or more and shall not pass through a room or space subject to being locked or blocked from the opposite side.

(4) The provider shall prohibit use as living space any area accessible only by ladder, folding stairs, or a trap door.

(5) The provider shall assure every bathroom door lock opens from the outside in an emergency.

(6) The provider shall assure every closet door opens from the inside.

(7) The provider shall not locate a stove or heater where the stove or heater blocks a resident's escape.

(8) The provider shall store flammable or combustible material away from exits and in areas not accessible to persons under care.

(9) A provider whose licensed home is equipped with open flame devices, cooking appliances, and other similar products shall use them in a safe manner.

(10) A provider shall not use portable oil, gas, kerosene, and electric space heaters, except in case of a power outage when the portable space heater is the home's only available heat.

(11) An adult family home shall have a posted, written plan for evacuation to safe areas in the event of fire. All staff, caregivers and residents shall be instructed in emergency evacuation procedures. The provider shall conduct fire drills at least every two months. The provider or resident manager shall maintain a log of dates and times of fire drills. At the time of fire evacuation drills, the provider shall verify:

- (a) Fire extinguishers are fully charged; and
- (b) Smoke detectors are in proper working order.

(12) The provider shall provide and have readily available an approved 2-A:10-B:C rated (five pound) fire extinguisher in proper operating condition on each floor of living space of the adult family home. Where local fire authorities require installation of a different type or size of fire extinguisher, the requirement of the local authority shall prevail. The provider shall maintain each required fire extinguisher in proper operating condition and shall have each required fire extinguisher inspected and serviced annually by a qualified inspector.

(13) The adult family home provider shall have an approved automatic smoke detector in each resident's bedroom and in proximity to the area where any resident or caregiver sleeps. When the licensed home is a multi-level home, a smoke detector shall be installed on each level. For violations in maintaining a smoke detector in working order, the department may require the provider to hard wire the smoke detector into the home's electrical system.

(14) An adult family home located in a rural area where there is not a public fire district shall ensure that on-site fire protection approved by the county fire authority is available to the adult family home.

(15) The provider shall assure outside exit doors open from the inside, without the use of a key or any special knowledge or effort.

(16) The provider shall not house nonambulatory residents above or below the ground level of the home.

(17) The provider shall notify the department of any fire on the premises by the first working day following the fire.

(18) The department may request to observe adult family home fire drills to assess the provider's ability to evacuate residents.

NEW SECTION

**WAC 388-76-770 Safety and maintenance.** The provider shall ensure:

(1) The adult family home is maintained to provide a safe, clean, comfortable, and homelike environment;

(2) The adult family home is maintained internally and externally in good repair and condition, and free of hazards;

(3) The home has clean, functioning, safe, adequate household items and furnishings to provide for the needs of the residents;

(4) The home has safe and functioning systems for heating, cooling, hot and cold water, electricity, plumbing, garbage disposal, sewage, cooking, laundry, artificial and natural light, ventilation and any other feature of the home;

(5) Water temperature does not exceed one hundred twenty degrees Fahrenheit at fixtures used by residents, such as tub, shower, and lavatory facilities;

(6) Cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels are stored in a place not accessible to residents except under supervision;

(7) Emergency lighting devices, such as flashlights are in working order and are available and easily accessible to caregivers and residents;

(8) Steps are provided with handrails;

(9) The provider is able to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by residents should emergency need arise;

(10) Residents do not use or have access to swimming or other pools, hot tubs, saunas, spas, or any outdoor body of water either on or off the premises without supervision;

(11) That any firearms are kept in locked storage and accessible only to authorized persons; and

(12) The adult family premises are kept free from rodents, flies, cockroaches, and other vermin.

#### NEW SECTION

**WAC 388-76-775 Pets.** The provider shall ensure:

(1) Any animal visiting or living on the premises has a suitable temperament, is clean and healthy, and otherwise poses no significant health or safety risks to residents, staff, or visitors; and

(2) Pets residing on the premises have up-to-date rabies vaccinations.

#### NEW SECTION

**WAC 388-76-780 Lighting.** The provider shall:

(1) Ensure lighting is adequate and comfortable for the functions being conducted in each area of the home; and

(2) Locate light fixtures to provide for the comfort and safety of the residents.

#### NEW SECTION

**WAC 388-76-785 Temperature and ventilation.** The adult family home shall:

(1) Maintain room temperature within the home at sixty-eight degrees Fahrenheit or more during waking hours and sixty degrees Fahrenheit or more during sleeping hours; and

(2) Be adequately ventilated to ensure the health and comfort of residents.

#### NEW SECTION

**WAC 388-76-790 Water supply.** (1) If an adult family home has a private water supply, the provider shall have it approved by the local health authority; and

(2) The provider shall label nonpotable water on the premises to avoid use.

#### NEW SECTION

**WAC 388-76-795 Sewage and liquid wastes.** The provider shall ensure sewage and liquid wastes are discharged into a public sewer system or into an independent sewage system approved by the local health authority or department of health.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- 388-76-010 Authority.
- 388-76-020 Adult family homes.
- 388-76-030 Definitions.
- 388-76-040 Application or renewal for license.
- 388-76-045 Unlicensed facilities.
- 388-76-050 Licensing of state employees.
- 388-76-060 Limitations on licenses.

- 388-76-070 General qualifications of provider, staff persons, and other persons on the premises.
- 388-76-080 Multiple facility ownership.
- 388-76-085 General standards.
- 388-76-087 Inspections.
- 388-76-090 Licensure—Denial, suspension, or revocation.
- 388-76-095 License action notice—Adjudicative proceeding.
- 388-76-100 License fees.
- 388-76-110 Discrimination prohibited.
- 388-76-130 Persons subject to licensing.
- 388-76-140 Persons not subject to licensing.
- 388-76-155 Exceptions.
- 388-76-160 Capacity.
- 388-76-170 Providers' or resident managers' outside employment.
- 388-76-180 Provider or resident manager absence from home.
- 388-76-185 Placement of residents outside home.
- 388-76-190 Effect of local ordinances.
- 388-76-200 Fire safety.
- 388-76-220 Corporal punishment and physical and chemical restraints.
- 388-76-240 Resident's records and information.
- 388-76-250 Reporting of illness, death, injury, epidemic, or adult abuse.
- 388-76-260 Reporting change in circumstances.
- 388-76-280 Provider or resident manager-provided transportation for residents.
- 388-76-290 Clothing.
- 388-76-300 Personal hygiene.
- 388-76-310 Training.
- 388-76-320 Site.
- 388-76-325 Telephone.
- 388-76-330 Safety and maintenance.
- 388-76-340 Water safety.
- 388-76-350 Firearms.
- 388-76-360 Storage.
- 388-76-370 Bedrooms.
- 388-76-380 Kitchen facilities.
- 388-76-390 Laundry.
- 388-76-400 Toilets, lavatories, and bathing facilities.
- 388-76-405 Common use areas.
- 388-76-410 Lighting.
- 388-76-420 Pest control.
- 388-76-430 Sewage and liquid wastes.
- 388-76-435 Pets.
- 388-76-440 Water supply.
- 388-76-450 Temperature.
- 388-76-460 Ventilation.
- 388-76-465 Resident rights.
- 388-76-467 Advance directives.
- 388-76-470 Health care plan.
- 388-76-475 Negotiated service plan.
- 388-76-480 First aid.
- 388-76-490 Medication services.
- 388-76-500 Self-administration of medications.
- 388-76-520 Infection control, communicable disease.
- 388-76-530 Food services.

**WSR 96-07-072**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**

[Filed March 19, 1996, 4:05 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-21-026.

Title of Rule: See Summary below.

Purpose: Rule changes to allow additional player selection games and to make various housekeeping amendments.

Statutory Authority for Adoption: RCW 9.46.070 (1), (8)-(11), (14), (20).

Summary: Amending WAC 230-08-080 Daily records—Bingo, housekeeping change to fix typographical error.

Amending WAC 230-08-105 Disposable bingo cards—Inventory control record, addition of language to introductory paragraph of subsection (3) clarifies when the information required to be kept by this rule must be recorded. Deletion of language from introductory paragraph of subsection (3) intended to clarify to what bingo products the subsection pertains. Addition of subsection (3)(h) requires every bingo hall not using combination receipting to assign a dollar value to each sheet or card packet when it is placed into play. Combination receipting provides complete accountability for the bingo product thereby allowing different sheets of the same packet to be sold at different prices.

Amending WAC 230-20-101 Income from bingo games—Receipting required, as amended, this rule generally requires that bingo income be receipted. The different types of receipting methods have been removed from this rule and been given their own rule. The rule also sets forth which receipting methods may be used by which license class to receipt for bingo income.

New section WAC 230-20-104 Cash register method of receipting bingo income, formerly WAC 230-20-101(1). Subsection (1)(b), requiring cash registers to be able to store and compute a total for each type of sale recorded, is a new requirement not found in the original rule. Language in subsections (1)(e) and (f) clarify an exception for machines providing alternative auditing functions.

New section WAC 230-20-105 Ticket method of receipting bingo income, formerly WAC 230-20-101(2). Subsection (1)(a) is a new requirement providing that Class F and above licensees may only use tickets with numbers on them that do not repeat in at least 999,999 occurrences. Most of subsection (2) was added to accommodate the use of tickets to receipt for additional player selection games authorized by WAC 230-20-246 (8)(c).

New section WAC 230-20-106 Electronically-generated bingo card method of receipting bingo income, formerly WAC 230-20-101(3). Adds the requirement that the permanent record printed at the end of each session include a total dollar amount for each type of sale.

New section WAC 230-20-107 Disposable (throwaway) bingo card method for receipting bingo income, formerly WAC 230-20-101(4). Adds the requirement that when disposable bingo cards are used, the disposable bingo card method of receipting bingo income must be used. Subsection (4) is intended to clarify that the rule pertains to

"packets" of bingo card product regardless of the manner in which it is sold (individual packets or as part of a package deal).

New section WAC 230-20-108 Combination receipting method of receipting bingo income, formerly WAC 230-20-101(5). Amended language provides that tickets may be used in combination with a cash register receipt, instead of only disposable bingo cards or electronically-generated bingo cards. Adds language clarifying the use of the combination receipting method in conjunction with other methods and specifically provides that tickets may be used in combination with cash register receipting to account for games authorized by WAC 230-20-246 (8)(c). Also adds language to subsection (1) stating that combination receipting must be used when dividing collations of packets or series of bingo card sheets into no more than ten "subgroups" for the purpose of issuing to bingo players. Also requires that Class F, instead of Class G licensees must use combination receipting in certain cases. Clarifies subsection (3)(b) and (c) per licensee comments regarding when consecutively issued cards must be used and how long they must be kept when they are not consecutively used. Subsection (4)(b) regarding totals from transaction records is added to subsections (3) and (5) to clarify that this requirement pertains to those subsections as well.

Amending WAC 230-20-240 Bingo equipment to be used, amendment requires Class F and above licensees to use disposable or electronically generated bingo cards instead of Class G and above licensees. Amendment requires distinguishable sets of bingo balls to be used when two or more sets of balls are used during a bingo session. Housekeeping changes to reflect change in WAC numbers.

Amending WAC 230-20-241 Player selection games, amendments set forth prize limitations for "instant winner" games.

Amending WAC 230-20-242 Activities conducted as part of bingo games—Authorization—Restrictions, housekeeping changes to reflect change in WAC numbers.

Amending WAC 230-20-246 Manner of conducting bingo, provides specific authorization and operational restrictions on additional player selection games such as Powerball. Provides a threshold under which instant winner prizes do not need to be validated by a neutral player. Also includes housekeeping changes to reflect changes in WAC numbers and changes to correct syntax.

Reasons Supporting Proposal: Negotiated rule-making request from a licensee organization.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654 ext. 310; Implementation: Sherri Winslow, Lynnwood, (206) 776-6751; and Enforcement: Frank Miller, Lacey, (360) 438-7654 ext. 302.

Name of Proponent: Washington Charitable and Civic Gaming Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.



No small business economic impact statement has been prepared under chapter 19.85 RCW. Rule changes and additions proposed at the request of a licensee organization are intended to increase licensee revenues.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion Inn at the Quay, 100 Columbia, Vancouver, WA 98668, on May 10, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by May 7, 1996, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 7, 1996.

Date of Intended Adoption: May 10, 1996.

March 19, 1996

Michael Aoki-Kramer  
Rules and Policy Coordinator

**AMENDATORY SECTION** (Amending Order 283 [WSR 95-23-091], filed 11/20/95, effective 1/1/96)

**WAC 230-08-080 Daily records—Bingo.** In addition to any other requirement set forth in these rules, licensees for the operation of bingo shall be required to prepare a detailed record covering each bingo session as defined in WAC 230-02-104: *Provided*, That operators of bingo games conducted at qualified agricultural fairs and other special locations shall be exempt from this rule, but will be required to keep all operator records by location in order to properly report all information as required by WAC 230-08-250. This detailed daily record shall disclose the following information for each separate session conducted during a bingo ((~~session~~)) occasion:

(1) The gross gambling receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. These gross gambling receipts shall be supported by receipting records required by WAC 230-20-101 and inventory control records required by WAC 230-08-105. Licensees using the combination receipting method shall reconcile the extended value of all disposable cards, packets of cards, and electronically generated cards sold to the amount of sales recorded per the cash register;

(2) The amount paid out or accrued for prizes awarded for each bingo game. Each session record shall contain the following minimum information regarding prizes awarded:

- (a) The game number;
- (b) The dollar amount or the actual cost of each prize;
- (c) A complete description of all noncash prizes;
- (d) The consecutive number of the prize receipt issued for each prize;
- (e) The duplicate copy of the prize receipt issued for all prizes awarded during the session;
- (f) The check number of all checks used to pay winners of bingo games: *Provided*, That if the payment must be made by check under the guidelines of WAC 230-20-102

(1)(c), the duplicate copy must be maintained as a part of the session records; and

(g) Full details of prizes accrued.

(3) The net gambling receipts from each bingo session;

(4) The cash on hand at the commencement and the conclusion of each session;

(5) A reconciliation of cash on hand net gambling receipts, and the bank deposit of net revenue for each session. The bank deposit shall be supported by a validated copy of the bank deposit receipt. Steps taken to reconcile overages and/or shortages that exceed twenty dollars for any session must be documented;

(6) An attendance record indicating the number of people participating and the time the attendance count was made;

(7) All bingo numbers or symbols selected and called during any game that offers a prize exceeding two hundred dollars. The numbers or symbols shall be recorded in the sequence selected. A computer generated "call sheet" may be used in lieu of a manual record if a print-out of results is made;

(8) The winning card or face number(s) for each individual prize awarded that exceeds two hundred dollars: *Provided*, That if the game is played using disposable bingo cards, the winning card or sheet of cards may be retained in lieu of the card numbers;

(9) A copy of the schedule of the games to be played and prizes available for the session: *Provided*, That if the record is annotated with the effective dates of each game schedule, it may be maintained separately and updated only when a change occurs. Any changes to the advertised and printed game and prize schedule, that occur during a session, must be noted in the session records and verified by the signature of the gambling manager assigned primary responsibility for supervising the session and another bingo worker on duty during the session;

(10) The gambling manager assigned primary responsibility for supervising the bingo session(s) must review all session records for accuracy, determine that required information is provided, and confirm the required deposit amount(s). After satisfactory completion of this review, the records must be signed by the gambling manager responsible for supervising the session before the gambling manager leaves the premises on the day(s) the session(s) was conducted; and

(11) All records required by this section shall be:

(a) Recorded in a standard format prescribed by the commission;

(b) Recorded during the course of each session; and

(c) Retained for a period of not less than three years.

**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.

**AMENDATORY SECTION** (Amending Order 283 [WSR 95-19-070], filed 11/20/95 [9/18/95], effective 1/1/96)

**WAC 230-08-105 Disposable bingo cards—Inventory control record.** All disposable bingo cards purchased or otherwise obtained must be controlled and accounted for by the licensee. This control function shall be accomplished by maintaining an inventory control record prepared in a format prescribed by the commission for Class D and above licensees: *Provided*, That alternative formats that accomplish regulatory requirements may be approved by commission staff.

(1) All purchase invoices, or a photocopy thereof, for disposable bingo cards received must be maintained on the bingo premises;

(2) Manufacturer packing records, required by WAC 230-20-192, shall be maintained as a part of the inventory control record;

(3) The following information must be recorded for disposable bingo cards, sheets of cards, or ~~((collations of))~~ packets ~~((used for games sold as a package))~~ immediately after purchase or before the next bingo occasion:

(a) The identification and inspection services stamp number;

(b) The serial number or, if packets, the serial number of the top page;

(c) The number of cards or card packets in the series;

(d) The type of card or card packet;

(e) The purchase invoice number;

(f) The purchase invoice date; ~~((and))~~

(g) Date and session first placed into play; and

(h) The dollar value assigned each sheet or card packet when placed into play.

(4) Licensees using the combination receipting method, per WAC ~~((230-20-101(5)))~~ 230-20-108, shall record the following information for each session the collation of cards is sold, in addition to the information required in subsection (3) of this section:

(a) The session number and date;

(b) The beginning and ending audit control numbers of the top page of the packets;

(c) Adjustments for any missing packets, per the manufacturer's packing record;

(d) The number of packets distributed to sales points and returned as unsold;

(e) Total packets issued;

(f) The value of each packet;

(g) The extended value obtained by multiplying total packets issued times the value of each packet. This total shall be carried forward to the "Daily Bingo Summary" and reconciled to sales per the cash register record; and

(h) The cumulative number of packets issued from the collation, session-to-date.

**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.

**AMENDATORY SECTION** (Amending Order 247 [WSR 94-01-034], filed 12/6/93)

**WAC 230-20-101 Income from bingo games—Receipting required.** All income from bingo games shall be accounted for by the licensee at the time the income is received ~~((from each individual player: *Provided*, That Class A, B, and C bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair are exempt from the requirements of this rule if the requirements of WAC 230-08-015 are followed))~~. Each individual player shall be issued a receipt at the time of payment for the amount paid to participate in each game or set of games. This receipt shall be retained by the player as evidence that the number of cards being played have been properly purchased. ~~((The following methods are authorized for use to document receipt of bingo income))~~ Authorized methods of receipting bingo income are specific to certain license classes as follows:

(1) ~~((Cash register: A cash register receipt may be used to document receipt of bingo income if:~~

~~(a) A consecutively numbered receipt is printed and given to the customer. The following information shall appear upon the receipt:~~

~~(i) The name of the licensee operating the activity;~~

~~(ii) The date;~~

~~(iii) The amount of money paid for the opportunity to play each type of game;~~

~~(iv) The total amount of money paid; and~~

~~(v) The consecutive customer receipt number.~~

~~(b) The cash register shall have the ability to assign a consecutive four digit customer receipt number to every sales transaction processed. This numbering system must be of a type that can only be reset by service personnel and does not return to zero at the conclusion of any period of use or power interruption: *Provided*, That a cash register which does not meet the above standard but has adequate alternative control features may be used if written commission approval is received prior to use;~~

~~(c) Cash registers used to record receipts for Class D and above licensees shall have the ability to assign a consecutive three digit number to notate each time transactions are subtotalled or when a set of transactions are totalled and closed;~~

~~(d) The cash register shall have sufficient keys to record separately each type of sale as required by WAC 230-08-080;~~

~~(e) The cash register must store and compute a total for each type of sale recorded and must be capable of providing such upon request;~~

~~(f) If the cash register is electronic, the memory unit must retain all transactions recorded during a session, regardless of whether or not its power source is interrupted;~~

~~(g) All cash register receipts for voids, overruns, returns, "no sales" and any other receipts not issued to a player must be retained with the daily bingo records;~~

~~(h) All transactions, customer receipt numbers, and control totals must be recorded on the tape retained in the cash register. The internal tape, showing these transactions, shall be retained with the daily records of the licensee for a period of not less than three years; and~~

(1) If the cash register is used by the licensee for purposes other than recording the receipts from bingo, the internal cash register tapes from all other uses shall be retained for not less than three years and be available upon request.

(2) Tickets: Tickets may be used for receipting of bingo income received by Class F and below licensees and by any class of licensee conducting bingo games authorized by WAC 230-20-242 if the following conditions are met:

(a) All tickets must be printed by a commercial printer with the following information:

(i) A consecutive number of at least four digits; and

(ii) The dollar value or the amount of money represented by each ticket if used to receipt for income.

(b) Each ticket on a roll shall represent the same specific amount of money;

(c) Tickets shall be issued consecutively from each roll, starting with the lowest numbered ticket;

(d) All tickets purchased or otherwise obtained must be accounted for by the licensee. All tickets purchased or otherwise obtained by the licensee after June 30, 1991, shall be documented on a vendor's invoice. This invoice, or a photo copy thereof, shall be maintained on the premises and available for inspection. The following information shall be documented on the purchase invoice for each roll of tickets purchased:

(i) Name of vendor;

(ii) Name of purchaser;

(iii) Date of purchase;

(iv) Number of rolls of tickets purchased; and

(v) The color, dollar value, total number of tickets, and beginning ticket number for each roll.

(e) An inventory record in a format prescribed by the commission shall be maintained of all tickets on the premises, which are used for income receipting of any type or for conducting bingo games authorized by WAC 230-20-242. All information regarding any tickets received by a licensee shall be entered in the inventory record prior to the beginning of the next bingo occasion. The following information must be recorded for each roll of tickets:

(i) The date each roll of tickets is purchased or obtained by the licensee;

(ii) The purchase invoice number;

(iii) The color;

(iv) The dollar value of the tickets;

(v) The beginning ticket number;

(vi) The total number of tickets on each roll; and

(vii) The individual making the entry into the inventory record shall acknowledge the entry by initialing the log at the time of entry.

(f) The licensee shall record the following information for each separate roll of tickets in its daily records:

(i) The color;

(ii) The value of each ticket;

(iii) The lowest numbered ticket issued as a receipt; and

(iv) The highest numbered ticket issued as a receipt.

(g) Any ticket, not issued as a receipt during a session, that bears a number falling below the highest numbered ticket issued during that session, shall not be used to receipt for any type of income by the licensee and must be retained by the licensee as a part of its daily records.

(3) Electronically generated bingo cards: Electronically generated bingo cards may be used to document receipting of bingo income. *Provided*, That if the sales transaction and issuance of cards to the customer are not completed and documented concurrently, the combination receipting method authorized in subsection (5) of this section must be used. For purposes of this title, "electronically generated bingo cards" means bingo cards or faces whose specific numbers or symbols and the sequence in which the numbers or symbols are arranged on the cards or faces has been predetermined by a licensed manufacturer and stored in electronic computer devices or data bases. If electronically generated bingo cards are used as receipts, the following conditions must be met:

(a) All cards must be printed on the premises of the licensed bingo operator, during the occasion in which the cards are intended for use, by means of a printer interfaced with the computer, and meet the requirements of WAC 230-20-240;

(b) If printed prior to the time of sale to a player, cards or sheets of cards must be sold consecutively at each individual sales point, beginning with the lowest card, sheet, or transaction number assigned. Cards or sheets of cards, which are not issued consecutively during a session, that have an audit number that is lower than the highest audit number issued as a receipt must be retained by the licensee as a part of their daily bingo records for at least one year;

(c) Requirements of WAC 230-20-192 (3) and (12) apply to these cards;

(d) Cards used in player selection games, authorized by WAC 230-20-241, must be printed on two part, self duplicating paper and include an original and a duplicate copy. *Provided*, That a single copy card may be used if all data imprinted on the card is either imprinted on a continuous printed transaction journal retained in the card generating device or stored in the computer data base and printed out at the end of each session. The original must be given to the player and the duplicate copy will be retained by the operator as a part of the daily bingo records;

(e) All transactions recorded during a bingo session must be summarized and printed in the form of a permanent record at the end of each session. This record shall provide the following information:

(i) The beginning and ending card number;

(ii) The beginning and ending transaction number;

(iii) The total number of cards sold;

(iv) The total number of sales transactions;

(v) The total dollar amount of sales; and

(vi) The number and dollar amount of all voids, overruns, or sale returns.

(f) All electronically generated cards or sheets of cards must be imprinted with an audit system that includes at least the following information:

(i) Each card must be assigned a card number, as defined by WAC 230-20-192 (2)(b);

(ii) Each sheet of cards must be assigned a consecutive transaction number that does not repeat in less than 999,999 transactions;

(iii) The name of the licensee operating the activity;

(iv) The time and date of the transaction;

(v) The game number;

(vi) The amount of money paid for the opportunity to play each game: *Provided*, That if the combination receipting method authorized by subsection (5) of this section is used to receipt for income, the customer receipt number may be substituted for this requirement;

(vii) The total amount of money paid; and

(viii) The numbers and symbols and the card number assigned by the manufacturer or, if printed for use in "player selection games" authorized by WAC 230-20-241, the bingo numbers selected by the player.

(g) An electronic device used to store bingo cards and interface with a printer for providing such to players must contain the following controls:

(i) A record of all transactions occurring during a session must be retained in memory until the transactions have been totalled, printed, and cleared by the operator, regardless of whether or not the unit's primary power source is interrupted;

(ii) The ability to compute a total of all transactions occurring during the current session and to print out such upon request;

(iii) The circuitry and programs that maintain and control the time and date of sale and transaction number, must be secured in a manner that prohibits change or resetting except by the manufacturer or qualified service personnel. A detailed record, supported by service documents shall be retained for each service call involving a change of the time, date, or transaction number; and

(iv) The electronically stored bingo cards must be secured in a manner that prevents an operator or player from modifying them. Cards issued to a player shall not be exchanged, transferred, refunded, or the price modified in any manner after completion of the sales transaction. Cards must be stored on erasable programmable read only memory (EPROM), compact disc read only memory (CDROM), write once read many disc drives (WORM), or other systems approved by the commission.

(4) Disposable (throwaway) bingo cards: Disposable bingo cards may be used to receipt for bingo income if the following requirements are met:

(a) Cards must meet all requirements of WAC 230-20-192;

(b) The inventory control record required by WAC 230-08-105 must be completed: *Provided*, That the requirements of subsection (2)(h) of this section are not required if disposable cards are used as income receipts;

(c) Cards or sheets of cards intended for playing a single game, including on-the-way games—the following shall be recorded for each set of cards:

(i) Serial number;

(ii) The color and/or border pattern;

(iii) The value of each card or sheet;

(iv) The lowest consecutive card or sheet number issued as a receipt;

(v) The last card or sheet number issued as a receipt;

(vi) Missing cards or sheets per the manufacturer's packing record;

(vii) The number of cards returned and not issued;

(viii) The number of cards issued as receipts; and

(ix) The total gross gambling receipts from all cards issued as receipts.

(d) Packs or packets of cards sold as a package and intended for playing a defined set of games within a session—the following shall be recorded for each set or collation of packs or packets of cards:

(i) The serial number of the top sheet or page of the packet;

(ii) The color and/or border pattern of the top sheet or page of the packet;

(iii) The lowest consecutive card, sheet, or packet number for the first packet issued as a receipt;

(iv) The card, sheet, or packet number of the last or highest packet issued as a receipt;

(v) The number of packets issued as receipts;

(vi) The number of packets returned and not issued;

(vii) Missing packets per the manufacturer's packing record;

(viii) The value of each packet; and

(ix) The total gross receipts from all packets issued as receipts.

(e) Each disposable card, or sheet or packet of cards, from the same set or collation shall be consecutively issued at each individual sales point. Each card, or sheet or packet of cards, which were not issued consecutively during a session, and the audit number is lower than the highest audit number issued as a receipt, shall be retained by the licensee for a period of not less than one year: *Provided*, That cards, or sheets or packets of cards, required by this subsection to be retained may be sold at the next bingo session that the specific set of cards is used; and

(f) Disposable cards issued for each type of sale shall be recorded separately as required by WAC 230-08-080: *Provided*, That when more than one card or sheet number appears on a sheet of cards issued, then the primary card or sheet numbering system designated by the manufacturer shall be used to determine the beginning number sold and the ending number sold. Each time the numbering of the sheets breaks in the set, a separate entry shall be made in the records.

(5) Combination receipting system: A combination receipting system utilizing a cash register and disposable or electronically generated bingo cards may be used to receipt for bingo income from package sales. Class G and above licensees shall use this method to receipt for income from disposable bingo card packets and electronically generated bingo cards if sales transactions and issuance of cards are not completed and documented concurrently. When a combination receipting system is used, the following requirements must be met:

(a) All requirements for cash register receipting set out in subsection (1) of this section shall be followed;

(b) If receipting for the sale of disposable bingo card packets:

(i) Each packet of cards, from the same collation shall be consecutively issued at each individual sales point. Each packet of cards, which were not issued consecutively during a session, and the audit number is lower than the highest audit number issued, shall be retained by the licensee for a period of not less than one year: *Provided*, That packets of cards required to be retained by this subsection may be sold during the next bingo session that the specific collation of cards is used; and

~~(ii) The information required by WAC 230-08-105 must be recorded in the inventory control record.~~

~~(e) If receipting for electronically generated bingo cards:~~

~~(i) All requirements of subsection (3) of this section must be followed; and~~

~~(ii) The totals from the transaction record shall be carried forward to the "daily bingo summary" and reconciled to sales per the cash register record.)) Class A, B, and C bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair may utilize the method set forth in WAC 230-08-015 or any method set forth in subsection (2) of this section; and~~

(2) Class D and above shall utilize the methods set forth in WAC 230-20-104, 230-20-105, 230-20-106, 230-20-107, or 230-20-108, as applicable.

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

### NEW SECTION

**WAC 230-20-104 Cash register method of receipting bingo income.** A cash register receipt may be used to document receipt of bingo income as long as the following requirements and standards are met:

(1) Cash registers used must perform the following functions or meet the following standards:

(a) Have sufficient keys to record separately each type of sale as required by WAC 230-08-080;

(b) Store and compute a total for each type of sale recorded and must be capable of providing such upon request;

(c) The memory unit of electronic cash registers must retain all transactions recorded during a session, regardless of whether or not its power source is interrupted;

(d) Record all transactions, customer receipt numbers, and control totals on the internal tape retained in the cash register. The internal tape, showing these transactions, shall be retained with the daily records of the licensee for a period of not less than three years; and

(e) The cash register must assign and imprint on the customer receipt and internal tape a minimum four-digit consecutive number for every sales transaction processed. This numbering system must be of a type that can only be reset by service personnel and does not return to zero at the conclusion of any period of use or power interruption: *Provided*, That a cash register not meeting the requirements of this subsection but having adequate alternative control features may be used if written commission approval is received before use; and

(f) Cash registers used to record receipts for Class D and above licensees shall also imprint a minimum three-digit consecutive number on the customer receipt and internal tape to notate each time transactions are totaled or when a set of transactions are totaled and closed: *Provided*, That a cash register not meeting the requirements of this subsection but having adequate alternative control features may be used if written commission approval is received before use;

(2) The customer receipt must be imprinted with the following information:

(a) The name of the licensee operating the activity;

(b) The date;

(c) The amount of money paid for the opportunity to play each type of game;

(d) The total amount of money paid; and

(e) The consecutive customer receipt number.

(3) All cash register receipts for voids, overrings, returns, "no sales" and any other receipts not issued to a player must be retained with the daily bingo records;

(4) The internal cash register tapes from all uses other than bingo income receipting shall be retained by the licensee for not less than three years and be available for commission staff review upon request.

### NEW SECTION

**WAC 230-20-105 Ticket method of receipting bingo income.** Tickets may be used for receipting of bingo income received under the following conditions:

(1) All tickets must be manufactured by a commercial printer and imprinted with the following information:

(a) A consecutive number of at least four digits: *Provided*, That Class F and above licensees must utilize tickets with numbers that do not repeat in at least 999,999 occurrences;

(b) The dollar value or the amount of money represented by each ticket on a roll shall represent the same specific amount of money; and

(c) Class F and above bingo licensees - The name of the licensee operating the bingo game.

(2) Use of tickets for receipting bingo income is restricted as follows:

(a) Any class of licensee - Tickets may be used to receipt for games authorized by WAC 230-20-242(1);

(b) Class E and below licensees - Tickets may be used to receipt for the following games:

(i) Games utilizing hard cards; and

(ii) Bonus games as described in WAC 230-20-246(8)(c); and

(c) Class F and above licensees - Tickets may be used to receipt for bonus games as described in WAC 230-20-246(8)(c) when a part of a combination receipting method set forth in WAC 230-20-108.

(3) All tickets utilized by Class F or above licensees must be purchased from a licensed distributor or manufacturer;

(4) Tickets shall be issued consecutively from each roll, starting with the lowest numbered ticket;

(5) All tickets purchased or otherwise obtained must be accounted for by the licensee. If purchased from a commercial business or licensed distributor, documentation must be on the sales invoice. This invoice, or a photo-copy, shall be maintained on the premises and available for inspection. The following information shall be documented on the sales invoice for each roll of tickets purchased:

(a) Name of distributor;

(b) Name of purchasing licensee;

(c) Date of purchase;

(d) Number of rolls of tickets purchased; and

(e) The color, dollar value, total number of tickets, and beginning ticket number for each roll.

(6) An inventory record, in a format prescribed by the commission, shall be maintained for all tickets on the

premises used for income receipting of any type or for conducting bingo games authorized by WAC 230-20-242. All information regarding any tickets received by a licensee shall be entered in the inventory record before the beginning of the next bingo occasion. The following information must be recorded for each roll of tickets:

(a) The date each roll of tickets is purchased or obtained by the licensee;

(b) The purchase invoice number;

(c) The color;

(d) The dollar value of the tickets;

(e) The beginning ticket number;

(f) The total number of tickets on each roll; and

(g) The initials of the individual making the entry into the inventory record.

(7) The licensee shall record the following information for each separate roll of tickets in the daily records for each bingo session:

(a) The color;

(b) The value of each ticket;

(c) The lowest numbered ticket issued as a receipt;

(d) The highest numbered ticket issued as a receipt; and

(e) The total gross receipts from the game.

(8) Any ticket, not issued as a receipt during a session, that bears a number falling below the highest numbered ticket issued during that session, shall not be used to receipt for any type of income by the licensee and must be retained by the licensee as a part of its daily records; and

(9) No licensee shall have tickets that are the same color and imprinted with the same ticket number on its premises.

#### NEW SECTION

**WAC 230-20-106 Electronically-generated bingo card method of receipting bingo income.** Electronically-generated bingo cards may be used to document receipting of bingo income: *Provided*, That if the sales transaction and issuance of cards to the customer are not completed and documented concurrently, the combination receipting method authorized in WAC 230-20-108 must be used. If electronically-generated bingo cards are used as receipts, the following conditions must be met:

(1) For purposes of this title, "electronically-generated bingo cards" means bingo cards or faces whose specific numbers or symbols and the sequence in which the numbers or symbols are arranged on the cards or faces has been predetermined by a licensed manufacturer and stored in electronic storage devices or data bases and accessed by computer.

(2) All cards must be printed on the premises of the licensed bingo operator, during the occasion in which the cards are intended for use, by means of a printer interfaced with the computer, and meet the requirements of WAC 230-20-240;

(3) If printed prior to the time of sale to a player, cards or sheets of cards must be sold consecutively at each individual sales point, beginning with the lowest card, sheet, or transaction number assigned. Cards or sheets of cards, which are not issued consecutively during a session, that have an audit number that is lower than the highest audit number issued as a receipt must be retained by the licensee as a part of their daily bingo records for at least one year;

(4) Requirements of WAC 230-20-192 (3) and (12) apply to these cards;

(5) Cards used in player selection games, authorized by WAC 230-20-241, must be printed on two-part, self-duplicating paper and include an original and a duplicate copy: *Provided*, That a single copy card may be used if all data imprinted on the card is either imprinted on a continuous printed transaction journal retained in the card generating device or stored in the computer data base and printed out at the end of each session. The original must be given to the player and the duplicate copy will be retained by the operator as a part of the daily bingo records;

(6) All transactions recorded during a bingo session must be summarized and printed in the form of a permanent record at the end of each session. This record shall provide the following information:

(a) The beginning and ending card number;

(b) The beginning and ending transaction number;

(c) The total number of cards sold;

(d) The total number of sales transactions;

(e) The total dollar amount of sales for each type of sale;

(f) The total dollar amount of sales; and

(g) The number and dollar amount of all voids, overruns, or sale returns.

(7) All electronically-generated cards or sheets of cards must be imprinted with an audit system that includes at least the following information:

(a) Each card must be assigned a card number, as defined by WAC 230-20-192 (2)(b);

(b) Each sheet of cards must be assigned a consecutive transaction number that does not repeat in less than 999,999 transactions;

(c) The name of the licensee operating the activity;

(d) The time and date of the transaction;

(e) The game number;

(f) The amount of money paid for the opportunity to play each game: *Provided*, That if the combination receipting method authorized by WAC 230-20-108 is used to receipt for income, the customer receipt number may be substituted for this requirement;

(g) The total amount of money paid; and

(h) The numbers and symbols and the card number assigned by the manufacturer or, if printed for use in "player selection games" authorized by WAC 230-20-241, the bingo numbers selected by the player.

(8) An electronic device used to store bingo cards and interface with a printer for providing such to players must contain the following controls:

(a) A record of all transactions occurring during a session must be retained in memory until the transactions have been totaled, printed, and cleared by the operator, regardless of whether or not the unit's primary power source is interrupted;

(b) The ability to compute a total of all transactions occurring during the current session and to print out such upon request;

(c) The circuitry and programs that maintain and control the time and date of sale and transaction number, must be secured in a manner that prohibits change or resetting except by the manufacturer or qualified service personnel. A detailed record, supported by service documents shall be

retained for each service call involving a change of the time, date, or transaction number; and

(d) The electronically-stored bingo cards must be secured in a manner that prevents an operator or player from modifying them. Cards issued to a player shall not be exchanged, transferred, refunded, or the price modified in any manner after completion of the sales transaction. Cards must be stored on erasable programmable read only memory (EPROM), compact disc read only memory (CDROM), write once read many disc drives (WORM), or other systems approved by the commission.

#### NEW SECTION

**WAC 230-20-107 Disposable (throwaway) bingo card method for receipting bingo income.** Disposable bingo cards must be used to receipt for bingo income when disposable bingo cards are used. When utilizing the disposable bingo card method, the following requirements must be met:

- (1) Cards must meet all requirements of WAC 230-20-192;
- (2) The inventory control record required by WAC 230-08-105 must be completed;
- (3) Cards or sheets of cards intended for playing a single game, including on-the-way games - the following shall be recorded for each set of cards:
  - (a) Serial number;
  - (b) The color and/or border pattern;
  - (c) The value of each card or sheet;
  - (d) The lowest consecutive card or sheet number issued as a receipt;
  - (e) The last card or sheet number issued as a receipt;
  - (f) Missing cards or sheets per the manufacturer's packing record;
  - (g) The number of cards returned and not issued;
  - (h) The number of cards issued as receipts; and
  - (i) The total gross gambling receipts from all cards issued as receipts.
- (4) Packets sold and intended for playing a defined set of games within a session - the following shall be recorded for each set or collation of packs or packets of cards:
  - (a) The serial number of the top sheet or page of the packet;
  - (b) The color and/or border pattern of the top sheet or page of the packet;
  - (c) The lowest consecutive card, sheet, or packet number for the first packet issued as a receipt;
  - (d) The card, sheet, or packet number of the last or highest packet issued as a receipt;
  - (e) The number of packets issued as receipts;
  - (f) The number of packets returned and not issued;
  - (g) Missing packets per the manufacturer's packing record;
  - (h) The value of each packet; and
  - (i) The total gross receipts from all packets issued as receipts.
- (5) Each disposable card, or sheet or packet of cards, from the same set or collation shall be consecutively issued at each individual sales point. Each card, or sheet or packet of cards, which were not issued consecutively during a session, and the audit number is lower than the highest audit

number issued as a receipt, shall be retained by the licensee for a period of not less than one year: *Provided*, That cards, or sheets or packets of cards, required by this subsection to be retained may be sold at the next bingo session that the specific set of cards is used; and

(6) Disposable cards issued for each type of sale shall be recorded separately as required by WAC 230-08-080. When more than one card or sheet number appears on a sheet of cards, the audit system designated by the manufacturer shall be used to determine the beginning and ending number sold. Each time the numbering of the sheets breaks in the set, a separate entry shall be made in the records.

#### NEW SECTION

**WAC 230-20-108 Combination receipting method of receipting bingo income.** A system utilizing a combination of cash register receipting and another approved method of receipting shall be used to receipt for bingo income under the following conditions:

- (1) Class F and above licensees receipting for bingo income from the following types of sales:
  - (a) Disposable bingo card packets, including packets divided into no more than ten subgroups;
  - (b) Electronically-generated bingo cards, if sales transactions and issuance of cards are not completed and documented concurrently;
  - (c) Bonus games as described in WAC 230-20-246 (8)(c); and
  - (d) A series of bingo card sheets which are divided into no more than 5 subgroups;
- (2) All requirements for cash register receipting set forth in WAC 230-20-104 shall be followed;
- (3) If receipting for the sale of disposable bingo card packets or subgroups of packets or sheets of cards:
  - (a) All requirements of WAC 230-20-107 must be followed;
  - (b) Each collation of bingo card packets or series of bingo card sheets from the same collation shall be consecutively issued at each individual sales point.
  - (c) Each collation or series which were not issued consecutively during a session, and whose audit number is lower than the highest audit number issued, shall be retained by the licensee for a period of not less than one year: *Provided*, That packets or sheets of cards required to be retained by this subsection may be sold during the next bingo session that the specific collation or series is used: *Provided further*, That collations or series divided into no more than ten subgroups may be issued consecutively from each subgroup; and
  - (c) The information required by WAC 230-08-105 must be recorded in the inventory control record; and
  - (d) The totals from the transaction record shall be carried forward to the "daily bingo summary" and reconciled to sales per the cash register record;
- (4) If receipting for electronically-generated bingo cards:
  - (a) All requirements of electrically generated bingo card receipting as set forth in WAC 230-20-106 must be followed; and
  - (b) The totals from the transaction record shall be carried forward to the "daily bingo summary" and reconciled to sales per the cash register record; and



(5) If receipting for bonus games as described in WAC 230-20-246 (8)(c):

(a) All requirements of ticket receipting as set forth in WAC 230-20-105 must be followed; and

(b) Tickets must be issued consecutively from each sales point. Tickets at each sales point with audit numbers lower than the highest ticket issued at that sales point shall be retained as a part of the daily bingo records for a period of not less than one year.

(c) The totals from the transaction record shall be carried forward to the "daily bingo summary" and reconciled to sales per the cash register record.

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

**AMENDATORY SECTION** (Amending Order 279 [WSR 95-19-070], filed 9/18/95, effective 1/1/96)

**WAC 230-20-240 Bingo equipment to be used.** The conduct of bingo must include the following required items:

(1) A mechanical device that uses air flow for mixing and randomly withdrawing balls to determine the letters and numbers or symbols to be called must be utilized by all Class D and above operators. This device shall be constructed in the following manner:

(a) It will allow participants full view of the mixing action of the balls; and

(b) The operation cannot be interrupted to change the random placement of the balls at the exit receptacle of the device, except when the device is shut off as allowed by WAC 230-20-246(-);

(2) A set of seventy-five balls bearing the numbers one through seventy-five and the letters B, I, N, G, or O. The following additional requirements regarding bingo balls must be met:

(a) The entire set of balls shall be available for inspection by the players before a bingo session begins to determine that all are present and in operating condition(-);

(b) Each numbered ball shall be the same weight as each of the other balls and free from any defects; and

(c) Each set of balls in play must be distinguishable from all other sets of balls in play;

(3) Flashboards shall be utilized to display numbers called at all Class D and above bingo games. They must be visible to all players and clearly indicate all numbers that have been called: *Provided*, That malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion;

(4) Bingo cards must be preprinted, manufactured cards that meet the following standards:

(a) Have twenty-five spaces, one of which may be a free space, arranged in five even columns headed with the letters B, I, N, G, and O, and except for the free space, imprinted with numbers and symbols: *Provided*, That bingo cards used for conducting player selection games are exempt from the requirements of this subsection if the requirements of WAC 230-20-241 are followed:

(b) Be manufactured by a licensed manufacturer: *Provided*, That electronically generated bingo cards authorized by WAC ((~~230-20-101(3)~~) 230-20-106 may be

produced by the operator using a printer interfaced with an electronic data base system: *Provided further*, That cards used in player selection games may be manufactured by unlicensed manufacturers if:

(i) The primary activity of such manufacturer is producing nongambling products;

(ii) Cards must meet the requirements of WAC 230-20-192 and 230-20-241. The licensee that initially purchases such cards from the unlicensed manufacturer shall assume responsibility for compliance with all commission requirements;

(iii) In addition to the requirements set out in WAC 230-08-024 and 230-08-040, the invoice transferring these cards must include the beginning card number. If an operator purchases such cards directly from an unlicensed manufacturer, the operator shall assume responsibility for compliance with this requirement.

(c) All disposable bingo cards must meet the requirements of WAC 230-20-192; and

(d) Electronically generated cards and supporting equipment must meet the requirements of WAC ((~~230-20-101(3)~~) 230-20-106(-));

(5) Effective January 1, 1997, all Class ((G)) F and above bingo licensees shall conduct bingo games using disposable bingo cards or electronically generated cards. All income must be receipted for by using the audit system required by WAC 230-20-192 in conjunction with appropriate receipting system required by WAC ((~~230-20-101(3)~~, (~~4~~), or (~~5~~)) 230-20-106, 230-20-107, or 230-20-108;

(6) Duplicate cards, as defined in WAC 230-20-192, are prohibited in the operation of bingo games conducted by Class D or above licensees. Operators are advised that conducting games using cards manufactured by different manufacturers may result in duplicate cards being placed in play and that the majority of cards in the "1 to 9000 series" are duplicate, regardless of the manufacturer. Duplicate card violations that result from use of cards from different manufacturers shall be the responsibility of the operator: *Provided*, That this section shall not apply to braille cards, authorized by WAC 230-20-246(4), if the operator takes steps to prevent duplicate cards and informs players regarding limitations to prizes when winners have duplicate cards because braille cards are being played;

(7) If duplicate cards are inadvertently sold at bingo games conducted by Class D or above licensees, the following procedures and restrictions apply:

(a) If all winners with duplicate cards are paid the entire prize amount that would be due if there were no duplicate cards, the licensee shall not be deemed to be in violation of this section;

(b) The amount of the prize for games with winners having duplicate cards shall be computed and paid using the following guidelines:

(i) Games that provide a bonus for a single winner - If all winners have duplicate cards then all winners shall be paid the bonus;

(ii) Games that result in multiple winners, some of which are players with duplicate cards - The split of the prize pool will be computed by counting all duplicate card winners as one. After the prize pool split is computed using this method, all winners will be paid according to the computed prize split;



(iii) If the prize pool contains noncash or merchandise prizes, the amount added to the prize pool for computing the split shall be the licensee's cost or retail value, whichever is posted in the game schedule: *Provided*, That manufacturers shall not be responsible for increases to the prize pool required by this subsection; and

(iv) If the prize is greater than one thousand dollars, the operator shall not be required to increase the total prize pool by more than fifty percent or five thousand dollars, whichever is less: *Provided*, That this limitation shall only be authorized once within a twelve-month period. If this limitation has been used within the last twelve months, the full prize amount shall be paid to all holders of duplicate cards.

(c) Increases to prize pools as a result of duplicate card errors, for which the manufacturer is responsible, may be deducted from prize payouts for computing compliance with WAC 230-20-064;

(d) Details of circumstances that resulted in duplicate cards being sold shall be documented and maintained as a part of the daily bingo record for the session;

(e) The commission shall be notified within forty-eight hours after discovery of a duplicate card error if:

(i) Caused by manufacturer printing, packaging, or collation errors; or

(ii) Any player winning with a duplicate card was not paid the entire prize amount.

(f) Licensees shall pursue reimbursement of all prizes paid due to errors from the manufacturer responsible for such errors.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's 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 Order 246 [WSR 94-01-033], filed 12/6/93)

**WAC 230-20-241 Player selection games.** A licensee may offer bingo games in which players are allowed to select their own numbers if the following conditions are met:

(1) The cards used to conduct the games must have controls that provide an audit trail adequate to determine all winning combinations are valid. The following types of cards are authorized:

(a) Two-part disposable cards may be used if the following conditions are met:

(i) The cards are printed on two-part, self-duplicating paper that provides for an original and a duplicate copy;

(ii) The disposable card method of receipting for income per WAC ((230-20-101(4))) 230-20-107 is used;

(iii) Players shall mark their numbers on each card in a distinct, clear, and legible manner prior to separation of the duplicate and original. No alterations are allowed after separation of the duplicate and original cards. Operators shall establish and set forth in plain view, house rules setting out any conditions by which an entry may be added, deleted or changed prior to separation. Any such changes must be verified by a worker authorized by the bingo manager;

(iv) All original cards shall be placed in containers that shall be physically locked and controlled to assure no cards are placed in the container after the first bingo ball is called; and

(v) The player retains and plays the duplicate copy; and  
(b) Electronically generated cards may be used if the following conditions are met:

(i) The electronically generated bingo card method of receipting for income per WAC ((230-20-101(3))) 230-20-106 is used;

(ii) ((All data required to be printed on the card by WAC 230-20-101(3)(b) must be legible; and

(iii)) Players do not mark or deface the card in any manner that prevents reading of the bingo numbers or any of the data imprinted on the card as set out in WAC ((230-20-101(3)(4))) 230-20-106.

(2) The following restrictions apply to prizes awarded for player selection games:

(a) "Instant winner" prizes may not exceed twenty-five percent of the total prize pool or two hundred fifty dollars, whichever is less; and

(b) In addition to the requirements of WAC 230-20-102 and 230-20-246, a winning card of two hundred fifty dollars or more shall be verified by the winner's signature on the back of the card: *Provided*, That if a two-part card, allowed by subsection (1)(a) ((above)) of this section, is used, the verifying neutral player's name and complete address must be recorded on the back of the original card;

(3) All winning cards and the duplicate copies, if required, shall be retained by the operator as a part of its daily bingo records; and

(4) Incomplete cards, cards with alterations that were not verified per subsection (1)(a)(iii) of this section, and cards for which all required imprinted data is not displayed and legible shall not be paid as winners. Incomplete, incorrect, altered, and unreadable cards are the players' responsibility and refunds shall not be allowed: *Provided*, That a one-for-one exchange may be made by the game management in cases where errors are discovered prior to the start of the game or before the duplicate and original sheets have been separated. In this case the operator will mark "VOID" on the original, initial next to the players initials, and maintain the replaced card with the daily bingo records.

**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.

#### AMENDATORY SECTION (Amending Order 263, filed 12/5/94, effective 1/5/95)

**WAC 230-20-242 Activities conducted as a part of bingo games—Authorization—Restrictions.** Bingo licensees may award prizes to winners of activities authorized by this section when such activities are conducted as a part of bingo games. Such activities shall be deemed to be bingo games if all players paying to participate are allowed to compete equally and all prizes awarded are treated as

bingo game prizes for purposes of compliance with WAC 230-20-064. The following activities are authorized:

(1) Drawings. Each licensee shall be allowed to award prizes that are determined by a random drawing of tickets or by other random selection methods involving the numbering system on such tickets if the requirements of WAC ((230-20-101(2))) 230-20-105 are followed and:

(a) All rules regarding these drawings, including requirements to qualify for participation, time and date of the drawing, and whether a player must be present to win are clearly posted and distinctly explained to the players;

(b) Tickets or other facsimiles used to enter such drawings are awarded only to players purchasing cards to play in bingo games;

(c) Tickets, from which the winners of any such drawing are selected, shall not be accumulated for a period that is longer than thirty days. Drawings may be conducted using tickets that accumulate during any bingo occasion, week, or any other period that does not exceed thirty consecutive days;

(d) Licensees may restrict the awarding of tickets to players that are:

(i) Winners of bingo games;

(ii) "Good neighbors"; or

(iii) Other players that meet predetermined specific requirements;

(e) The criterion for granting tickets, and the number of tickets awarded during each session, shall be recorded in the daily bingo record for each session. All winning tickets and other records shall be maintained as a part of the daily bingo records.

(2) Creativity and originality contests (competition to determine the best costume, flower arrangement, cake decorating, ugliest tie, or other activities requiring skill or original thought). A bingo licensee may conduct contests in which players may demonstrate their creativity and originality skills on up to four occasions annually. The following rules must be observed in conducting these contests:

(a) The total value of prizes shall not exceed five hundred dollars during any occasion;

(b) Only players who have paid to participate in bingo games during the current session may participate in the contest; and

(c) A record shall be completed for each contest setting out the criterion for selecting the winners, the number of participants in the contest, and all details required by WAC 230-08-080 and 230-20-102. Such records shall be maintained as a part of the daily bingo records.

(3) "Good neighbor" prize schemes. A licensee may award prizes based upon the seating location of a player or players in regards to a winner of a bingo game. The following requirements must be observed prior to awarding "good neighbor" prizes:

(a) All rules regarding these prizes, including the amount to be awarded to each "good neighbor" or group of "good neighbors" and all requirements to qualify for a prize, must be clearly posted and distinctly explained to the players; and

(b) A record shall be completed setting out the criterion for awarding such prizes, the number of such prizes awarded during each session, and all details required by WAC 230-

08-080 and 230-20-102. Such record shall be maintained as a part of the daily bingo records.

(4) Second element of chance schemes may be used to increase the minimum prize for a bingo game after the winner(s) of the game has been determined by calling numbers and symbols if:

(a) The schemes do not involve the use of gambling devices specifically prohibited by public policy or commission rules;

(b) A player's minimum odds of winning the highest prize is equal to or greater than one winner out of one hundred twenty-five chances or the probability of winning the highest prize is .008 or greater;

(c) The scheme does not require the player to risk any portion of a prize already won;

(d) Every possible outcome of the scheme provides the player with an additional prize;

(e) All rules regarding play of the game are clearly posted and distinctly explained to the players. At least the following information shall be disclosed:

(i) The players minimum odds of winning the highest prize;

(ii) How a winner is determined;

(iii) Any contingencies or special requirements that may affect the outcome;

(iv) The cash value of the highest prize available; and

(v) Any financial burden that must be borne by the winner, such as taxes or registration fees.

(f) All requirements of WAC 230-20-010 are met before cards are purchased; and

(g) The scheme and supporting records contain control factors necessary for commission audit.

(5) Licensees may award promotional gifts to bingo players on up to six occasions annually if:

(a) Only merchandise gifts with a cost to the licensee of no more than three dollars per gift, are awarded; and

(b) A record shall be completed for each session setting out the criterion for selecting the recipients, the number of gifts and total cost of the gifts. Such records shall be maintained as a part of the daily bingo records.

**AMENDATORY SECTION** (Amending Order 257, filed 8/25/94, effective 9/25/94)

**WAC 230-20-246 Manner of conducting bingo.** The conducting of a bingo game shall include, but is not limited to, the following rules:

(1) All sales of bingo cards shall take place upon the licensed premises during or immediately preceding the session for which the card is being sold;

(2) Bingo cards shall be sold and paid for prior to selection of the first symbol or number for a specified game or specified number of games: *Provided*, That cards may be sold after the start of a game, or number of games, if the late sale does not allow any player an advantage over any other player. Hard cards purchased or exchanged after the first symbol or number is selected may only be used during subsequent games. Any sales method that allows a player to select a specific disposable or throwaway card shall be deemed to allow the player an advantage;

(3) No operator shall reserve, or allow to be reserved, any bingo card for use by players (~~except~~); *Provided, That*

braille cards or other cards for use by visually impaired or disabled players;

~~(4))~~ may be reserved. Visually impaired players may use their personal braille cards when a licensee does not provide such cards. The licensee shall have the right to inspect, and to reject, any personal braille card. A visually impaired or disabled person may use a braille card or reserved hard card in place of a purchased throwaway;

~~(5))~~ (4) All cards sold to participate for a specific prize or set of prizes shall be sold for the same price and be distinct and readily distinguished from all other cards in play: *Provided*, That similar cards used to participate for the same prize or set of prizes may be sold at a discount which is based solely on volume if each separate discount price is recorded using a separate sales identification code and records provide for an audit trail;

~~(6))~~ (5) All symbols ~~(and/)~~ or numbers shall be selected on the premises and in the presence of players paying to participate in the game. Immediately following the drawing of each ball in a bingo game, the caller shall display the symbol ~~(and/)~~ or number on the ball to the participants;

~~(7))~~ (6) The symbol ~~(and/)~~ or number on the ball shall be called out prior to the drawing of any other ball;

~~(8))~~ (7) After the symbol ~~(and/)~~ or number is called, the corresponding symbol ~~(and/)~~ or number on the licensee's flashboard, if any, shall be lit for participant viewing. In a game where a symbol ~~(and/)~~ or number on the ball is not applicable to the game being played, it is not necessary to call that symbol or number ~~(and/or symbol)~~ to the participants before placing it for viewing on the flashboard;

~~(9))~~ (8) A game ends when a specific pattern has been achieved by a player or a specific number of symbols ~~(and/)~~ or numbers has been called. Each game shall be played using a separate selection process: *Provided*, That the same or a continuing selection process may be used to play the following games:

(a) Interim or "on-the-way" games, including "Instant winner" games in which winners are determined by matching a predetermined number of symbols or numbers to balls called, or by matching a predetermined pattern within an established number of calls; ~~(and)~~

(b) Games for which cards are sold for different prices and players win a different prize depending on the price they pay to play;

(c) Bonus games which are games played concurrently with other bingo games and the winner is determined by a player calling a valid bingo which includes a predetermined or preselected number or symbol; and

~~(10))~~ (9) No bingo game shall be conducted to include a prize determined other than by the matching of symbols ~~(and/)~~ or numbers on a bingo card with symbols ~~(and/)~~ or numbers called by the licensee, ~~(in competition among all players in a bingo game)~~ except as authorized by WAC 230-20-242. All persons who have paid to participate in the game are competing for a specific prize or a portion of a prize pool. If a prize pool has been designated and more than one player achieves a winning pattern at the same time, all such players shall be considered the winner and a portion of the prize pool shall be equally divided among all players achieving the same winning pattern;

~~(11))~~ (10) The minimum amount of ~~(a)~~ an individual prize, ~~(or prizes)~~ prize pool, or portion of a prize pool available for each bingo game shall be established and disclosed to bingo game players prior to their purchase of a chance to participate in a bingo game. The minimum prize may be increased by the ~~(primary bingo)~~ gambling manager ~~(prior to)~~ before the start of a game or through the following schemes during the game:

(a) Schemes using standard bingo equipment and cards such as:

(i) Number of symbols or number called ~~(prior to)~~ before a ~~(winner)~~ player achieving a winning combination;

(ii) The specific symbol or number ~~(or symbol)~~ called;

(iii) The specific letter called;

(iv) Position of winning combinations on the card;

(v) Position of the card on the sheet of cards; ~~(and)~~

(vi) Odd or even symbol or number ~~(or symbol)~~; and

(vii) The number of symbols or numbers matched within a specific number of calls.

(b) Schemes preprinted on disposable cards that rely on a number or symbol called during a game; or

(c) Second element of chance schemes authorized by WAC 230-20-242(4).

~~(12))~~ (11) Immediately upon a bingo player declaring a winning combination of ~~(letters and)~~ symbols or numbers, the winning card shall be verified by a game employee and at least one neutral player, *Provided*, That games played as "instant winners" and awarding \$50 dollars or less do not need to be verified by a neutral player if an audit trail is maintained including a method which identifies the winning combination of numbers, symbols, or patterns and the numbers, symbols, or patterns called;

~~(13))~~ (12) Upon a bingo player declaring a winning bingo, the next ball out of the machine shall be removed from the machine prior to shutting the machine off and shall be the next ball to be called in the event the declared winning bingo is not valid;

~~(14))~~ (13) After a winning bingo is validated, the prize shall be awarded using the following procedures:

(a) Each winner shall be required to provide proof that they have purchased the winning bingo card. The licensee shall review the prize winner's income receipt and determine that the player has properly purchased all cards played during the games, including the winning card;

(b) Each prize winner shall be positively identified. The licensee shall require such proof of identification as is necessary to establish the prize winner's identity prior to paying any prize. The winner is responsible for furnishing proof to the licensee that all information required by this rule is true and accurate. Prizes may be withheld until the winner has provided adequate identification;

(c) The prize shall be awarded and a record made by completing a prize receipt as required by WAC 230-08-080 and 230-20-102. A complete address and tax payer identification number should be recorded for each prize valued at \$1,200 or more;

(d) All prizes for a particular game must be available prior to starting the game and shall be awarded by the end of the related session;

(e) All merchandise offered as prizes to bingo players shall have been paid in full, without lien or interest of others, prior to the merchandise being offered as a prize:

*Provided*, That the licensee may enter into a contract to immediately purchase the merchandise when it is awarded as a prize, with the contract revocable if prize winners are allowed to exercise an option to receive a cash prize or the prize is no longer offered.

~~((15))~~ (14) No operator shall engage in any act, practice, or course of operation as would operate as a fraud to affect the outcome of any bingo game.

**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 96-08-005**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed March 22, 1996, 8:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-04-007.

Title of Rule: Landscape architect fees. This rule lists all fees and charges for landscape architect program.

Purpose: To increase the examination charges that candidates pay for the examination to meet the price that the vendor charges.

Statutory Authority for Adoption: RCW 18.96.080, 43.24.086.

Statute Being Implemented: RCW 43.24.086.

Summary: Examination charges are set in accordance with the examination vendor price, which is passed through the Department of Licensing directly to the vendor.

Reasons Supporting Proposal: The cost of the tests are charged directly to candidates for registration.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James D. Hanson, 405 Black Lake Boulevard, Olympia, (360) 753-1966.

Name of Proponent: Board of Registration for Landscape Architects, 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 vendor has increased the examination price. This rule is needed to increase the examination charges that candidates pay for the examination to a sufficient level to meet the cost of purchasing the examinations for candidates.

Proposal Changes the Following Existing Rules: It increases the charges that are collected from candidates for the examinations ordered from the test vendor. The charges recovered by the department shall be refunded to the vendor for the costs of tests and shipping charges for examinations.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This increase in charges is to individual applicants, not business enterprises. The vendor will provide the tests only at these prices, the costs are not negotiable, without these increases in test charges the refund account would be a deficit with the first test session.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section of regulations is not a

"significant legislative rule" as defined by RCW 34.05.328 (5)(c)(iii) and is exempt under the provisions of RCW 34.05.328 (5)(b)(vi).

Hearing Location: Business and Professions Division, 405 Black Lake Boulevard, Conference Room 1, Olympia, WA, on May 9, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Sharon M. Kinder by May 6, 1996, TDD (360) 753-1966, or (360) 586-8935.

Submit Written Comments to: James D. Hanson, FAX (360) 664-2550, by May 2, 1996.

Date of Intended Adoption: May 9, 1996.

March 13, 1996  
 James D. Hanson  
 Program Administrator

AMENDATORY SECTION (Amending WSR 95-20-026, filed 9/27/95, effective 10/28/95)

**WAC 308-13-150 Landscape architect fees.** The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Application fee	\$150.00
Reexamination administration fee	50.00
Exam proctor	100.00
Renewal (3 years)	450.00
Late renewal penalty	150.00
Duplicate license	25.00
Initial registration (3 years)	450.00
Reciprocity application fee	200.00
Certification	45.00
Replacement certificate	20.00

The following charges shall be collected from examination candidates for examinations ordered from CLARB on their behalf. The charges recovered by the department shall be refunded to CLARB for the costs of tests and shipping charges for examinations.

Examination and Sections	Charges
Entire examination	\$ <del>((515.00))</del> <u>550.00</u>
Examination sections:	
Section 1: Legal and administrative aspects of practice	<del>((30.00))</del> <u>40.00</u>
Section 2: Programming and environmental analysis	<del>((35.00))</del> <u>70.00</u>
Section 3: Conceptualization and communication	<del>((100.00))</del> <u>110.00</u>
Section 4: Design synthesis	<del>((100.00))</del> <u>110.00</u>
Section 5: Integration of technical and design requirements	<del>((100.00))</del> <u>110.00</u>
Section 6: Grading and drainage	<del>((100.00))</del> <u>110.00</u>
<del>((Section 7: Implementation of design through construction process</del>	<del>50.00))</del>

PROPOSED

**WSR 96-08-015**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Filed March 26, 1996, 1:34 p.m.]

Continuance of WSR 96-04-069.

Preproposal statement of inquiry was filed as WSR 95-17-094.

Title of Rule: Buy-back of commercial fishing licenses.

Purpose: Establish 1996 buy-back program.

Other Identifying Information: This filing continues the adoption hearing of WSR 96-04-069.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: See WSR 96-04-069.

Reasons Supporting Proposal: See WSR 96-04-069.

Name of Agency Personnel Responsible for Drafting:

Evan Jacoby, 1111 Washington Street, Olympia, WA, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, WA, 902-2325; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, WA, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 96-04-069.

Proposal Changes the Following Existing Rules: See WSR 96-04-069.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules implement a federal program. See 59 Fed. Reg. 51422.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Date of Intended Adoption: June 1, 1996.

March 22, 1996

Judith Freeman

Deputy

for Robert Turner

Director

**WSR 96-08-017**  
**PROPOSED RULES**

**INSURANCE COMMISSIONER'S OFFICE**

[Filed March 26, 1996, 1:50 p.m.]

Continuance of WSR 96-05-091.

Preproposal statement of inquiry was filed as WSR 95-24-099.

Title of Rule: Annual statement instructions and statements to be filed in electronic form.

Other Identifying Information: Insurance Commissioner Matter No. R 95-18.

Summary: Continuation of adoption date.

Date of Intended Adoption: April 11, 1996.

March 26, 1996

Melodie G. Bankers

Rules Coordinator

**WSR 96-08-026**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SERVICES FOR THE BLIND**

[Filed March 26, 1996, 3:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-04-023.

Title of Rule: WAC 67-35-910 Facility operation agreement.

Purpose: To remove facility operation from the WAC and place it in department policy. The WAC is amended to refer to the policy agreement.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Summary: The Attorney General's Office recommended that the facility operation agreement be moved from the WAC and placed in department policy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bonnie Jindra, Olympia, (360) 586-0275.

Name of Proponent: Department of Services for the Blind, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Per recommendation of the Attorney General's Office, the rule is being modified to remove what is effectively a business contract out of state law, and put it in departmental policy. Anticipated effects: To reduce conflict between department and business enterprise program vendors regarding extent of contractual obligations.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: 1400 South Evergreen Park Drive, Suite 100, Olympia, WA 98504-0933, on May 10, 1996, at 8:00 a.m.

**WSR 96-08-016**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER'S OFFICE**

[Filed March 26, 1996, 1:45 p.m.]

Continuance of WSR 96-04-082 [96-04-086].

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Medicare supplemental insurance.

Other Identifying Information: Insurance Commissioner Matter No. R 96-2.

Summary: Continuation of adoption date.

Date of Intended Adoption: April 11, 1996.

March 26, 1996

Melodie Bankers

Rules Coordinator

PROPOSED

Assistance for Persons with Disabilities: Contact Bonnie Jindra by May 6, 1996.

Submit Written Comments to: Bonnie Jindra, Assistant Director, Department of Services for the Blind, P.O. Box 40933, Olympia, WA 98504-0933, FAX (360) 586-7627, by April 26, 1996.

Date of Intended Adoption: May 16, 1996.

March 26, 1996

Bonnie Jindra

Assistant Director

**AMENDATORY SECTION** (Amending WSR 95-01-066, filed 12/15/94, effective 1/15/95)

**WAC 67-35-910 ((Vendor)) Facility operation agreement.**

((This VENDOR AGREEMENT entered in this . . . . day of . . . ., 19. . . by and between the Department of Services for the Blind, hereinafter referred to as the department, and . . . ., hereinafter referred to as the vendor.

Name and Address of Facility . . . . .

City: . . . . ., Washington

**IT IS HEREBY AGREED:**

- ~~1. The provisions of the permit and/or contract between the department and the property management as now exists and chapter 67-35 WAC (the business enterprise program rules), which described the rights and responsibilities of the department and the rights and responsibilities of the vendor, as presently exist are both by reference incorporated into and made part of this agreement.~~
- ~~2. The vendor is entitled to all profits of the vending facility, and vending machine revenue from site, except as provided for in WAC 67-35-140.~~
- ~~3. The vendor is responsible to submit reports to the department as required.~~
- ~~4. The vendor must maintain the business hours agreed upon or as stated in the permit and/or contract.~~
- ~~5. The vendor shall receive a copy of the permit and/or contract and all applicable department rules.~~
- ~~6. The vendor shall obtain and maintain continuously public liability insurance with limits of liability not less than:  
\$1,000,000.00 each person personal injury,  
\$1,000,000.00 each occurrence personal injury, and  
\$1,000,000.00 each occurrence property damage or insurance coverage specified in the permit and/or contract, whichever is greater.~~
- ~~7. Vendors are accountable to the department for equipment assigned to their location. The vendor is responsible for maintaining the equipment in a clean and sanitary condition.~~
- ~~8. The vendor shall not discriminate in the employment of persons on the grounds of race, color, sex, national origin, creed or religion, physical or~~

~~mental impairment, age, marital status or political affiliation.~~

- ~~9. The vendor or the vendor's employees shall not subject customers to discrimination or deny them participation in, or the benefits of the vending facility on the grounds of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.~~
- ~~10. The department staff shall provide management services as defined in WAC 67-35-030 on a systematic basis. Consultation shall occur at least on a semiannual basis.~~
- ~~11. The department may upon forty five days notice terminate the license and/or terminate the agreement with the vendor for failure to operate the facility in accordance with the permit and/or contract or the vending facility rules and shall provide an opportunity for a full evidentiary hearing as provided for in WAC 67-35-420, except in those instances where aggravated emergency conditions require immediate termination of license and/or termination of agreement and removal of the vendor due to gross neglect or misconduct, as provided for in WAC 67-35-430.~~
- ~~12. The vendor may terminate this agreement upon giving forty five days written notice to the department.~~
- ~~13. This agreement is automatically terminated when the permit or contract with the contracting agency is terminated.~~
- ~~14. The vendor will sign a facility equipment and stock agreement.~~

~~I HEREBY CERTIFY THAT I FULLY UNDERSTAND THE ARTICLES AND TERMS SET FORTH IN THE ABOVE AGREEMENT AND HAVE RECEIVED COPIES OF THE FACILITIES OPERATING PERMIT AND/OR CONTRACT AND THE BUSINESS ENTERPRISE PROGRAM RULES.~~

~~Signed: . . . . . Date: . . . ., 19. . .  
(Vendor)~~

~~Name of vendor: . . . . .  
(please type)~~

~~Signed: . . . . . Date: . . . ., 19. . .  
(Department of Services for the Blind)~~

~~Name of staff: . . . . .  
Title: . . . . .))~~

Upon selection of a vendor to operate a business enterprise program facility, the department of services for the blind and the chosen vendor shall enter into a facility operation agreement. The text of this agreement is located in departmental policy and addresses the mutually agreed responsibilities of the vendor/operator and of the department. This agreement includes, but is not limited to, terms and conditions of facility operation such as vendor rent and insurance responsibilities, hours of operation, and conditions of termination of the agreement. Other terms or conditions of operation which are particular to a given facility shall be

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included as an addendum and shall be incorporated into the facility operation agreement.

**WSR 96-08-027  
PROPOSED RULES  
DEPARTMENT OF  
NATURAL RESOURCES**

[Order 629—Filed March 27, 1996, 8:41 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Specific rules for burning that requires a written burning permit.

Purpose: Set fees for permits to burn forest debris and specify other conditions for written burning permits.

Statutory Authority for Adoption: RCW 70.94.660 and 76.04.205.

Statute Being Implemented: RCW 70.94.660 and 76.04.205.

Summary: Amend the fee schedule to increase fees by 4.45% as directed under RCW 70.94.660.

Reasons Supporting Proposal: The department is required by RCW 70.04.660 [70.94.660] to set fees at a level necessary to support the program. The fee increase will account for inflation in program costs over the last year.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Gray, Olympia, 902-1300.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Clean Air Act requires the Department of Natural Resources to take responsibility for issuing and regulating burn permits where the Department of Natural Resources has protection responsibilities. The act also requires the Department of Natural Resources to assess fees for its permits, and that fees be set at a level to recover the costs of the program. Fees will be adjusted by 4.45%, amount allowed under RCW 43.135.055. The purpose of the proposed changes is to adjust the burning permit fee schedule to a level necessary to cover the costs of the smoke management program. Fees will be adjusted by 4.45%, the amount allowed under RCW 43.135.055. This will result in a one dollar increase for more than 90% of permittees.

Proposal Changes the Following Existing Rules: The proposal adjusts the fee schedule in WAC 332-24-221 by the amount allowed under RCW 43.135.055.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The fee increase will be one dollar for 90% of all permits issued. The rule does not impose more than minor costs on more than twenty percent of all industries or more than ten percent of one industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules that set or adjust fees or rates pursuant to legislative standards are exempt from section 201, chapter 403, Laws of 1995.

Hearing Location: Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA, on May 10, 1996, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Mark Gray by May 9, 1996, TDD (360) 902-1156.

Submit Written Comments to: Mark Gray, FAX (360) 902-1757, by May 10, 1996.

Date of Intended Adoption: May 24, 1996.

February 21, 1996

Amy Bell  
for Kaleen Cottingham  
Supervisor

AMENDATORY SECTION (Amending Order 629, filed 5/31/95, effective 7/1/95)

**WAC 332-24-221 Specific rules for burning that requires a written burning permit.** Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.

(2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be ~~((twenty-two))~~ twenty-three dollars for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris	Fee schedule
100 - 500 tons	<del>(\$111)</del> <u>\$115</u>
501 - 1,000 tons	<del>((335))</del> <u>350</u>
1,001 - 1,500 tons	<del>((559))</del> <u>583</u>
1,501 - 2,000 tons	<del>((783))</del> <u>817</u>
2,001 - 2,500 tons	<del>((1,007))</del> <u>1,051</u>
2,501 - 3,000 tons	<del>((1,231))</del> <u>1,285</u>
3,001 - 3,500 tons	<del>((1,453))</del> <u>1,517</u>
3,501 - 4,000 tons	<del>((1,677))</del> <u>1,751</u>
4,001 - 4,500 tons	<del>((1,901))</del> <u>1,985</u>
4,501 - 5,000 tons	<del>((2,125))</del> <u>2,219</u>
5,001 - 5,500 tons	<del>((2,349))</del> <u>2,453</u>
5,501 - 6,000 tons	<del>((2,573))</del> <u>2,687</u>
6,001 - 6,500 tons	<del>((2,797))</del> <u>2,921</u>
6,501 - 7,000 tons	<del>((3,021))</del> <u>3,155</u>
7,001 - 7,500 tons	<del>((3,245))</del> <u>3,389</u>
7,501 - 8,000 tons	<del>((3,469))</del> <u>3,623</u>
8,001 - 8,500 tons	<del>((3,693))</del> <u>3,857</u>
8,501 - 9,000 tons	<del>((3,917))</del> <u>4,091</u>
9,001 - 9,500 tons	<del>((4,141))</del> <u>4,325</u>
9,501 - 10,000 tons	<del>((4,363))</del> <u>4,557</u>
10,001 + tons	<del>((4,587))</del> <u>4,791</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

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(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

**WSR 96-08-037**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order #100307—Filed March 28, 1996, 4:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 92-02-004 [96-02-004].

Title of Rule: WAC 388-513-1315 Eligibility determination—Institutional and 388-513-1320 Institutional status.

Purpose: To further clarify rules implementing the "Becca" legislation of September 1995.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: Ensures CSO staff use appropriate policy.

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

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: This proposed rule further clarifies implementation of "Becca" legislation and is to ensure use of appropriate policy by CSO staff.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This amendment does not have an economic impact on any small business. It is an eligibility rule and provides regulation only for CSO staff and clients.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is exempt under RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on May 10, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by April 26, 1996, TDD (360) 753-0625.

Submit Written Comments to: Merry Kogut, Rules and Policies Assistance Unit, P.O. Box 45800, Olympia, WA 98504, FAX (360) 664-0118, by May 3, 1996.

Date of Intended Adoption: May 10, 1996.

March 28, 1996

Philip A. Wozniak

for Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3895, filed 9/6/95, effective 10/7/95)

**WAC 388-513-1315 Eligibility determination—Institutional.** (1) The department shall find a person (~~residing in or expected to reside in a Medicaid-approved medical facility for at least thirty consecutive days~~) meeting the requirements of WAC 388-513-1320 eligible for institutional care, if the person:

(a) Is (~~Title XVI~~) SSI-related with ((gross)) countable income:

(i) Equal to or less than three hundred percent of SSI Federal Benefit Amount. The department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than three hundred percent of SSI federal benefit amount. The department shall determine a person's eligibility under the limited casualty (~~program~~)—medically needy program as determined under WAC 388-513-1395.

(b) Is AFDC-related with countable income:

(i) Equal to or less than the one-person program standard as described under WAC 388-505-0590, 388-508-0805, or 388-509-0960. The department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than the program standards as described under subsection (1)(b)(i) of this section. The department shall determine a person's eligibility under the limited casualty—medically needy program as determined under WAC 388-513-1395.

(c) Does not have nonexcluded resources, under WAC 388-513-1360 and 388-513-1365, greater than limitations under WAC 388-513-1310 and 388-513-1395(2)(~~(-e))~~; and

(d) Is not subject to a period of ineligibility for transferring of resources under WAC 388-513-1365.

(2) The department shall determine (~~institutional~~) nursing facility residents eligible for institutional care when the amount of the resources in excess of the amount in WAC 388-513-1310 plus countable income are less than the nursing facility private rate plus (~~verifiable~~) recurring medical expenses.

(3) The department shall allocate a client's income and resources as described under WAC 388-513-1380.

(4) When both spouses are institutionalized, the department shall determine the eligibility of each spouse individually.

(5) The department shall determine eligibility for a person residing or expected to reside in a Medicaid-approved medical facility less than (~~thirty consecutive days~~) the amount of time needed to achieve institutional status in WAC 388-513-1320 as for a noninstitutionalized person.

(6) The department shall determine eligibility for an AFDC-related child under eighteen years of age residing or expected to reside in inpatient chemical dependency treat-



ment or inpatient mental health treatment as described under WAC 388-506-0610 (1)(f).

(7) For ~~((an))~~ other institutionalized persons twenty years of age or ~~((under))~~ younger, the department shall not consider the income and resources of the parents available unless the income and resources are actually contributed.

(8) The department shall determine as eligible for Medicaid a person who:

(a) Meets institutional status as a psychiatric facility resident; and

(b) Is twenty years of age or younger or is sixty-five years of age or older.

(9) The department shall not consider a person's transfer between medical institutions as a change in institutionalized status.

~~((9))~~ (10) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-513-1320 Institutional status. (1) The department shall find that a person has achieved institutional status when the person is residing or expected to reside in a Medicaid-certified medical facility for a period of at least:

(a) Ninety consecutive days for an AFDC-related child seventeen years of age or younger in residential mental health or chemical dependency/substance abuse treatment; or

(b) Thirty consecutive days for an SSI-related person and AFDC-related persons other than as described under subsection (1)(a) of this section.

(2) The department shall consider a person receiving waived program services or hospice services to have achieved institutional status.

(3) The department shall make medical assistance available to an otherwise eligible person who ~~((is in a Medicaid-certified medical facility))~~ has achieved institutional status as described under subsection (1) or (2) of this section.

### WSR 96-08-038

#### PROPOSED RULES

### WESTERN WASHINGTON UNIVERSITY

[Filed March 29, 1996, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-03-109.

Title of Rule: Student rights and responsibilities code, chapter 516-23 WAC.

Purpose: Add new section entitled "freedom of expression," WAC 516-23-045.

Statutory Authority for Adoption: RCW 28B.35.120.

Summary: Adds section regarding freedom of expression.

Reasons Supporting Proposal: This information is important to students' rights.

Name of Agency Personnel Responsible for Drafting and Implementation: C. Copeland, Old Main 390, Western Washington University, Bellingham, Washington 98225, (360) 650-3849; and Enforcement: E. Coughlin, Vice-

President, Student Affairs, Old Main, Western Washington University, Bellingham, 98225, (360) 650-3839.

Name of Proponent: Western Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Gives students the information they need regarding freedom of expression.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No monetary implications attached to this policy.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules relate to internal governmental operations.

Hearing Location: Old Main 340, Western Washington University, 516 High Street, Bellingham, WA, on May 9, 1996, at 11 a.m.

Assistance for Persons with Disabilities: Contact Connie Copeland by May 6, 1996, TDD (360) 650-3725, or (360) 650-3849.

Submit Written Comments to: Connie Copeland, FAX (360) 650-6504, by May 6, 1996.

Date of Intended Adoption: June 14, 1996.

March 19, 1996

Wendy Bohlke  
Senior Counsel

### NEW SECTION

**WAC 516-23-045 Interference with freedom of expression.** The rights of freedom of speech, petition and assembly are fundamental to the democratic and academic process. The United States Constitution guarantees these freedoms to all members of the Western Washington University community. The university recognizes, respects and protects all expressions of opinion and ideas, whether individual or collective, that are within the limits of the law and/or university regulations.

Any person, or persons, may speak at the university when invited to do so by a member of the university community. An exercise of the right to speak requires the freedom of the speaker to make his/her statement. Both the speaker and the audience are entitled to proceed without being subjected to substantial interference. Use of university buildings and public spaces is subject to university policies and procedures. See Viking Union Policies: Exterior space use; reservations and scheduling.

Students engaging in acts of violence, threats of violence or other behavior which materially or substantially disrupts the right of freedom of expression on campus are subject to disciplinary action. Such conduct includes, but is not limited to, blocking or impeding vehicular or pedestrian traffic; blocking access to or from campus buildings or offices; and activities of observers or participants that substantially disrupt classes, meetings or any other normal function of the university.

**WSR 96-08-055**  
**PROPOSED RULES**  
**HUMAN RIGHTS COMMISSION**

[Filed April 2, 1996, 10:31 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 95-18-047.

Title of Rule: Chapter 162-12 WAC, Preemployment inquiry guide; chapter 162-22 WAC, Employment—Handicapped persons; and chapter 162-30 WAC, Sex discrimination.

Purpose: To implement and administer the state law against discrimination in employment with respect to fair and unfair preemployment inquiries, persons with disabilities and maternity (sex) discrimination.

Statutory Authority for Adoption: RCW 49.60.120(3).

Statute Being Implemented: Chapter 49.60 RCW, RCW 49.60.120, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.205.

**Summary:**

**Chapter 162-12 WAC**

WAC 162-12-100 Purpose, this amendment incorporates WAC 162-12-110 and updates the RCW and WAC references, delineates the commission's general approach to federal court decisions interpreting comparable state statutes and rules.

WAC 162-12-110 Statutes interpreted, this rule is repealed due to its incorporation into the amendment of WAC 162-12-100.

WAC 162-12-120 General approach, this amendment restates this WAC rule for readability.

WAC 162-12-130 Inquires for purposes of discrimination prohibited, this amendment adds "age" to the kinds of unfair practice inquiries, and changes "handicap" to "disability."

WAC 162-12-135 Bona fide occupational qualifications, this amendment adds "freedom from a disability" to the list of possible BFOQs, and makes it consistent with other existing commission rules.

WAC 162-12-140 Preemployment inquiries, this amendment restates the rule's language for readability, deletes references to rules which are to be repealed, updates language consistent with changes in the RCW, updates and clarifies fair/unfair preemployment inquiries in light of state court decisions, and adds clarifying language and WAC references.

WAC 162-12-150 Inquiries required by United States, this amendment adds "age" and "disability" to the categories of inquiries, and adds (requirements due to) court decrees.

WAC 162-12-160 Data for legitimate purposes, this amendment adds "age" and "disability" to the categories of inquiries, deletes inappropriate categories of inquiries that are not unfair practices for affirmative action purposes, changes "paper" to "record," and replaces the reference to chapter 162-18 WAC with a reference to affirmative action program(s).

WAC 162-12-170 Conditions for inquiries to applicants, this amendment adds "age" and changes "handicap" to "disability" to the categories of inquiries, changes "paper" to "records" to more appropriately reflect the means of data-

retention and to be consistent with other commission rules, and make housekeeping language changes.

**Chapter 162-22 WAC**

Chapter 162-22 WAC, the chapter's title is amended.

WAC 162-22-010 Scope of chapter, this amendment changes "handicap" to "disability," references the WAC chapter for preemployment regulations, and delineates the commission's general approach to federal court decisions interpreting comparable state statutes and rules.

WAC 162-22-020 Definitions, this amendment updates language, and incorporates the purposes of WAC 162-22-030 - 162-22-040 (which are being repealed) in redefining and adding to the terms relevant to disability/employment.

WAC 162-22-030 Affirmative action and reporting and 162-22-040 General approach to enforcement, these rules are being repealed because of the amendment of WAC 162-22-020 as stated above.

WAC 162-22-050 Unfair practice, this amendment updates, restates and adds to this rule's provisions concerning when an unfair practice has occurred, including taking into account the amendment of WAC 162-22-020.

WAC 162-22-060 Preferences for a person with a disability is not an unfair practice, this amendment updates the rule's title and text, and deletes the last two sentences deemed to be unnecessary example-language.

WAC 162-22-070 Bona fide occupational qualification (BFOQ), this amendment updates the rule's language, deletes automatic BFOQ status to state/local government rules, and deletes subsection (5) due to the amendment of WAC 162-22-020.

WAC 162-22-080 Reasonable accommodation, this amendment updates the rule's title, restates the rule's provisions, and adds clarifying language relating to the requirements for reasonable accommodation.

WAC 162-22-090 Medical opinions, this amendment revises the rule's title, restates and clarifies the rule's provisions, including addressing preemployment and postemployment situations, and adds provisions relating to drug/alcohol testing and confidentiality of records.

**Chapter 162-30 WAC**

Chapter 162-30 WAC, the chapter title is amended.

WAC 162-30-010 General approach, this amendment updates references in this rule.

WAC 162-30-020 General findings, this amendment adds clarifying language and deletes the majority of the rule, the provisions of which are mainly addressed and clarified in the newly-proposed rules addressed below.

WAC 162-30-030 Purposes, this new rule addresses the purposes of the rules, previously addressed in WAC 162-30-020.

WAC 162-30-035 Unfair practices, this new rule addresses what unfair practices are involved, previously addressed in WAC 162-30-020.

WAC 162-30-040 Hiring pregnant women, this new rule addresses what was previously addressed in WAC 162-30-020.

WAC 162-30-050 Treatment of employed women, this new rule addresses what was previously addressed in WAC 162-30-020.

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WAC 162-30-060 Leave for medical conditions, this new rule addresses what was previously addressed in WAC 162-30-020.

WAC 162-30-070 Medical benefits, this new rule addresses what was previously addressed in WAC 162-30-020.

WAC 162-30-080 Insurance benefits, this new rule restates and clarifies what was previously addressed in WAC 162-30-020, deletes unnecessary example-language, and adds exemption language to the rule to the extent provided by applicable law.

WAC 162-30-090 Marital status immaterial, this new rule addresses what was previously addressed in WAC 162-30-020.

WAC 162-30-100 Labor unions and employment agencies, this new rule addresses what was previously addressed in WAC 162-30-020.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Idolina Reta/Heriberto Ruiz, Olympia/Seattle, (360) 586-5765/(206) 464-6505; Implementation and Enforcement: Merritt D. Long, Olympia, (360) 753-6770.

Name of Proponent: Washington State Human Rights Commission, governmental.

Rule is necessary because of state court decision, as it relates to WAC 162-12-140(3), see *Fahn v. Cowlitz County*, 116 Wn.2d 368 (1981); also, see *Gugin v. Sonico, Inc.*, 68 Wn. App. 826 (1993), *Green v. Missouri Pacific Railroad Co.*, 503 F. 2d 1290 (8th Cir. 1985), *Monroe v. Tielsch*, 84 Wn.2d 217 (1974).

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments to the employment regulations are proposed in order to streamline and clarify current language and to bring the rules into compliance with recent judicial rulings and applicable state and federal statutes and regulations. Also, see Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

#### REGULATORY FAIRNESS ACT

#### ECONOMIC COMPLIANCE DOCUMENT SUMMARY

**BACKGROUND:** The Human Rights Commission is proposing changes to its employment regulations relating to the Preemployment inquiry guide, (chapter 162-12 WAC; Employment—Handicapped persons, (chapter 162-22 WAC; and Sex discrimination, (chapter 162-30 WAC.

The commission had extensive involvement with all interested parties in developing these final proposed amendments. The general public, advocacy groups, the disabled community, and the business community (particularly the small business associations) provided comments through various forums, including informational meetings, roundtable discussions, advisory groups, written comments, and an initial public hearing held in August 1993. The resulting relevant suggestions and comments were incorporated into these amendments.

**ECONOMIC COMPLIANCE:** The State Economic Policy Act (chapter 43.21H RCW) requires that economic values be given appropriate consideration in the amendment of existing

rules or the promulgation of new rules. The Regulatory Fairness Act (RFA), chapter 19.85 RCW, adopted in 1982 to minimize the proportionately higher economic impact of state regulations on small businesses, requires a small business economic impact statement (SBEIS) if the proposed rules have an economic effect on more than 20% of all industries or more than 10% of any three-digit standard industrial classification (SIC) industry.

The SBEIS is a statement of the expected economic impact of a proposed rule on business and is used to determine whether the proposed rule will have a proportionately higher economic burden on small business. RCW 19.85.020 defines a small business, in part, as: "any business entity . . . which is owned and operated independently from all other businesses, which has the sole purpose of making a profit and which has fifty or fewer employees."

The requirements of the SBEIS include: (1) A description of the compliance requirements of the proposed rule (2) the professional services needed by business to comply with the rule (3) an analysis of the compliance costs and (4) a comparison of the compliance costs for small businesses relative to large ones, which must be based on one or more of the following: (a) cost per employee; (b) cost per hour of labor; (c) cost per \$100 of sales. An additional requirement of the SBEIS is the inclusion of action recommendations to modify the proposed rule to minimize the impact on small business if the rule imposes a proportionately higher economic burden on small businesses.

**ECONOMIC IMPACT:** The economic impact of chapters 162-12, 162-22, and 162-30 WAC on businesses in the state of Washington has been examined by conducting a statistical analysis of survey results from a stratified sample of all employers with eight or more employees. Two sets of 800 employers each were sampled in one mailing and two additional sets of 1000 each were sampled in a second mailing, for a total of 3600 employers. A total of 367 valid surveys were returned (a response rate of ten percent). The results of the survey analysis conclusively demonstrated that none of the proposed changes to the regulations added any significant compliance costs to employers, nor were there any disproportionate costs to small business when compared to large ones. The amendments to these regulations are proposed in order to streamline and clarify current language and to bring the rules into compliance with other regulations, recent judicial rulings and applicable state and federal laws.

The survey analysis and this compliance document satisfy the review requirements of the Economic Policy Act and the Regulatory Fairness Act and as such, no small business economic impact statement is required.

For additional information on the survey and the analysis, please contact: Idolina Reta, Human Rights Commission, P.O. Box 42490, Olympia, WA 98504-2490.

Hearing Location: Seattle Central Community College, 1701 Broadway, Room 1110, Seattle, WA, on May 16, 1996, from 6:00 p.m. to 8:00 p.m.

Submit written comments to: Heriberto Ruiz, Human Rights Commission, 1511 Third Avenue, Suite 921, Seattle, WA 98101-1626, by May 2, 1996.

Date of Intended Adoption: June 28, 1996.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Seattle Central Community College, 1701 Broadway, Room 1110, Seattle, WA, on May 16, 1996, at 6:00 p.m. - 8:00 p.m.

Assistance for Persons with Disabilities: Contact Jean Ciallella by May 1, 1996, TDD (800) 300-7525, or (360) 753-4876.

Submit Written Comments to: Heriberto Ruiz, 1511 Third Avenue, Suite 921, Seattle, WA 98101-1626, FAX (206) 464-7463, by May 2, 1996.

Date of Intended Adoption: June 28, 1996.

April 2, 1996  
Merritt D. Long  
Executive Director

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-100 Purpose.** ~~((1) This regulation, which may be called the preemployment inquiry guide, is issued to inform employers, employment agencies, and the public of the interpretation given by the Washington state human rights commission to the parts of the law against discrimination which declare certain preemployment inquiries to be unfair practices.))~~ (1) These regulations are intended to carry out the purposes of the law against discrimination as stated generally in RCW 49.60.010 and 49.60.030, and to inform employers, employment agencies, and the public of the commission's interpretation of RCW 49.60.180 and 49.60.200 which declare certain preemployment inquiries to be unfair practices.

(2) The commission will generally follow, in its interpretation of statutory provisions in chapter 49.60 RCW and rules contained in Title 162 WAC, federal court decisions interpreting comparable statutes and rules. The commission will not follow such federal precedents, however, where it believes that a different interpretation of state statutes and rules will better carry out the purposes of chapter 49.60 RCW.

(3) This regulation cannot cover every question which might arise in connection with inquiries prior to ((the)) employment. The commission ((hopes)) expects that in most cases ((the given)) these rules, either directly or by analogy, will guide those who are covered by the law. Employers and employment agencies that ((still)) have questions are invited to call the commission's staff for advice and assistance, or, if necessary, to petition the commission for a declaratory ruling under ((RCW 34.04.080 and WAC 162-08-620 [162-08-700] or)) RCW 34.05.240 and WAC 162-08-700 concerning the application of the law to particular facts.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-120 ((Rationale and policy.)) General approach.** ~~((1) The portions of RCW 49.60.180 and 49.60.200 quoted in WAC 162-12-110 forbid preemployment inquiries which convey to the applicant the impression that persons in a protected class will be discriminated against. Inquiries which would convey this impression to a reasonable person are prohibited whether or not they are made in connection with a discriminatory purpose.~~

~~(2) The Washington state human rights commission recognizes that an employer's interest in the race, etc., of the applicants may be consistent with the purposes of the law against discrimination, as where the employer wants to see whether his or her employment office or employment agency is properly carrying out the employer's policy of nondiscrimination. The commission at the same time recognizes that in the absence of safeguards records of race, etc., can easily be misused. Taking both of these facts into account, the commission has concluded that the best approach is to establish fixed rules which characterize particular preemployment inquiries as fair or not, but to draw the line so that those who intend to make proper use of data on protected classes have maximum freedom to do so.))~~ (1) Inquiries which would convey the impression to a reasonable person that applicants in a protected class will be discriminated against are prohibited whether or not they are made in connection with a discriminatory purpose.

(2) The commission recognizes the legitimate interests of employers with respect to the protected class status of applicants which are consistent with the purpose of the law against discrimination, or where required by government or to carry out an employer's policy of nondiscrimination. However, the commission also recognizes that in the absence of safeguards, the records of race, sex, etc., can be misused for discriminatory purposes. To address this conflict, the commission has established fixed rules in WAC 162-12-140 which characterize particular preemployment inquiries as fair or unfair in such a way that employers and employment agencies who intend to make legitimate use of such data have maximum freedom to do so without conveying the impression that protected class applicants will be discriminated against.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-130 Inquiries for purposes of discrimination prohibited.** It is an unfair practice to make any inquiry or keep any record of race, creed, color, national origin, age, sex, marital status, or ~~((handicap))~~ disability, before, during, or after employment, for the purpose of discriminating on these grounds, unless the particular quality inquired about is a bona fide occupational qualification.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-135 Bona fide occupational qualifications.** The statutes construed in this chapter recognize an exception when inquiries are based upon a "bona fide occupational qualification." For guidance on the meaning of that term see WAC 162-16-020. The provisions of this preemployment guide do not apply where age, sex, race, creed, color, marital status, ~~((or))~~ national origin, or freedom from a disability is a bona fide occupational qualification and is identified as such to the applicant or other person. See WAC 162-16-040.

AMENDATORY SECTION (Amending Order 19, filed 1/20/75)

WAC 162-12-140 Preemployment inquiries. ~~((+))~~ The rules in the following chart of fair and unfair inquiries to job application forms, preemployment interviews, or any other type of interrogation of persons seeking to be employed. The rules also apply when the inquiries are made to persons other than the applicant or employee, and when the inquiries are made by third parties such as a credit reporting service on behalf of the employer or employment agency.))

(1) The following chart of fair and unfair inquiry rules apply when made in reference to job application forms, preemployment interviews, or any other type of inquiry made of persons seeking to be employed. The rules also apply to inquiries made to persons other than an applicant and to inquiries made by third parties such as a credit reporting service. The rules do not apply after a person is employed. See WAC 162-12-180.

(2) Employers and employment agencies shall observe these preemployment rules except where one or more of the following conditions exist:

~~((a-))~~ (a) A "bona fide occupational qualification" as explained in chapter 162-16 WAC.

~~((b-))~~ (b) An approved corrective employment program as provided for in chapter 162-18 WAC.

~~((c-))~~ (c) A voluntary affirmative action plan approved or required by a government agency or competent jurisdiction.

~~((d-))~~ (d) (b) A voluntary affirmative action plan to address past or current discriminatory conditions or an affirmative action plan that is in compliance with the requirements of a government agency or other competent authority such as a court, and if made in a manner provided in WAC 162-12-160 and 162-12-170.

(c) A contrary requirement of federal law, as explained in WAC 162-12-150.

If one or more of the above conditions apply, the employer or employment agency may use appropriate inquiries that would otherwise be unfair. Inquiries made under these exceptions must always be accompanied by ~~((a\*))~~ a written explanation of their purpose. See WAC 162-12-135, 162-12-170, and 162-16-040~~((, and 162-18-090))~~.

(3) The examples in the following chart of fair and unfair preemployment inquiries are intended to define what is an unfair practice under RCW 49.60.180(4) and 49.60.200 ~~((and to have the force of law where they apply))~~. These examples, however, are not ~~((exhaustive, however))~~ all inclusive. ~~((The statutes prohibit))~~ All preemployment inquiries which unnecessarily ~~((reveal))~~ elicit the race, sex, or membership in other protected classes~~((;))~~ are prohibited by these statutes irrespective of whether or not the particular inquiry is covered in this regulation.

SUBJECT	FAIR PREEMPLOYMENT INQUIRIES	UNFAIR PREEMPLOYMENT INQUIRIES
a. Age	Inquiries as to birth date and proof of true age are permitted by RCW 49.44.090.	Any inquiry not in compliance with RCW 49.44.090 which implies a preference for persons under 40 years of age.

(For age discrimination, RCW 49.44.090 must be read in conjunction with RCW 49.60.180 and 49.60.200. ~~((+))~~ RCW 49.44.090 limits age discrimination coverage to persons ~~((between the ages of 40 and 65))~~ 40 years of age and older, and makes other limitations and exceptions to the age discrimination law.)

b. Arrests (see also Convictions)

~~((None. (Law enforcement agencies are exempt for this rule. See WAC 162-16-050, discrimination in employment because of arrests.))~~ Because statistical studies regarding arrests have shown a disparate impact on some racial and ethnic minorities, and an arrest by itself is not a reliable indication of criminal behavior, inquiries concerning arrests must include whether charges are still pending, have been dismissed, or led to conviction of a crime involving behavior which would adversely affect job performance, and the arrest occurred within the last ten years. Exempt from this rule are law enforcement agencies and state agencies, school districts, businesses and other organizations that have a direct responsibility for the supervision, care, or treatment of children, mentally ill persons, developmentally disabled persons, or other vulnerable adults. See RCW 43.20A.710; 43.43.830 through 43.43.842; and RCW 72.23.035.

~~((All inquiries relating to arrests.))~~ Any inquiry which does not meet the requirements for fair preemployment inquiries.

c. Citizenship

Whether applicant is prevented from lawfully becoming employed in this country because of visa or immigration status. Whether applicant can provide proof of ~~((citizenship, visa, alien registration number after being hired))~~ a legal right to work in the United States after hire.

Whether applicant is citizen. Requirement before hiring that applicant present birth certificate, naturalization or baptismal record. Any inquiry into citizenship which would tend to divulge applicant's lineage, ancestry, national origin, descent, or birthplace.

d. Convictions (see also Arrests)

~~((+))~~ Inquiries concerning specified convictions which relate reasonably to fitness to perform the particular job~~((s))~~ being applied for. Provided, That such

~~((Any inquiry which does not meet the requirements for fair preemployment inquiries.))~~ Inquiries concerning convictions and imprisonment

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inquiries be limited to convictions for which the date of conviction or prison release, whichever is more recent, is within 7 years of the date of the job application. (2) Where the employer believes, after careful consideration, that it is not practicable to inquire about specified convictions, the employer may inquire generally about all convictions for which the date of the conviction or prison release, whichever is more recent, is within 7 years of the date of the job application. Provided, That such general inquiries be accompanied by a disclaimer informing the applicant that a conviction record will not necessarily bar him or her from employment. (Law enforcement agencies are exempt from this rule. See WAC 162-16-060 for further guidance on proper use of conviction records.)) Statistical studies on convictions and imprisonment have shown a disparate impact on some racial and ethnic minority groups. Inquiries concerning convictions (or imprisonment) will be considered to be justified by business necessity if the crimes inquired about relate reasonably to the job duties, and if such convictions (or release from prison) occurred within the last ten years. Law enforcement agencies, state agencies, school districts, businesses and other organizations that have a direct responsibility for the supervision, care, or treatment of children, mentally ill persons, developmentally disabled persons, or other vulnerable adults are exempt from this rule. See RCW 43.20A.710; 43.43.830 through 43.43.842; and RCW 72.23.035.

which either do not relate reasonably to job duties or did not occur within the last ten years will not be considered justified by business necessity.

(f-Handicap

f. Disability

may prevent him or her from meeting work attendance requirements.

Whether applicant has certain specified sensory, mental or physical handicaps which relate reasonably to fitness to perform the particular job. Whether applicant has any handicaps or health problems which may effect work performance or which the employer should take into account in determining job placement.))

Whether applicant is able to perform the essential functions of the job for which the applicant is applying, with or without reasonable accommodation. Inquiries as to how the applicant could demonstrate or describe the performance of these specific job functions with or without reasonable accommodation. Note: Employers are encouraged to include a statement on the application form apprising applicants that if they require accommodation to complete the application, testing or interview process, to please contact the employment office, personnel or human resources department or other office as may be able to assist them.

g. Height and Weight

((Inquiries as to ability to perform actual job requirements. Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that no employee with the ineligible height or weight could do the work.)) Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that all or substantially all employees who fail to meet the requirement would be unable to perform the job in question with reasonable safety and efficiency.

ments, or dependents.

Over general inquiries (e.g. "Do you have any handicaps?") which would tend to divulge handicaps or health conditions which do not relate reasonably to fitness to perform the job.

Inquiries about the nature, severity or extent of a disability or whether the applicant requires reasonable accommodation. Whether applicant has applied for or received worker's compensation. Also any inquiry that is not job related or consistent with business necessity.

Any inquiry which is not based on actual job requirements and not consistent with business necessity.

e. Family

Whether applicant can meet specified work schedules or has activities, commitments or responsibilities that

Specific inquiries concerning spouse, spouse's employment or salary, children, child care arrange-

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h. Marital Status (see also Name and Family)	None.	<p>( ) Mr.                  ( ) Mrs.                  ( ) Miss                  ( ) Ms.                  Whether the applicant is married, single, divorced, separated, engaged, widowed, etc.</p>	company or by any competitor.	<p><del>listed as proper-)</del>  <u>Any other inquiry regarding marital status, identity of one's spouse, or spouse's occupation are considered unfair practices in accordance with WAC 162-12-150.</u></p>
i. Military	Inquiries concerning education, training, or work experience in the armed forces of the United States.	Type or condition of military discharge. Applicant's experience in <u>military</u> other than U.S. armed forces. Request for discharge papers.	(While the law does not ( <del>directly</del> ) prohibit company policies governing the employment of relatives, any policy which has the effect of disadvantaging minorities, women, married couples, or other protected classes, would be in violation of the law unless it is shown to serve a necessary business purpose.) <u>See WAC 162-12-150, 162-12-160, and 162-12-170.</u>	
j. Name	Whether applicant has worked for this company or ( <del>a competitor</del> ) <u>another employer</u> under a different name and, if so, what name. Name under which applicant is known to references if different from present name.	Inquiry into original name where it has been changed by court order or marriage. Inquiries about a name which would divulge marital status, lineage, ancestry, national origin or descent.	q. Religion or Creed	None.  Inquiries concerning applicant's religious preference, denomination, religious affiliations, church, parish, pastor, or religious holidays observed.
k. National Origin	Inquiries into applicant's ability to read, write and speak foreign languages, when such inquiries are based on job requirements.	Inquiries into applicant's lineage, ancestry, national origin, descent, birthplace, or mother tongue. National origin of applicant's parents or spouse.	r. Residence	Inquiries about address to the extent needed to facilitate contacting the applicant.
l. Organizations	Inquiry into organization memberships, excluding any organization the name or character of which indicates the race, color, creed, sex, marital status, religion, or national origin or ancestry of its members.	Requirement that applicant list all organizations, clubs, societies, and lodges to which he or she belongs.	s. Sex	None.  <u>Any inquiry concerning gender is prohibited.</u>
m. Photographs	May be requested <u>after</u> hiring for identification purposes.	Request that applicant submit a photograph, mandatorily or optionally, at any time before hiring.	<u>AMENDATORY SECTION</u> (Amending Order 16, filed 5/22/74)	
n. Pregnancy (see also <del>(Handicap)</del> <u>Disability</u> )	Inquiries as to a duration of stay on job or anticipated absences which are made to males and females alike.	All questions as to pregnancy, and medical history concerning pregnancy and related matters.	<b>WAC 162-12-150 Inquiries required by United States.</b> Because of the supremacy of federal law over state law, an employer or employment agency may ask applicants to state their race, creed, color, <u>age</u> , sex, marital status, <u>disability</u> , or national origin to the extent that the employer is required to do so by the United States government or a <u>federal or state court decree</u> . When the United States government asks only for data on race, creed, color, national origin, <u>age</u> , marital status, <u>disability</u> , or sex of applicants, the information shall be acquired by means other than inquiry to the applicants, unless the United States expressly requires the inquiries or unless the inquiries are made in conformity with WAC 162-12-160 and 162-12-170.	
o. Race or Color	None. <u>See WAC 162-12-150, 162-12-160, and 162-12-170.</u>	Any inquiry concerning race or color of skin, hair, eyes, etc., <u>not specifically permitted by WAC 162-12-150, 162-12-160, and 162-12-170.</u>	<u>AMENDATORY SECTION</u> (Amending Order 18, filed 1/20/75)	
p. Relatives	Name of applicant's relatives already employed by this	<del>(Names and addresses of any relative other than those</del>	<p><b>WAC 162-12-160 Data for legitimate purposes.</b> (1) It is not an unfair practice to make inquiries as to race, (<del>creed, color,</del>) sex, (<del>marital status, national origin</del>) or (<del>handicap</del>) <u>disability</u> for purposes of affirmative action to (<del>eliminate</del>) <u>correct</u> or prevent discrimination against persons in protected classes, when the inquiries are made in the manner provided in WAC 162-12-170.</p> <p>(2) Data on race, creed, color, national origin, sex, <u>age</u>, <u>disability</u>, or marital status shall not be recorded on any (<del>paper</del>) <u>record</u> which is kept in the applicant's (<del>personnel</del>) <u>preemployment</u> file, nor shall such data be kept in any other place <u>or form</u> where it is available to those who process the application. Records which identify the race, etc., of a</p>	

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particular person shall be kept confidential, except to the extent necessary to implement ~~((a corrective employment program as authorized by chapter 162-18 WAC))~~ an affirmative action program as authorized by law, to permit the compilation of statistics, and to permit verification of the statistics by top management of the employer, or by the Washington state human rights commission or other concerned governmental agencies.

AMENDATORY SECTION (Amending Order 18, filed 1/20/75)

**WAC 162-12-170 Conditions for inquiries to applicants.** An employer or employment agency may ask an applicant to voluntarily state his or her race, creed, color, national origin, sex, marital status, age, or ~~((handicap))~~ disability for a nondiscriminatory purpose, and then only if it has satisfied all of the following conditions:

(1) The employer shall have adopted a written equal employment policy which authorizes the inquiries as a means of monitoring its enforcement, and which sets out detailed procedures for keeping the responses confidential and separate from other ~~((papers))~~ records relating to applicants, in fulfillment of the requirements of WAC 162-12-160(2)(-);

(2) The form on which the question appears contains statements clearly informing the applicant ~~((of))~~ the information is strictly voluntary, the reasons for asking for the information, the uses to which the information will be put, and the safeguards which will prevent use of the information by those who will process the application~~((-))~~; and

(3) The written policy and proposed form shall have been submitted to and have been approved by the executive ~~((secretary))~~ director of the commission or his or her designate, or they have been required or approved by an agency of the United States government which has jurisdiction to do so.

AMENDATORY SECTION (Amending Order 16, filed 5/22/74)

**WAC 162-12-180 Post employment records.** RCW 49.60.180 and 49.60.200 and these rules do not prohibit making or keeping records of the race, creed, color, national origin, sex, marital status, disability or age of persons after they are employed, unless the records are used ~~((in connection with))~~ for the purpose of discrimination. To prevent improper use, records of an employee's race, ~~((creed,))~~ color ~~((or national origin should))~~, or disability must be kept separate from the employee's personnel file.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 162-12-110 Statutes interpreted.

#### **Chapter 162-22 WAC EMPLOYMENT—~~((HANDICAPPED))~~ PERSONS WITH DISABILITIES**

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-010 Scope of chapter.** (1) This chapter contains rules interpreting and implementing the ~~((handicap))~~ disability discrimination coverage of RCW 49.60.180 (unfair practices of employers), RCW 49.60.190 (unfair practices of labor unions), and RCW 49.60.200 (unfair practices of employment agencies). Preemployment regulations are contained in chapter 162-12 WAC.

(2) The commission will generally follow, in its interpretation of statutory provisions in chapter 49.60 RCW and rules contained in Title 162 WAC, federal court decisions interpreting comparable statutes and rules. The commission will not follow such federal precedents, however, where it believes that a different interpretation of state statutes and rules will better carry out the purposes of chapter 49.60 RCW.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-020 Definitions.** In this chapter the following words are used in the meaning given, unless the context clearly indicates another meaning:

~~(("Handicap" is short for the statutory term "the presence of any sensory, mental, or physical handicap," see WAC 162-04-010, except when it appears as part of the full term.~~

~~An "able handicapped worker" is a person whose handicap does not prevent the proper performance of the particular job in question.)~~ (1) "An able worker with a disability" is a person whose disability does not prevent the proper performance, with or without reasonable accommodation, of the particular job involved.

(2) "Disability" is used interchangeably with the statutory term "the presence of any sensory, mental, or physical disability" except when it appears as part of the full statutory term. A disability is a chronic abnormal condition that:

- (i) Is medically cognizable or diagnosable; or
- (ii) Exists as a record or history; or
- (iii) Is perceived to exist, whether or not it exists in fact.

(3) "Employer" also includes labor unions and employment agencies.

(4) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.

(5) "Health care professional" includes, but is not limited to, any person who has completed a course of study in a particular field of health care requiring diagnosis and treatment of medically cognizable or diagnosable conditions, and who is licensed in their particular field of health care.

(6) "Medical opinion or examination" is any opinion or examination given by a health care professional.

(7) "Reasonable accommodation" (see WAC 162-22-080.)

(8) "Undue hardship" means an action requiring significant difficulty or expense when considered in light of business-related factors, which include but are not limited to the following:

- (a) The nature and cost of the proposed accommodation;



- (b) The overall financial resources of the employer;
- (c) The number of employees;
- (d) The frequency of job vacancies;
- (e) The type of operations of the employer's business including the composition, structure, and functions of the work force;
- (f) The impact of such accommodation upon the operation of the employer's business; and
- (g) The availability of other resources to provide for or pay for the accommodation.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-050 Unfair practice.** ~~((1) RCW 49.60.180 says: "It is unfair practice for any employer:~~

~~"(1) To refuse to hire a person because of . . . the presence of any sensory, mental, or physical handicap, . . . . Provided, That the prohibition against discrimination because of such handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved."~~

~~(2) An unfair practice has been committed when both of the following have occurred:~~

~~(a) An employer, employment agency, or labor union has refused to hire or has otherwise discriminated against a person because the person has a handicap, and~~

~~(b) The handicap does not prevent the person from properly performing the particular job.~~

~~(3) While the proviso on ability to do the job appears only in paragraph (1) of RCW 49.60.180, it logically applies to all circumstances where ability to do the job is material. The rule of the proviso will therefore be applied when appropriate in cases arising under other paragraphs of RCW 49.60.180, and also in cases under RCW 49.60.190 (labor unions), and RCW 49.60.200 (employment agencies:)) (1) An unfair practice has been committed when both of the following have occurred:~~

~~(a) An employer has refused to hire, advance, or has discharged, barred, or has otherwise discriminated against a person in the terms and conditions of employment because of the person's disability; and~~

~~(b) The person is an able worker with a disability.~~

~~(2) It is an unfair practice for an employer to fail or refuse to make reasonable accommodation for a person's disability, unless the employer can demonstrate that such an accommodation would impose an undue hardship on the conduct of the employer's business. An employer is only required to reasonably accommodate those limitations resulting from a disability of which they know or has notice of. An employer is responsible for notifying job applicants and employees of their right to be provided reasonable accommodations.~~

~~(3) It is an unfair practice for a labor union to bar the reasonable accommodation of a person with a disability through a union contract or by any other practice.~~

~~(4) It is an unfair practice for an employer to discriminate against a person on the basis of a disability because of preferences or objections of co-workers, the employer, clients, or customers.~~

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-060 Preference for ((handicapped)) a person with a disability is not an unfair practice.** The law against discrimination ~~((says))~~ states that it is an unfair practice to discriminate *against* a person because of the presence of any ~~((handicap))~~ disability. ~~((Discrimination))~~ Preference *in favor of* a person because of the person's ~~((handicap))~~ disability is not an unfair practice. ~~((Stating the same thing))~~ Stated inversely, discrimination *against* a person because the person is *not* ~~((handicapped))~~ disabled is not an unfair practice. ~~((This nonreciprocal operation is different from the operation of the statutes in all other areas, except for age discrimination. For example, it is an unfair practice for an employer to discriminate either for or against persons of any race or either sex.))~~

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

**WAC 162-22-070 Bona fide occupational qualification.** (1) The special rules in this section supplement the general rules on bona fide occupational qualification in WAC 162-16-020, 162-16-030, and 162-16-040.

(2) No bona fide occupational qualification question is raised by preferential treatment of ~~((handicapped persons))~~ an individual with a disability, since such treatment is not an unfair practice. See WAC 162-22-060.

(3) A bona fide occupational qualification differs from the statutory requirement that ~~((the handicapped individual))~~ an individual with a disability be able to properly perform the job. The determination of ability to do the job is made on an individual basis, for each person and for each job. A bona fide occupational qualification is a requirement that must be met by all persons, whether or not they can do the job. ~~((Ability to do the job is part of the definition of handicap discrimination; a bona fide occupational qualification is an exception to the rule of nondiscrimination because of handicap.))~~

(4) ~~((The following job requirements are bona fide occupational qualifications:~~

~~(a)) Any specific requirement set out in a statute of the United States or the state of Washington, or an authorized regulation of an agency of the United States government is a bona fide occupational qualification.~~

~~((b) Any specific requirement set out in an authorized regulation of an agency of the state of Washington, or in an ordinance, authorized rule, or other official act of a unit of local government of the state of Washington, unless the human rights commission finds that the state or local requirement is not consistent with the law against discrimination.~~

~~(5) The following are not bona fide occupational qualifications:~~

~~(a) Preferences or objections of co-workers, the employer, clients, or customers.~~

~~(b) Physical obstacles or inadequacies at work facilities that reasonably can be corrected as provided in WAC 162-22-080.))~~

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-080 Reasonable accommodation ((to ~~handicapped employees~~)). ((1) It is an unfair practice for an employer to fail or refuse to make reasonable accommodations to the sensory, mental, or physical limitations of employees, unless the employer can demonstrate that such an accommodation would impose an undue hardship on the conduct of the employer's business.

(2) It is an unfair practice for an employer to refuse to hire or otherwise discriminate against an able handicapped worker because the employer will be subject to the requirements of this section if the worker is hired, promoted, etc.

(3) The cost of accommodating an able handicapped worker will be considered to be an undue hardship on the conduct of the employer's business only if it is unreasonably high in view of the size of the employer's business, the value of the employee's work, whether the cost can be included in planned remodeling or maintenance, the requirements of other laws and contracts, and other appropriate considerations.) (1) Reasonable accommodation means accommodations that are required:

(a) To ensure equal opportunity in the application process;

(b) To enable employees with disabilities to properly perform the particular job held or desired; and

(c) To enable employees with disabilities to enjoy equivalent benefits, privileges, or terms and conditions of employment as are enjoyed by employees without disabilities.

(2) Reasonable accommodation may include but is not limited to:

(a) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;

(b) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and training for managers, supervisors, and co-workers.

(3) If an employee becomes disabled or more severely disabled and can no longer perform the existing job, with or without reasonable accommodation, the employer must inform the employee of vacant positions, and consider him/her for those positions for which the employee is qualified. Employees are responsible for providing current information showing skills, abilities, training, and experience; identifying the types of jobs they are interested in and qualified for; and advising the employer of any change of address. An employer is responsible for informing employees of these responsibilities.

(4) A person with a disability is not required to accept an accommodation. However, a person who rejects a reasonable accommodation that is necessary to enable the individual to properly perform the particular job will not be considered an able worker with a disability.

(5) If the cost of an accommodation would impose an undue hardship on the employer, and there are no other financial resources available, the individual with a disability must be given the option of providing the accommodation or

paying the portion of the cost which would constitute an undue hardship.

AMENDATORY SECTION (Amending Order 23, filed 7/21/75)

WAC 162-22-090 ((Physician's)) Medical opinions. ((1) A physician's opinion on whether a handicap prevents a person from properly performing a particular job will be given due weight in view of all the circumstances, including the extent of the physician's knowledge of the particular person and job, and the physician's relationship to the parties.

(2) A physician's conclusion will not be considered to be an opinion on whether the person can properly perform the particular job unless it:

(a) Is based on the individual capabilities of the particular person, and not on generalizations as to the capabilities of all persons with the same handicap, unless the handicap is invariable in its disabling effect; and

(b) Is based on knowledge of the actual sensory, mental, and physical qualifications needed for proper performance of the particular job.

(3) Employers who choose to rely on a physician's opinion in determining that a person cannot properly perform the particular job are advised to provide the physician with the necessary information about the job and to inform the physician of the need for an individualized opinion.) (1) Preemployment. Employers may not require a medical opinion or examination as a condition of employment except as follows:

(a) An employer may condition an offer of employment upon a medical opinion or examination to be given after an offer of employment has been made if the employer requires the same opinion or examination of all employees in the same job classification.

(b) If the employer uses medical opinions or examinations that exclude or screen out employees with disabilities, the employer must be prepared to show that the exclusionary criteria are job-related, consistent with business necessity, and that proper performance of the job cannot be accomplished with or without reasonable accommodation.

(2) Post-employment.

(a) Employers may conduct employee medical examinations under the following circumstances:

(i) When there is evidence of a job performance problem;

(ii) When examinations are allowed by Federal or state laws;

(iii) To determine current "fitness" to perform a particular job with or without reasonable accommodation; or

(iv) When voluntary examinations are part of employee health programs.

(b) A medical examination may be required if an employee requests an accommodation on the basis of his/her disability. An accommodation may be needed in an employee's existing job, or if the employee is being transferred or promoted to a different job. Medical information may be required to determine if the employee has a disability and is entitled to an accommodation, and if so, to help identify an effective accommodation.

(c) Other professional opinions related to an employee's or applicant's disability, functional limitations, or appropriate accommodations may include consultations with knowledgeable professional sources, such as occupational and physical therapists, rehabilitation specialists, and organizations with expertise in adaptations for specific disabilities.

(3) If a health care professional gives an opinion regarding whether an individual with a disability can properly perform a particular job, the opinion will be considered in view of all the circumstances, including the extent of the health care professional's knowledge of the particular person and job, and the health care professional's relationship to the parties.

(a) An opinion must be based on the individual capabilities of the particular person examined, and not on generalizations as to the capabilities of all persons with that disability.

(b) An opinion must be based on knowledge of the actual sensory, mental, or physical qualifications needed for proper performance of the particular job.

(4) Drug and alcohol tests are not considered medical opinions or examinations under this section.

(5) An employer shall maintain all medical information separate from the employee's regular personnel file and this information must be treated as confidential, except when it is required by supervisors in order to make appropriate work assignments, or by safety personnel in order to develop appropriate emergency evacuation plans.

#### NEW SECTION

**WAC 162-22-100 Drug and alcohol use.** (1) Whether drug or alcohol addiction is a disability is a question of fact to be determined on a case-by-case basis through application of WAC 162-22-020(2). A person who engages in the casual or recreational use of drugs or alcohol is not considered to have a disability.

(2) These regulations do not preclude an employer from conducting drug and alcohol testing in accordance with applicable laws.

(3) Employers must reasonably accommodate employees with drug addiction and/or alcoholism. Reasonable accommodation may include time off for treatment or rehabilitation, or a flexible work schedule to enable the employees to obtain counseling.

(4) An employer may require an employee with drug addiction or alcoholism to properly perform the job involved. If the employee's job performance is impaired and the employee refuses accommodation or if reasonable accommodation fails, appropriate disciplinary action may be taken.

(5) An employer may:

(a) Prohibit the use of drugs and alcohol in the workplace;

(b) Require that employees not be under the influence of alcohol or drugs in the workplace; and

(c) Require that employees who use drugs or alcohol meet the same qualification and performance standards applied to other employees.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 162-22-030 Affirmative action and reporting.

WAC 162-22-040 General approach to enforcement.

#### Chapter 162-30 WAC SEX DISCRIMINATION—MATERNITY

AMENDATORY SECTION (Amending Order 9, filed 9/23/71)

**WAC 162-30-010 General approach.** In the interest of consistency ~~((and to avoid confusion on the part of persons governed by both the state and federal sex discrimination laws;))~~ the commission will generally follow interpretations of the sex discrimination provisions of Title VII of the United States Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act of 1978, 92 Stat 2076, 42 USC § 2000e and following with respect to maternity, where the federal act is comparable to the state act. See in particular part 1604 of the regulations of the United States Equal Employment Opportunity Commission, ~~((42-29))~~ 29 CFR Part 1604. The commission will not follow federal precedents where it believes that a different interpretation will better carry out the purposes of the state act.

AMENDATORY SECTION (Amending Order 15, filed 9/28/73)

**WAC 162-30-020 ~~((Maternity-))~~ General findings.** ~~((1) Findings-))~~ Pregnancy is an expectable incident in the life of a woman. Many women of childbearing age depend on their jobs for economic support. Practices such as terminating pregnant women, refusing to grant leave or accrued sick pay for ~~((disabilities relating to))~~ pregnancy or childbirth, or refusing to hire women ~~((for responsible jobs))~~ because they may become pregnant, impair the opportunity of women to obtain employment and to advance in employment on the same basis as men. Such practices discriminate against women because of their sex.

~~((2) Purposes. The purpose of the law against discrimination in employment because of sex (chapter 49.60 RCW) is to equalize employment opportunity for men and women. This regulation explains how the law applies to practices which disadvantage women because of pregnancy or childbirth.~~

~~((3) Hiring pregnant women. It is an unfair practice for an employer to refuse to hire a qualified woman because of pregnancy unless doing so would be unreasonable in view of the necessities of the business. The burden shall be on the employer to show that a decision not to hire a pregnant woman was based on adequate facts concerning her individual ability to perform the job or adequate facts concerning business necessity. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months. On the other~~

hand, negative assumptions about pregnant women in employment must not influence the hiring decision. Such assumptions include but are not limited to:

(a) That pregnant women do not return to the job after childbirth;

(b) That the time away from work required for child-bearing will increase the employer's costs;

(c) That the disability period for childbirth will be unreasonably long;

(d) That pregnant women are frequently absent from work due to illness;

(e) That clients, co-workers, or customers object to pregnant women on the job.

(4) **Treatment of employed women.** It is an unfair practice for an employer to discharge a woman, penalize her in terms or conditions of employment, or in any way limit the job opportunities of a woman because she is pregnant or may require time away from work for childbearing.

**(5) Leave for temporary disability.**

(a) An employer shall provide a woman a leave of absence for the period of time that she is sick or temporarily disabled because of pregnancy or childbirth. A leave in excess of the actual period of sickness or disability is not required by the law or this regulation. The terms and conditions of the leave shall be determined by the employer's policy on temporary disability, unless the policy conflicts with this regulation. For example:

(i) If advance notice is required for a leave for planned surgeries, or other anticipated disabilities, it may be required also for a leave for childbirth;

(ii) If the uniform policy requires a physician's statement to verify the leave period for other disabilities, a physician's statement may be required to verify the leave period for disabilities relating to pregnancy or childbirth.

(b) While application of the employer's general leave policy to disability because of pregnancy or childbirth will ordinarily afford equal opportunity for women and men, there may be circumstances when this is not so. One circumstance would be where the employer allows no leave for any sickness or other disability by any employee, or so little leave time that a pregnant woman must terminate employment. Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

(c) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth. Refusal to do so must be justified by adequate facts concerning business necessity.

(6) **Disability benefits.** Illness or disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom are temporary disabilities and must be treated as such under any sick leave plan or temporary disability benefit plan provided in whole or in part by the employer. All written and unwritten policies and practices concerning disabilities must be applied to disabilities resulting from pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities. For example, if the following benefits or privileges are available for other temporary disabilities, then

they must be available also for disabilities resulting from pregnancy or childbirth:

(a) Payment in lieu of wages under a sick leave plan or temporary disability benefit plan. (If no leave pay is granted for other temporary disabilities, then it need not be granted for disabilities relating to pregnancy or childbirth.)

(b) Extensions of leave time (e.g., use of vacation or leave without pay);

(c) Retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period.

(7) **Insurance benefits.** Insurance benefits provided by the employer must be equal for male and female employees. For example:

(a) If full health insurance coverage is provided for male employees, then full coverage, including maternity and abortion, must be provided for female employees;

(b) If maternity insurance is provided for the wives of male employees, then the same coverage must be provided for the female employees.

Subsection 7 applies only if the employer pays the premium in whole or in part or has participated in negotiating the terms of the insurance policy.

(8) **Marital status immaterial.** Discrimination because of marital status is an unfair practice. An employer's leave policies and benefits, including health insurance, must apply equally to married and unmarried employees.

(9) **Labor unions and employment agencies.** It is an unfair practice for a labor union or employment agency to conduct its own affairs so as to deny anyone his or her rights under the law and this regulation.

(10) **Commission rulings.** Any person in doubt as to the application of this regulation to a particular set of facts may request an opinion letter from the executive secretary of the Washington state human rights commission or a declaratory ruling of the commission under WAC 162-08-620.

(11) **Construction with federal law.** This regulation is intended to be consistent with Title VII of the United States Civil Rights Act of 1964 and the United States Equal Employment Opportunity Commission Employment Policies Relating to Pregnancy and Childbirth, 29 CFR § 1604.10, and shall be construed accordingly.)

#### NEW SECTION

**WAC 162-30-030 Purposes.** This chapter delineates how the law against discrimination, chapter 49.60 RCW, applies to employment practices which disadvantage women on the basis of sex and/or disability because of pregnancy or childbirth.

#### NEW SECTION

**WAC 162-30-035 Unfair practices.** Pregnancy or childbirth in and of themselves are not considered to be disabling conditions. Discrimination by an employer against a woman because she is pregnant or has given birth is an unfair practice on the basis of sex. If a disabling condition arises during or as a result of pregnancy or childbirth, discrimination by an employer against a woman because of such a disabling condition is an unfair practice on the basis of a disability. The term "disability" as used in this chapter has the meaning set out in WAC 162-22-020(2) and includes

both disabilities that are normally associated with pregnancy or childbirth and those that are not.

#### NEW SECTION

**WAC 162-30-040 Hiring pregnant women.** It is an unfair practice for an employer to refuse to hire a qualified woman because of pregnancy unless hiring her would be unreasonable in view of the requirements of the job. The burden shall be on the employer to show that a decision not to hire a pregnant woman was based on adequate facts concerning her individual ability to perform the job and adequate facts concerning business necessity. For example, an employer hiring workers into a training program that cannot accommodate absences for the first two months might be justified in refusing to hire a pregnant woman whose delivery date would occur during those first two months. On the other hand, negative assumptions about pregnant women in employment must not influence the hiring decision. Such assumptions include but are not limited to:

- (1) That pregnant women do not return to the job after childbirth;
- (2) That the time away from work required for child-bearing will increase the employer's costs;
- (3) That the time away from work for childbirth will be unreasonably long;
- (4) That pregnant women are frequently absent from work due to illness;
- (5) That clients, co-workers, or customers object to pregnant women on the job; and
- (6) That duties of the job may expose an unborn fetus to risk of harm.

#### NEW SECTION

**WAC 162-30-050 Treatment of employed women.** (1) It is an unfair practice for an employer to discharge a woman, penalize her in terms or conditions of employment, or in any way limit the job opportunities of a woman because she is pregnant or may require time away from work for childbirth or recovery therefrom.

(2) It is also an unfair practice for an employer to fail or refuse to provide a reasonable accommodation for a disability arising from pregnancy or childbirth unless the employer can demonstrate that such an accommodation would impose an undue hardship on the conduct of the employer's business. The terms "reasonable accommodation" and "undue hardship" in this section have the same meanings as when they are used in WAC 162-22-080 and 162-22-020, respectively.

#### NEW SECTION

**WAC 162-30-060 Leave for medical conditions.** (1) An employer shall provide a woman a leave of absence for the period of time that she is unable to perform the duties of her job because of pregnancy, childbirth, or recovery therefrom. The determination of whether a woman is unable to perform the duties of her job because of pregnancy, childbirth, or recovery therefrom, shall be made by the woman's health care professional in consultation with her. A leave in excess of the actual period of inability to perform the job because of pregnancy, childbirth, or recovery

therefrom, is not required by the law or this regulation. The terms and conditions of the leave shall be determined by the employer's policy on medical leave of absence, unless the policy conflicts with this regulation. For example:

(a) If an employer's policy requires advance notice for a leave for planned surgeries, or other anticipated medical conditions, it may be required also for a leave for childbirth;

(b) If the policy requires a physician's statement to verify the leave period for other medical conditions, a physician's statement may be required to verify the leave period for pregnancy or childbirth.

(2) While application of the employer's general leave policy to leave for pregnancy or childbirth will ordinarily afford equal opportunity for women and men, there may be circumstances when this is not so. One circumstance would be where the employer allows no leave for any medical condition by any employee, or so little leave time that a pregnant woman must terminate employment. Because such a leave policy has a disparate impact on women, it is an unfair practice, unless the policy is justified by business necessity.

(3) An employer shall allow a woman to return to the same job, or a similar job of at least the same pay, if she has taken a leave of absence only for the actual period of time she was unable to perform the duties of her job because of pregnancy or childbirth. Refusal to do so must be justified by facts which establish a business necessity basis for such action.

#### NEW SECTION

**WAC 162-30-070 Medical benefits.** Medical conditions caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom must be treated the same as other medical conditions under any medical benefit plan provided in whole or in part by the employer. All written and unwritten policies and practices regarding medical conditions arising from pregnancy or childbirth must be applied on the same terms and conditions as they are applied to other medical conditions. For example, if the following benefits or privileges are available for other medical conditions, then they must be available also for medical conditions arising from pregnancy or childbirth:

(1) Payment in lieu of wages under a medical leave plan. (If no leave pay is granted for other medical conditions, then it need not be granted for pregnancy or childbirth.)

(2) Extensions of leave time (e.g., use of vacation or leave without pay);

(3) Retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period.

#### NEW SECTION

**WAC 162-30-080 Insurance benefits.** Except to the extent that the employer is exempted by applicable law, insurance benefits provided for or negotiated by the employer must be equivalent for male and female employees.

NEW SECTION

**WAC 162-30-090 Marital status immaterial.** Discrimination because of marital status is an unfair practice. An employer's leave policies and benefits, including health insurance for pregnancy, childbirth, or medical conditions caused or contributed to by same, must apply equally to married and unmarried employees.

NEW SECTION

**WAC 162-30-100 Labor unions and employment agencies.** It is an unfair practice for a labor union or employment agency to conduct its own affairs so as to deny anyone rights under the law and this regulation.

**WSR 96-08-057****WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF LICENSING**

[Filed April 2, 1996, 11:37 a.m.]

The Department of Licensing hereby withdraws proposed rules WAC 308-129-010 through 308-129-310 filed with your office on October 17, 1995, as a part of WSR 95-21-085.

Pat Brown, Administrator  
Business and Professions Division

**WSR 96-08-061****PROPOSED RULES  
STATE BOARD OF EDUCATION**

[Filed April 2, 1996, 3:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-06-023.

Title of Rule: Chapter 180-40 WAC, governing the procedural due process rights of students.

Purpose: Chapter 180-40 WAC assures that students are afforded constitutionally required and desirable procedural due process in connection with various disciplinary actions by school authorities.

Statutory Authority for Adoption: RCW 28A.305.160.

Statute Being Implemented: Same.

Summary: The proposed revisions of chapter 180-40 WAC would provide for a disciplinary appeal council to hear and decide various student appeals in lieu of school district boards of directors.

Reasons Supporting Proposal: Expedite the student appeal processes, and free school boards to attend to other pressing school district policy and business matters.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

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: Proposed amendments of WAC 180-40-240, 180-40-255, 180-40-310, 180-40-315, 180-40-320, and the

proposed enactment of new section WAC 180-40-317, to authorize school boards of directors to appoint disciplinary appeal councils, and to delegate the responsibility to hear and decide student grievance appeals from discipline decisions, and student appeals from long-term suspension and expulsion decisions, to a disciplinary appeal council.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not applicable.

Hearing Location: Richland School District, Board Room, 615 Snow Avenue, Richland, WA 99352, on May 15, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Judy Rus by May 1, 1996, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by May 13, 1996.

Date of Intended Adoption: May 17, 1996.

April 2, 1996

Larry Davis  
Executive Director

AMENDATORY SECTION (Amending Order 6-77, filed 6/2/77, effective 8/1/77)

**WAC 180-40-240 Discipline—Grievance procedure.**

Any student, parent, or guardian who is aggrieved by the imposition of discipline shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the building level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC 180-40-317. The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The discipline action shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

AMENDATORY SECTION (Amending Order 6-77, filed 6/2/77, effective 8/1/77)

**WAC 180-40-255 Short-term suspension—Grievance procedure.** Any student, parent, or guardian who is aggrieved by the imposition of a short-term suspension shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the building level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC 180-40-317. The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The short-term suspension shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

AMENDATORY SECTION (Amending Order 13-77, filed 10/18/77)

**WAC 180-40-310 Appeals—Long-term suspension and expulsion.** Appeals from decisions rendered pursuant to WAC 180-40-270, 180-40-285 and 180-40-305 which impose either a long-term suspension or an expulsion upon a student shall be governed as follows:

(1) Any school district board of directors may delegate its authority to hear and decide long-term suspension and expulsion appeals to a school district disciplinary appeal council established by the board. School district disciplinary appeal councils shall be appointed by the school district board of directors for fixed terms and shall consist of not less than three persons.

(2) If the case was not heard and decided by the school district board of directors or school district disciplinary appeal council, the student and his or her parent(s) or guardian(s) shall have the right to appeal the decision to the board of directors or the disciplinary appeal council. Notice indicating that the student or his parent(s) or guardian(s) desire to appeal the decision shall be provided to either the office of the school district superintendent or to the office of the person who rendered the decision within three school business days after the date of receipt of the decision. The notice of appeal shall be accepted if in writing and may be accepted orally if expressly provided for and allowed by rule or policy of the district.

((2)) (3) If an appeal is not taken to the board of directors or disciplinary appeal council within the required

three school business day period, the suspension or expulsion decided upon may be imposed as of the calendar day following expiration of the three school business day period.

((3)) (4) If a timely appeal is taken to the board of directors or disciplinary appeal council, the imposition of the suspension or expulsion shall not be imposed until the appeal is decided: *Provided*, That an emergency expulsion that is continued pursuant to WAC 180-40-305 need not be either interrupted or stayed if the decision rendered includes a conclusion that the student continues to pose an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process of the student's school.

((4)) (5) An appeal from any decision of a school board or disciplinary appeal council to impose or to affirm the imposition of a long-term suspension or an expulsion shall be to the courts. Whether or not the decision of a school board or disciplinary appeal council shall be postponed pending an appeal to superior court shall be discretionary with the school board or disciplinary appeal council except as ordered otherwise by a court.

AMENDATORY SECTION (Amending Order 14-79, filed 10/16/79)

**WAC 180-40-315 Appeals—Hearing before school board or disciplinary appeal council—Procedures.** (1) If a notice of appeal to the school board of directors or school district disciplinary appeal council is received pursuant to WAC 180-40-310((1)) (2) within the required three school business days, the board or council shall schedule and hold an informal conference to review the matter within ten school business days after the date of receipt of such appeal notice. The purpose of the meeting shall be to meet and confer with the parties in order to decide upon the most appropriate means of disposing of the appeal as provided for in this section. At that time the student or the student's parent(s) or guardian(s) or legal counsel shall be given the right to be heard and shall be granted the opportunity to present such witnesses and testimony as the board or council deems reasonable. The board or council shall agree to one of the following procedures prior to adjournment or recess:

(a) Study the hearing record or other material submitted and render its decision within ten school business days after the date of the informal conference, or

(b) Schedule and hold a meeting to hear further arguments based on the record before the board or council and render its decision within fifteen school business days after the date of the informal conference, or

(c) Schedule and hold a meeting within ten school business days after the date of the informal conference for the purpose of hearing the case de novo.

(2) In the event the school board of directors or school district disciplinary appeal council elects to hear the appeal de novo, the following rights and procedures shall govern the proceedings:

(a) The student and his or her parent(s) or guardian(s) shall have the right to:

(i) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,



- (ii) Question and confront witnesses,  
 (iii) Present his or her explanation of the alleged misconduct, and  
 (iv) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires,  
 (b) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing, and  
 (c) Either a tape-recorded or verbatim record of the hearing shall be made.

#### NEW SECTION

**WAC 180-40-317 Appeals—Discipline and short-term suspension grievances.** Any school district board of directors may delegate its authority to hear and decide discipline and short-term suspension grievance appeals filed pursuant to WAC 180-40-240 and 180-40-253 to a school district disciplinary appeal council established pursuant to WAC 180-40-310(1).

**AMENDATORY SECTION** (Amending Order 6-77, filed 6/2/77, effective 8/1/77)

**WAC 180-40-320 School board or disciplinary appeal council decisions.** Any decision by a school board of directors or school district disciplinary appeal council pursuant to this chapter to impose or to affirm, reverse, or modify the imposition of discipline, suspension, or expulsion upon a student shall be made:

- (1) Only by those board or council members who have heard or read the evidence.
- (2) Only by those board or council members who have not acted as a witness in the matter.
- (3) Only at a meeting at which a quorum of the board or council is present and by majority vote.

#### **WSR 96-08-062**

#### **PROPOSED RULES**

#### **EMPLOYMENT SECURITY DEPARTMENT**

[Filed April 2, 1996, 3:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-17-129.

Title of Rule: A new chapter 192-36 WAC, regulating the shared work program. Proposed rules provide information to employees and employers participating in the program, the criteria for approving a shared work plan, and clarify whether corporate officers are eligible for participation.

Purpose: The proposed regulations are intended to replace internal policy guidelines which have been used to administer the program. With implementation of a new computerized benefit payment system this year, the payment of shared work benefits will be administered through local job service centers rather than a centralized location. The regulations will provide consistency in the interpretation and application of program requirements.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.60.901.

Statute Being Implemented: Chapter 50.60 RCW.

Summary: WAC 192-36-010 gives information to claimants regarding eligibility requirements and procedures for filing shared work claims. WAC 192-36-015 specifies criteria employers must meet to have a plan approved. WAC 192-36-020 specifies requirements of employers whose plan is approved, and the number of consecutive plans that can be approved. WAC 192-36-025 specifies the documents that must be provided by corporate officers who wish to participate in a shared work plan.

Reasons Supporting Proposal: To provide consistency in administration of the program, and to replace internal guidelines with regulations as recommended by the Administrative Procedure Act, chapter 34.05 RCW.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Dale Zeigler, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is implementing a new computer system which will automate the payment of shared work benefits, which in the past have been manually calculated and data entered. Upon implementation of this system, payment of shared work benefits will be done at the local job service center level instead of at a central location. Rules are needed to replace internal guidelines in order to ensure consistency in the administration of the program between offices. WAC 192-36-010 specifies the information claimants must include on their claim forms and where their claims are to be filed. It explains how benefits will be calculated in the event total hours worked during a week is a fraction of an hour. It also clarifies that shared work participants must work all normally scheduled hours and be available for full-time work in order to receive shared work benefits that week. WAC 192-36-015 specifies that employers must be current in the payment of their unemployment taxes or have an approved payment contract on file, in order to be approved for the shared work program. WAC 192-36-020 specifies the information employers with an approved plan must provide to their employees, the steps they must take to modify an approved plan, and the information they must provide to the department. In addition, by law the program may not subsidize seasonal employers or employers who traditionally use part-time employees. Some employers have been in the program for many years, which makes the "temporary" nature of their economic slowdown questionable. A section has been included limiting participation to three consecutive twelve-month periods. WAC 192-36-025 clarifies that corporate officers are eligible for participation in the program but they must provide documents establishing they are full-time employees of the company to be approved.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These regulations apply to all employers applying for or having an approved shared work plan. The shared work program is available to all



employers, and the regulations do not impact specific businesses or industries, nor is there a disproportionate impact on small businesses. In addition, the changes to the program that will be implemented with the new automated system will lessen the duties of employers. Currently, employers with an approved plan file the weekly benefit claims on behalf of all their participating employees. In the future, claimants will be responsible for filing their own benefit claims. Employers will simply receive a report of the shared work payments issued and asked to verify it for accuracy.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed regulations constitute "significant, legislative" rules because (a) they establish or alter the qualifications or standards for determining an individual's eligibility for unemployment benefits, and (b) they make significant amendments to a policy or regulatory program.

Hearing Location: 212 Maple Park Drive, 2nd Floor Conference Room, Olympia, WA, on May 9, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Ramona Dahl, Affirmative Action, by May 6, 1996, TDD (360) 902-9569, or (360) 902-9536.

Submit Written Comments to: John Nemes, Rules Coordinator, Office of Management Review, P.O. Box 9046, Olympia, WA 98507-9046, FAX (360) 438-3226, by May 8, 1996.

Date of Intended Adoption: May 22, 1996.

April 1, 1996

Wendy Holden

Deputy Commissioner

### Chapter 192-36 SHARED WORK

#### NEW SECTION

**WAC 192-36-010 Information for employees participating in an approved shared work plan.** (1) **How do I file a claim for benefits?** Follow the instructions contained in WAC 192-12-141 when filing an initial application or a continued claim for unemployment benefits, except that:

(a) In addition to the information required by WAC 192-12-141 (5)(a) to be included in your claim, you must also report the number of hours for which you received holiday, vacation, or sick pay; and

(b) Your initial application must be filed at the job service center designated by the department. Continued claims can be filed in person, by mail, or by telephone. The job service center at which your initial application was filed will remain the office of record for your claim as long as you participate in the shared work plan.

(2) **How will my shared work benefits be calculated if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the number down to the next whole number. This rounded number will be calculated against your usual hours of work to determine your shared work weekly benefit amount. Example: You work 28.5 hours of a normal 40-hour work week; 28 hours divided by 40 means you worked 70% of the available hours. Your shared work weekly

benefit amount would be 30% of your regular weekly unemployment compensation benefit amount.

(3) **What if I don't accept all hours of work offered by the shared work employer?** (a) You must work all hours for which you have been scheduled or you are not eligible for the shared work program for that week.

(b) You must be available for additional hours of work, up to full-time, with the shared work employer. If your employer provides you at least 24 hours notice that additional work is available and you do not work those additional hours, you are not eligible for benefits under the shared work program for that week.

(c) Your eligibility for other unemployment compensation benefits for any week in which you are not eligible for shared work benefits will be determined according to the provisions of Title 50 RCW.

#### NEW SECTION

**WAC 192-36-015 Criteria for approving a shared work plan.** In addition to meeting the criteria listed in RCW 50.60.030, an employer who wishes to participate in the shared work program must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW; or

(2) Have an approved deferred payment contract on file with the department.

#### NEW SECTION

**WAC 192-36-020 Information for employers with an approved shared work plan.** (1) **What information am I responsible for providing to my employees?** Once your shared work plan is approved, you are responsible for advising your employees:

(a) That they are approved for participation in the shared work program; and

(b) The location of the job service center where they must file their claim for benefits.

(2) **What if I want to modify an approved plan?** (a) If you want to make a change to an approved plan, such as modifying the work unit(s) affected or the percentage of employees included in the plan, you must submit a written modification in advance to the department's shared work unit.

(b) If the names of individual employees participating in the plan change, you must notify the department's shared work unit in advance in writing.

(c) If the hours worked by an employee change from week to week, you are not required to submit the information to the department in writing if you have a signed authorization to modify the plan on file with the department.

(3) **What information am I responsible for providing to the department?** In addition to the plan modification information required under subsection (2), you are responsible for verifying the information contained on the shared work payments report provided by the department, and reporting any discrepancies in writing to the job service center that is processing your employees' unemployment claims.

(4) **How many times can I have a shared work plan approved?** An approved plan may last for up to twelve months after its effective date. Upon expiration, you may

submit a new plan to the department for approval. Effective January 1, 1997, a new plan will not be approved for your company if your employees have been participating in the shared work program for three consecutive twelve-month periods. You will not be eligible for a new plan until at least twelve consecutive months have elapsed since the expiration date of your most recent approved plan.

#### NEW SECTION

**WAC 192-36-025 Are corporate officers eligible for participation in the shared work program?** Corporate officers who elect coverage under RCW 50.04.165 may participate in an approved shared work plan. However, as part of the request for plan approval, the corporation must submit to the department documents verifying that the corporate officers participating in the plan worked full-time for the corporation. Documentation may include federal or state tax records, corporate officer individual earnings records, or other acceptable evidence verifying the number of hours worked.

#### **WSR 96-08-066 PROPOSED RULES**

#### **THE EVERGREEN STATE COLLEGE**

[Filed April 3, 1996, 8:07 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 96-03-138.

Title of Rule: Chapter 174-120 WAC, Student conduct code—Grievance and appeals procedure.

Purpose: To provide currently enrolled students, faculty and staff with a process to address grievances related to student conduct.

Statutory Authority for Adoption: RCW 28B.40.-120(12).

Statute Being Implemented: RCW 28B.40.120.

Summary: Rules establish minimum standards for behavior of students on campus and provide appropriate processes to govern violations of college policy. Repeals old sections and replaces them with clearer language.

Reasons Supporting Proposal: The proposed rules have been the subject of extensive campus hearings and review and were drafted by a campus committee which include faculty, students and staff. The text was printed in the college paper and only one comment was received.

Name of Agency Personnel Responsible for Drafting: Lee Hoemann, L 3108, 866-6000 ext. 6116; Implementation: Art Costantino, L 3236, 866-6000 ext. 6296; and Enforcement: Helena Meyer-Knapp, L 3210, 866-6000 ext. 6549.

Name of Proponent: The Evergreen State College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The student conduct code has existed at the college in various forms since 1971. The purpose of these rules is to establish minimum standards of behavior and provides processes to govern violations. It is anticipated that the

changes in this version will clarify and/or simplify rules under which the college has operated since 1988.

Proposal Changes the Following Existing Rules: In addition to clarifying existing rules and process, these changes add provisions related to false accusations, interfering with adjudicative process, and hazing (as required by RCW 28B.10.902(3)). These rules also strengthen provisions related to disrupting college functions, use of, possession or distribution of drugs, harm or harassment, weapons, firearms, explosive and dangerous chemicals. The rules provide for no contact orders and probation as a possible sanction.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: The Evergreen State College, Library Lobby, 2nd Floor, on May 14, 1996, at 12:00 - 1:30 p.m.

Assistance for Persons with Disabilities: Contact Linda Pickering by May 1, 1996, TDD (360) 866-6834, or (360) 866-6000 ext. 6348.

Submit Written Comments to: Art Costantino, L 3236, FAX (360) 866-6823, by May 14, 1996.

Date of Intended Adoption: May 14, 1996.

April 2, 1996

D. Lee Hoemann

Executive Associate

to the President

#### NEW SECTION

**WAC 174-120-015 Purpose.** The purpose of this chapter is to provide currently enrolled students, faculty and staff with a process to address grievances related to student conduct. If the person wishing to file a grievance against a student is not an enrolled student, staff or faculty, but is here at the invitation of the college, they may contact the campus grievance officer, who will decide whether or not to take on the case on behalf of the college. Students may be accountable to civil and criminal authorities and to the college for acts occurring on or off campus which constitute violations of law. Students may be accountable to civil and criminal authorities and to the college for acts occurring on college premises and at college sponsored events. Actions occurring off campus which are violations or alleged violations of local, state or federal law and which also violate the student conduct code can be the subject of college disciplinary action only if the vice-president for student affairs or her/his designee determines that disciplinary action is necessary for the safety of other members of the college community while they are on campus.

#### NEW SECTION

**WAC 174-120-025 Definitions.** For the purposes of these rules the following terms have the meanings indicated:

(1) "Adjudicative hold" means a notification by the campus grievance officer or vice-president for student affairs that a student will not be allowed to register for classes until he/she gets a clearance from the grievance officer.

(2) "Binding arbitration" means a process in which parties in conflict submit their differences to the judgment of

an impartial third party appointed by the campus mediator with the consent of both parties.

(3) "Calendar day" means all days of the month not just working days. In cases where a specified due date falls on a weekend or holiday, the working day closest to the date due will be used (i.e., if the tenth day deadline falls on Saturday, the document will be done on Friday).

(4) "Campus grievance officer" means a faculty or staff person who shall be appointed by and accountable to the vice-president for student affairs. The grievance officer is responsible for determining if violations of this policy have occurred, for investigating and initiating formal disciplinary action on behalf of the college, and for keeping all records specified in these hearings procedures.

(5) "College facilities/premises" means property owned, leased, operated, controlled, or supervised by the college.

(6) "College-sponsored event or activity" means activities or events on or off campus sponsored or funded by the college.

(7) "Default judgment" means a decision made by the trier of fact that, due to the appealing student's failure to appear, the proposed sanctions of the campus grievance officer will be adopted by the trier of fact.

(8) "Evergreen community" means currently enrolled students and currently employed faculty and staff members.

(9) "Exception to trier of fact's findings" means a written request by either the campus grievance officer or the student requesting a review of the findings by the reviewing officer.

(10) "Hearing board" means five community members appointed by and from the different sectors of the college community, which includes one faculty; one classified or exempt staff; and three students; to hear appeals of the campus grievance officer's findings. The vice-president for student affairs shall be responsible for ensuring that hearing board members and their alternates are appointed. The vice-president for student affairs will appoint the chair of the hearing board, who, with technical and clerical assistance of the vice-president for student affairs office, will write and issue the board's finding. An assistant attorney general, an administrative law judge, or any qualified community member may serve as a nonvoting advisor to the hearing board on the hearing process.

(11) "Housing grievance officer" means the director of housing or his/her designee. The housing grievance officer is responsible for determining if violations of the housing policy have occurred, for investigating and initiating formal disciplinary action on behalf of the college, and for keeping all records specified in the procedures.

(12) "Mediator" means an impartial, neutral third party who helps disputants reach their own mutually agreeable settlement. Trained volunteer mediators are available through the campus center for mediation services, which also provides telephone conciliation and resource referral. In addition, the dean of student and academic support service is the campus mediator and has been appointed by the vice-president for student affairs. Any third party may serve as a mediator if mutually agreed upon by the parties in conflict.

(13) "Preponderance of the evidence" means the greater weight of evidence or evidence more convincing to the mind than not.

(14) "Reviewing officer" means an individual designated by the president to provide a review of the trier of fact's findings, conclusions, and sanctions, if any.

(15) "Student" means a person enrolled for any amount of credit at the college. On-leave students, i.e., those admitted but not currently enrolled, may have their enrollment eligibility withdrawn if they do not abide by the student conduct code while on campus and are accountable to civil and criminal authorities.

(16) "Trier of fact" means the hearing board, administrative law judge, or any other individual(s) designated by the vice-president for student affairs and responsible for hearing appeals of the campus grievance officer's findings and proposed corrective action.

#### NEW SECTION

**WAC 174-120-035 Student conduct code—Specific examples of student conduct code violations.** (1) Academic dishonesty: Cheating, facilitating academic dishonesty and plagiarism are violations of the academic honesty policy and if persistent or severe may be treated as violations of the student conduct code.

(2) Destroying or damaging property: Intentionally, recklessly and/or persistently destroying or damaging college property or the property of others on college premises or at college-sponsored events.

(3) Disrupting college functions: Intentionally, recklessly and/or persistently interfering with normal college or college-sponsored activities, including but not limited to studying, teaching, research, college administration, fire, police, emergency services, or public safety.

(4) Drugs: Using, possessing, or distributing of any controlled substance or illegal drug on college premises or at college-sponsored activities (as defined in the Uniform Controlled Substances Act chapter 69.50 RCW, as amended). Public appearance on campus or at any college-sponsored event while under the influence of illegal drugs will be considered a violation.

(5) False accusations: Intentionally making false charges against another member of the college community to harass, harm, defame and/or intimidate that individual.

(6) False alarms: Intentionally causing a false police or fire alarm that involves college property or a college-sponsored event.

(7) False information: Intentionally providing false information to the college for the purpose of gaining admission or employment or to avoid determination of facts in accordance with any college investigation or hearing.

(8) Harm/harassment: Discriminating against, sexually harassing, and threatening or intimidating against another person by word or gesture, or physically molesting or assaulting another person which substantially harms or causes reasonable apprehension of such harm to that person or which is intended to harm him or her. This includes, but is not limited to, physical, psychological or sexual harm/harassment or harassment based on religion, nationality, ability/disability, gender, sexual orientation, racial or ethnic origin, cultural identity or political affiliation. This provision in the codes is intended to protect members of the college community against damage or threat of damage to

property and injury or threat of injury to physical person or psychological well-being.

(9) Hazing: According to chapter 28B.10 RCW hazing is defined as any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm.

(10) Housing contract violations: Violation of residence hall contracts.

(11) Interfering with the adjudicative process: Harassment of students, faculty or staff involved in the adjudicative process. Violation of any agreement made during the adjudicative process, including but not limited to no-contact orders. Perjury or retaliatory or disruptive behavior will also be grounds for further disciplinary action.

(12) Liquor: Use, possession, or distribution of liquor on college property. This is not intended to apply to use by students of legal age in a residence or at a college-sponsored event provided the event has an approved alcoholic beverage banquet permit (chapter 174-157 WAC, as amended). However, public appearance on campus or at any college-sponsored event while intoxicated, as defined by state law, will be considered a violation.

(13) Refusal to desist from prohibited conduct: Refusal of students to desist from conduct prohibited by these rules.

(14) Smoking: Smoking in an area not designated as a smoking area as defined by college rules. (WAC 174-136-160 to 174-136-170, as amended.)

(15) Theft or conversion: Deprivation of another's property, including college property or services, without that individual's or the college's authorization.

(16) Violation of published campus policies: Violation of published campus policies including, but not limited to, the academic honesty policy, the habitation policy, the sexual harassment policy, the discrimination policy, the hazing policy and the pet policy.

(17) Weapons, firearms, explosives and dangerous chemicals: Firearms and weapons, as defined by state law, are prohibited on campus. Unauthorized use, possession or storage of any explosives, dangerous chemicals, substances or instruments which may be used to inflict bodily harm on another individual or damage upon college premises or at a college-sponsored event are prohibited.

These examples of student conduct code violations are not designed to define violations in exhaustive terms. The student conduct code does not supplant other existing policies.

#### NEW SECTION

**WAC 174-120-045 Student conduct code—Levels of resolution.** (1) Voluntary mediation: Community members who come into conflict with one another should make a determined effort to resolve problems peacefully and constructively between themselves. To facilitate this objective, the college encourages voluntary mediation through mediators. The mediators will assist the two parties to reach resolution. If successful, the parties will sign an agreement stating that resolution has been reached. If unsuccessful, both parties may agree to binding arbitration or either party may file a grievance with the campus griev-

ance officer. The accuser may bypass mediation/arbitration and file a complaint directly with the campus grievance officer. If voluntary mediation is not agreed to and the matter is referred to the campus grievance officer, the case becomes a disciplinary matter between the accused and the college. The complainant serves as a witness during the college's presentation of evidence, if a hearing occurs.

(2) Campus grievance officer review: The basic role of the campus grievance officer is to seek justice and educate the students about their rights and responsibilities. The campus grievance officer is responsible for determining if violations of the student conduct code have occurred, handling investigations in a thorough and timely manner, proposing corrective action on behalf of the college if warranted and for keeping all records specified in these grievance procedures. Exceptions:

(a) Students presenting imminent danger to others, college property, and/or the educational process may be immediately suspended from the college by the president, vice-president for student affairs, or their designee(s).

(b) In cases involving violations of the housing contract, the director of housing or his/her designee shall act as the campus grievance officer.

#### NEW SECTION

**WAC 174-120-055 Student conduct code—Grievance officer review process.** (1) Reaching a settlement agreement: If the campus grievance officer decides to pursue a case in the name of the college, the student may accept or deny responsibility for the violation. If the student accepts responsibility, she or he may propose a sanction in writing to resolve the case. The campus grievance officer may also propose a sanction. If agreement on responsibility and sanction(s) are reached, the settlement agreement shall be made in writing and signed by the student and the campus grievance officer. The student may withdraw the settlement by submitting a written statement of withdrawal which is received by the office of the vice-president for student affairs within twenty-four hours after being signed by the student.

(2) Settlement agreement: An agreement on responsibility and sanctions, if appropriate, shall be written and contain:

(a) A description of the violation for which responsibility is accepted;

(b) The agreed upon sanction, if any;

(c) Signatures of the student and the campus grievance officer.

(3) Temporary no-contact order: The campus grievance officer may impose a temporary order to restrict contact between parties or access to facilities for the duration of the student conduct code grievance and appeals process.

(4) Failure to respond to the campus grievance officer's request for a meeting: Failure to respond to a request for a meeting will result in an adjudicator hold on a student's registration file and could result in more serious sanctions.

(5) Decision by campus grievance officer of no cause finding: If the campus grievance officer determines, based on the evidence collected, that the accused has not violated the student conduct code, the accuser may request in writing within twenty calendar days that the vice-president for student affairs review the process and evidence collected by the campus grievance officer. No further review will be

allowed if the vice-president for student affairs agrees that the process followed by the campus grievance officer was appropriate and that the act did not constitute a violation of the student conduct code.

(6) Failure to reach a settlement agreement: If the campus grievance officer is satisfied that sufficient evidence exists to substantiate a violation and if a settlement has not been reached, he/she shall send to the student a notice of the formal charges, recommended corrective action, and the right to a hearing. If a student is not charged with a violation potentially punishable by emergency suspension, he/she must petition the vice-president for student affairs for a formal hearing within twenty calendar days after receipt of the campus grievance officer's charges. If the student fails to petition the vice-president for student affairs for a formal hearing, the recommended disciplinary action shall go into effect (unless emergency suspension has already occurred).

Except in cases of emergency suspension, the student's status at the college shall not be altered until the final opportunity for appeal has passed.

#### NEW SECTION

**WAC 174-120-065 Student conduct code—Formal hearing notice, process and rights.** (1) Formal hearings will be subject to the following:

(a) Students have a right to a fair and impartial hearing on any charge of prohibited conduct and the right to confer with a representative present during the hearing.

(b) Pursuant to state law, the college president authorizes the vice-president for student affairs to determine the trier of fact.

(c) Unless the vice-president for student affairs determines otherwise, the trier of fact conducting a formal hearing shall be a hearing board.

(d) Any such hearing shall be conducted pursuant to state law, RCW 34.05.410 through 34.05.494, as amended or superseded.

(e) Hearings will be closed to the public and shall be deemed confidential.

(f) The student may request the presence of his/her representative.

(g) An open hearing may be held, at the discretion of the trier of fact with the consent of the student.

(h) In cases of emergency suspension, the process will be modified as set forth in WAC 174-120-075 (Student conduct code—Examples of corrective action).

(2) Default judgment process: The failure of the appealing party to appear may result in a default judgment. In cases of default judgment, the student has a minimum of seven calendar days in which to file a written motion requesting that the order be set aside and stating the grounds for this request. The trier of fact must respond to this request in writing within seven calendar days. The student or campus grievance officer may appeal the trier of fact's response to the reviewing officer as set forth in WAC 174-120-080 (6) and (7).

(3) Hearing process: Notice of the hearing, including a statement of the particular rules involved and matters asserted, shall be provided at least ten calendar days before any hearing. The appealing student and campus grievance officer shall inform each other of witnesses and, if applica-

ble, representatives (through the office of the vice-president for student affairs) at least three calendar days before the hearing. Failure to provide a list of witnesses and/or the name(s) of their representatives at least three calendar days before the hearing will most likely result in disqualification of those witnesses and/or representatives. Both parties may submit brief written position statements to the designated trier of fact. Both parties have the right to:

(a) Question witnesses and have a representative advise them throughout the process. The parties shall inform each other of their witnesses (with a maximum of one character witness) and representatives at least three calendar days before the hearing. Representatives may not appear in lieu of the student charged.

(b) Have subpoena(s) issued by the vice-president for student affairs and/or trier of fact, subject to a convincing showing of the general relevance and reasonable scope of the evidence sought.

(c) Petition for disqualification of a member of the hearing board.

(d) Challenge any hearing board member based on cause, such as personal bias. The unchallenged hearing board members shall hear the challenge for cause and make a finding. If cause is found, the vice-president for student affairs shall fill the vacancy forthwith. If the hearing board has an advisor, he/she may also challenge a hearing board committee member. Except for petitions for disqualification, hearing board members may be disqualified upon majority vote of the remaining board members.

(4) The trier(s) of fact should not discuss the case outside of the hearing, and shall base their decision upon the evidence presented at the hearing.

(5) The burden of proof shall be on the college which must establish, by a preponderance of the evidence, that the student is responsible for a violation of the student conduct code.

(6) Formal judicial rules of evidence shall not be applicable, nor shall harmless procedural errors necessarily invalidate a decision or proceeding, unless significant prejudice to the rights of the student or the college would result. The trier of fact shall recognize rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs.

(7) Undue repetitious or irrelevant evidence may be excluded.

(8) Illegally obtained evidence cannot be used.

(9) The trier of fact shall reach a final decision within thirty calendar days of receipt of the petition or within fifteen calendar days of the close of the hearing, whichever is greater. Decisions of the trier of fact shall be by majority vote of the members present and voting. The trier of fact's written findings and conclusions shall be delivered to the accused student by hand or certified mail to his/her last known address.

#### NEW SECTION

**WAC 174-120-075 Student conduct code—Examples of corrective action.** The primary purpose for imposing corrective measures is to educate, deter and protect. Notification of corrective action shall be in writing, and shall

indicate the terms of any suspension or termination and any special conditions which must be met before readmission. Students who have been sanctioned are expected to fulfill their sanctions as prescribed. A student who has been sanctioned for violating the student conduct code will be required to complete the sanctions prior to the award of the degree by the board of trustees. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the student, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it. Repeated or aggravated violations of any rule may result in greater corrective measures, such as expulsion or suspension, as may be appropriate. A student's off-campus criminal conduct may also be considered in determining what discipline is warranted for similar on-campus conduct.

(1) **Emergency suspension:** Students presenting immediate danger to others, college property, and/or the educational process may be immediately suspended from the college by the president, vice-president for student affairs, or their designee(s). A hearing will be scheduled within twenty calendar days unless otherwise waived by the student. At the hearing, the trier of fact will determine whether or not the summary suspension shall remain in effect throughout the duration of the grievance and appeals process. At the time of the suspension, the student shall be notified in writing if possible, and otherwise orally, of the basis for the emergency suspension and of his/her right to a formal hearing. If oral notification is given at the time of the emergency suspension, written notification shall be delivered or sent to the student's last known address within twenty-four hours. At least three days before the hearing, the grievance officer shall notify the student of her/his findings, proposed sanctions, witnesses to be called at the hearing and, if intended, representative. Except as noted here, the process will be followed as set forth in 174-120-065 (Student conduct code—Formal hearing notice, process and rights).

(2) **Expulsion:** Permanent separation from the college and termination of community membership. The student may also be barred from college premises and/or college-sponsored events.

(3) **Probation:** A trial period during which the student's conduct is monitored. Any additional violations of the student conduct code during this period may be subject to exceptional disciplinary action.

(4) **Reprimand:** Warning(s) that further misconduct may result in more severe sanctions.

(5) **Restitution:** Payment may be made to the college or to other persons, groups, or organizations for damages incurred as a result of prohibited conduct.

(6) **Suspension:** Temporary dismissal from the college and temporary termination of community membership for a stated period of time, but no longer than one year. The student shall not participate in any college-sponsored activity and may be barred from college premises. Suspension implies that the student may eventually return if evidence or other assurances are presented that convincingly ensure that prohibited conduct will not be repeated.

(7) **Temporary ejection from the premises:** Students on college property who willfully refuse to obey an order of the president, the president's designees, or law enforcement officers to desist from conduct prohibited by the college's rules and regulations may be ejected from the premises for

a specified period of time not to exceed forty-eight hours. After a temporary ejection takes place, the campus grievance officer will conduct an investigation to determine if a violation of the student conduct code has occurred and, if so, what additional corrective action should be proposed. Refusal to obey the temporary ejection order will subject the student to arrest under state criminal trespass laws, in addition to such other sanctions as may be applicable.

(8) **Other sanctions and conditions for enrollment:** Other sanctions or conditions may be imposed if related to the violation. Sanctions could include, but are not limited to: Limiting extracurricular activities, restricting registration of motor vehicles, assigning community service. Students may also be removed from college housing for contract violations. Conditions for enrollment could include, but are not limited to: A psychological assessment and/or counseling.

#### NEW SECTION

**WAC 174-120-085 Student conduct code—Procedural appeals.** Within ten calendar days of receipt of the trier of fact's findings and conclusions, either the campus grievance officer or the student may submit to the president (L3109, ext. 6100) a written appeal. The president will appoint a reviewing officer who will conduct a procedural review. The reviewing officer will review the written and audio taped record. Within fifteen calendar days of the filing of the appeal, the reviewing officer must render a final written order. No further agency appeal is required or provided.

If the accuser is a victim of conduct which is considered violent, she/he is entitled, according to the Federal Education Rights to Privacy Act, to receive the results of the process, upon request, after the final opportunity for appeal has passed.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 174-120-010	Definitions.
WAC 174-120-030	Student conduct code—Specific examples of social contract violations.
WAC 174-120-040	Student conduct code—Corrective action.
WAC 174-120-050	Student conduct code—Informal conflict resolution.
WAC 174-120-060	Student conduct code—Grievance officer.
WAC 174-120-070	Student conduct code—Formal hearing notice and rights.
WAC 174-120-080	Student conduct code—Formal procedures.
WAC 174-120-090	Academic appeals.

WSR 96-08-067
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS
[Filed April 3, 1996, 8:27 a.m.]

Submit Written Comments to: Mr. Larry Vognild,
Chairman, FAX (206) 464-6368, by May 2, 1996.
Date of Intended Adoption: May 9, 1996.
March 29, 1996
Larry Vognild
Chairman

Original Notice.
Preproposal statement of inquiry was filed as WSR 96-04-052.

Title of Rule: Pilotage rates for the Puget Sound pilotage district.

Purpose: To establish a Puget Sound pilotage district annual tariff.

Other Identifying Information: WAC 296-116-300.
Statutory Authority for Adoption: RCW 88.16.035.
Statute Being Implemented: RCW 88.16.035.

Summary: The proposed rule reflects a 13.65% increase in all categories except transportation to be charged for pilotage services in the Puget Sound pilotage district for the 1996 tariff year. Modifications are proposed in such categories as sailing delay, delinquent payment charge and super ships.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pilotage Commission, 1008 Western Avenue, Seattle, WA, 464-7818.

Name of Proponent: Puget Sound pilots, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on June 30, 1996. New rates must be set annually.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule as proposed by the Puget Sound pilots would increase the tariff for pilotage services in the Puget Sound pilotage district by 13.65% over the present tariff in all categories except transportation. The sailing delay charge is proposed to double after the first three hours. A reduction from forty-five days to thirty days is proposed under delinquent payment charge. A new classification and title is proposed under super ships.

Proposal Changes the Following Existing Rules: The proposed rule is a 13.65% increase over the existing tariff in all categories except transportation. The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from other interested parties and the public.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services. The application of the 13.65% increase is clear in the attached proposed tariff and represents a minor economic impact on shipping costs.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Marine Exchange Conference Center, 2701 1st Avenue, Suite 110, Seattle, WA 98121, on May 9, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Peggy Larson by May 6, 1996, (206) 464-7818.

AMENDATORY SECTION (Amending WSR 95-12-018, filed 5/30/95, effective 7/1/95)

WAC 296-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, ((1995)) 1996, through 2400 hours June 30, ((1996)) 1997.

CLASSIFICATION

RATE

Table with 2 columns: Classification and Rate. Rows include: Ship length overall (LOA) Charges (per LOA rate schedule in this section), Boarding fee: Per each boarding/deboarding at the Port Angeles pilot station. ((35.00)) \$40.00, Harbor shift - Live ship (Seattle Port) LOA Zone I, Harbor shift - Live ship (other than Seattle Port) LOA Zone I, Harbor shift - Dead ship Double LOA Zone I, Dead ship towing charge: LOA of tug + LOA of tow + beam of tow Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable. Double LOA Zone, Waterway and bridge charges: Ships up to 90' beam: A charge of ((187.00)) \$213.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle, south of Eleventh Street Bridge in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of ((89.00)) \$101.00 per bridge. Ships 90' beam and/or over: A charge of ((251.00)) \$285.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle and south of Eleventh Street Bridge in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ((176.00)) \$200.00 per bridge. (The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.), Two or three pilots required: In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate., Compass adjustment ((250.00)) \$284.00, Radio direction finder calibration ((250.00)) \$284.00, Launching vessels ((377.00)) \$428.00, Trial trips, 6 hours or less (Minimum ((708.00)) \$804.00) ((118.00)) \$134.00 per hr.

PROPOSED



PROPOSED

Trial trips, over 6 hours (two pilots) ((~~\$236.00~~))  
\$268.00  
per hr.

Shilshole Bay — Salmon Bay ((~~\$147.00~~))  
\$167.00

Salmon Bay — Lake Union ((~~\$115.00~~))  
\$131.00

Lake Union — Lake Washington (plus LOA zone from Webster Point) ((~~\$147.00~~))  
\$167.00

Cancellation charge  
Cancellation charge — Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.) LOA Zone I  
LOA Zone II

Docking delay after anchoring: ((~~\$118.00~~)) \$134.00  
per hr.

Applicable harbor shift rate to apply, plus ((~~\$118.00~~)) \$134.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$118.00~~)) \$134.00 for every hour or fraction thereof.

Sailing delay: ((~~\$118.00~~)) \$134.00  
per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ((~~\$118.00~~)) \$134.00 for every hour or fraction thereof for the first three hours. Thereafter, the charge is \$268.00 for every additional hour or fraction thereof.

Slowdown: ((~~\$118.00~~)) \$134.00  
per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ((~~\$118.00~~)) \$134.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

~~(Super ships)~~ Tonnage charges:  
0 to 20,000 gross tons:  
Additional charge to LOA zone mileage of \$0.0114 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:  
Additional charge to LOA zone mileage of ((~~\$0.0698~~)) \$0.0691 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:  
In excess of 50,000 gross tons, the charge shall be ((~~\$0.0727~~)) \$0.0826 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: ((~~\$118.00~~)) \$134.00  
per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ((~~\$118.00~~)) \$134.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes \$144.00  
Bangor 84.00  
Bellingham 158.00

Bremerton	44.00
Cherry Point	175.00
Dupont	85.00
Edmonds	27.00
Everett	52.00
Ferndale	173.00
Manchester	66.00
Mukilteo	52.00
Olympia	108.00
Point Wells	27.00
Port Gamble	77.00
Port Townsend (Indian Island)	109.00
Seattle	15.00
Semiahmoo (Blaine)	196.00
Tacoma	56.00
Tacoma Smelter	66.00
Winslow	42.00

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.80 per mile.

Delinquent payment charge: 1 1/2% per month after ((45)) 30 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE					
	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
((Up to 449))	176	275	478	715	966	1256
450	459	182	282	481	726	981
460	469	186	285	488	738	996
470	479	191	293	494	753	999
480	489	196	299	496	768	1005
490	499	199	302	502	781	1016
500	509	209	307	511	791	1024
510	519	212	314	516	802	1035
520	529	215	325	524	806	1044
530	539	223	330	531	815	1061
540	549	226	335	542	824	1078
550	559	230	345	546	837	1085
560	569	238	359	556	844	1097
570	579	244	363	560	847	1108
580	589	255	370	573	854	1115
590	599	266	377	576	858	1131
600	609	275	388	584	861	1144
610	619	292	392	594	865	1157
620	629	303	397	601	875	1169
630	639	319	405	608	877	1178
640	649	332	414	614	880	1191
650	659	355	422	625	887	1205
						1470



**WSR 96-08-068**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Physical Therapy)  
 [Filed April 3, 1996, 9:50 a.m.]

PROPOSED

<del>660 - 669</del>	<del>362</del>	<del>426</del>	<del>630</del>	<del>891</del>	<del>1217</del>	<del>1482</del>
<del>670 - 679</del>	<del>375</del>	<del>437</del>	<del>637</del>	<del>906</del>	<del>1231</del>	<del>1490</del>
<del>680 - 689</del>	<del>381</del>	<del>446</del>	<del>645</del>	<del>917</del>	<del>1242</del>	<del>1506</del>
<del>690 - 699</del>	<del>392</del>	<del>453</del>	<del>654</del>	<del>933</del>	<del>1256</del>	<del>1536</del>
<del>700 - 719</del>	<del>410</del>	<del>467</del>	<del>667</del>	<del>942</del>	<del>1279</del>	<del>1554</del>
<del>720 - 739</del>	<del>435</del>	<del>481</del>	<del>684</del>	<del>956</del>	<del>1306</del>	<del>1581</del>
<del>740 - 759</del>	<del>453</del>	<del>502</del>	<del>698</del>	<del>966</del>	<del>1331</del>	<del>1609</del>
<del>760 - 779</del>	<del>471</del>	<del>521</del>	<del>713</del>	<del>981</del>	<del>1358</del>	<del>1630</del>
<del>780 - 799</del>	<del>494</del>	<del>543</del>	<del>726</del>	<del>996</del>	<del>1381</del>	<del>1659</del>
<del>800 - 819</del>	<del>514</del>	<del>560</del>	<del>741</del>	<del>1001</del>	<del>1403</del>	<del>1683</del>
<del>820 - 839</del>	<del>531</del>	<del>579</del>	<del>758</del>	<del>1016</del>	<del>1432</del>	<del>1704</del>
<del>840 - 859</del>	<del>554</del>	<del>604</del>	<del>772</del>	<del>1028</del>	<del>1456</del>	<del>1734</del>
<del>860 - 879</del>	<del>574</del>	<del>625</del>	<del>787</del>	<del>1056</del>	<del>1482</del>	<del>1757</del>
<del>880 - 899</del>	<del>594</del>	<del>644</del>	<del>802</del>	<del>1080</del>	<del>1506</del>	<del>1783</del>
<del>900 - 919</del>	<del>612</del>	<del>663</del>	<del>816</del>	<del>1106</del>	<del>1536</del>	<del>1810</del>
<del>920 - 939</del>	<del>631</del>	<del>684</del>	<del>837</del>	<del>1131</del>	<del>1554</del>	<del>1832</del>
<del>940 - 959</del>	<del>654</del>	<del>702</del>	<del>848</del>	<del>1157</del>	<del>1581</del>	<del>1856</del>
<del>960 - 979</del>	<del>670</del>	<del>723</del>	<del>863</del>	<del>1178</del>	<del>1609</del>	<del>1883</del>
<del>980 - 999</del>	<del>694</del>	<del>741</del>	<del>878</del>	<del>1205</del>	<del>1630</del>	<del>1907</del>
<del>1000 &amp; over</del>	<del>713</del>	<del>766</del>	<del>893</del>	<del>1231</del>	<del>1659</del>	<del>1933))</del>
Up to 449	200	313	543	813	1098	1427
450 - 459	207	320	547	825	1115	1434
460 - 469	211	324	555	839	1132	1439
470 - 479	217	333	561	856	1135	1442
480 - 489	223	340	564	873	1142	1449
490 - 499	226	343	571	888	1155	1456
500 - 509	238	349	581	899	1164	1466
510 - 519	241	357	586	911	1176	1471
520 - 529	244	369	596	916	1187	1484
530 - 539	253	375	603	926	1206	1499
540 - 549	257	381	616	936	1225	1513
550 - 559	261	392	621	951	1233	1527
560 - 569	270	408	632	959	1247	1543
570 - 579	277	413	636	963	1259	1552
580 - 589	290	421	651	971	1267	1570
590 - 599	302	428	655	975	1285	1587
600 - 609	313	441	664	979	1300	1595
610 - 619	332	446	675	983	1315	1609
620 - 629	344	451	683	994	1329	1627
630 - 639	363	460	691	997	1339	1642
640 - 649	377	471	698	1000	1354	1655
650 - 659	403	480	710	1008	1369	1671
660 - 669	411	484	716	1013	1383	1684
670 - 679	426	497	724	1030	1399	1693
680 - 689	433	507	733	1042	1412	1712
690 - 699	446	515	743	1060	1427	1746
700 - 719	466	531	758	1071	1454	1766
720 - 739	494	547	777	1086	1484	1797
740 - 759	515	571	793	1098	1513	1829
760 - 779	535	592	810	1115	1543	1852
780 - 799	561	617	825	1132	1570	1885
800 - 819	584	636	842	1138	1595	1913
820 - 839	603	658	861	1155	1627	1937
840 - 859	630	686	877	1168	1655	1971
860 - 879	652	710	894	1200	1684	1997
880 - 899	675	732	911	1227	1712	2026
900 - 919	696	753	927	1257	1746	2057
920 - 939	717	777	951	1285	1766	2082
940 - 959	743	798	964	1315	1797	2109
960 - 979	761	822	981	1339	1829	2140
980 - 999	789	842	998	1369	1852	2167
1000 & over	810	871	1015	1399	1885	2197

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.

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 96-03-160.

Title of Rule: Examinations. This existing rule establishes the passing score for the national physical therapist examination.

Purpose: To maintain consistency with national examination standards.

Statutory Authority for Adoption: RCW 18.74.023.

Statute Being Implemented: RCW 18.74.035.

Summary: The amendment is proposing the adoption of a criterion referenced passing point as recommended by the Federation of State Boards of Physical Therapy to permit qualified therapists to practice in Washington.

Reasons Supporting Proposal: National examination standards have recently changed to criterion referenced. Current exam standards create an artificial barrier in the way of highly trained, skilled physical therapists.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Neva, Department of Health, 1300 S.E. Quince Street, 753-3132.

Name of Proponent: Washington State Department of Health, Board of Physical Therapy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Federation of State Boards of Physical Therapy has recommended to all state physical therapy licensing boards that the national physical therapist examination passing score be changed to the criterion referenced. This amendment allows physical therapists who have passed the examination in other states to obtain Washington licensure without having to be reexamined. This change will allow qualified physical therapists to obtain licensure and support access to health care in underserved areas of Washington.

Proposal Changes the Following Existing Rules: Amends passing scope for current exam from 68% raw score to criterion referenced passing point set to equal a scaled score of 600 based on a scale ranging from 200 to 800.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no impact to small business.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. This rule change alters the standard for issuance of a license.

Hearing Location: WestCoast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA 98188, on May 21, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Carol Neva by May 10, 1996, at (360) 753-3132, TDD 1-800-525-0127, or (360) 664-0064.

Submit Written Comments to: Carol Neva, Board of Physical Therapy, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 753-3132, FAX (360) 753-0657, by May 10, 1996.

Date of Intended Adoption: May 21, 1996.

March 28, 1996  
 Carol Neva  
 Program Manager

**AMENDATORY SECTION** (Amending Order 294B, filed 8/4/92, effective 9/4/92)

**WAC 246-915-030 Examination.** (1) The examination acceptable to and approved for use under the provisions of RCW 18.74.035 shall be the examination for physical therapists as reviewed and approved by the board of physical therapy. A passing score is considered to be one of the following:

(a) Beginning November 8, 1995, the criterion referenced passing point recommended by the Federation of State Boards of Physical Therapy for the examination approved by the board. The passing point shall be set to equal a scaled score of 600 based on a scale ranging from 200 to 800.

(b) Beginning February 28, 1991, through July 12, 1995, not less than sixty-eight percent of the raw score for the examination approved by the board ((beginning February 28, 1991)); or

~~((b))~~ (c) Prior to February 28, 1991, not less than sixty percent raw score on each of the three examination parts for the examination approved by the board ((prior to February 28, 1991)).

(2) If a candidate fails to receive a passing score on the examination, he or she will be required to retake the examination.

(3) Where necessary, applicant's score will be rounded off to the nearest whole number.

**WSR 96-08-076**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS.**  
 (Credit Unions)  
 [Filed April 3, 1996, 10:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-03-037.

Title of Rule: Revising fees paid by credit unions and related parties to the Division of Credit Unions.

Purpose: To increase aggregate fees paid to the division and to restructure the fee structure so that more of the fee burden falls on larger credit unions.

Statutory Authority for Adoption: SHB 2939, chapter \_\_\_\_ [247], Laws of 1996.

Statute Being Implemented: Chapter 31.12 RCW.

Summary: The rule increases aggregate fees paid to the division and restructures the fee schedule of the division.

Reasons Supporting Proposal: To generate sufficient funding for the division to pay for existing and ongoing costs and needed future growth.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: J. Parker Cann, 300 General Administration Building, Olympia, (360) 902-8778.

Name of Proponent: Department of Financial Institutions, Division of Credit Unions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The division and the Washington Credit Union League (WCUL) have worked together over the past year and a half to develop a new fee structure for the division and to pass legislation to authorize the division to implement the new structure. The proposed rule is intended to implement the new fee structure worked out with the WCUL, as authorized by SHB 2939.

Among other budget items, the new fee structure funds a modest contingency reserve for the division. In the process of working with the WCUL, the division agreed that the contingency reserve should only be used for litigation defense costs. The division intends to establish an operational reserve, as well, which may be used more generally for other purposes. In addition, the division has agreed to present to the WCUL (or a designated committee of the WCUL) for its review, at least annually, a copy of the division's budget for the coming fiscal year.

The proposed rule amends chapter 419-18 WAC to:

1. Eliminate hourly examination fees currently paid by credit unions.
2. Revise the asset assessment schedule for credit unions to raise more funds in the aggregate, but reallocate more of the funding burden on to the larger credit unions.
3. Change the current semiannual asset assessment dates to quarterly dates.
4. Assess a one-time special assessment of \$184,000 to pay certain costs incurred by the division.
5. Provide for a pass through of certain attorney general costs which may be incurred by the division.
6. Repeal the automatic schedule of fee increases in current rules.
7. Effect these changes as of July 1, 1996.

See also the small business economic impact statement (SBEIS) for a discussion of the impact of the rule.

Proposal Changes the Following Existing Rules: It amends chapter 419-18 WAC, recodified effective June 1, 1996, as chapter 208-418 WAC. The following is a conversion chart for the recodification:

Current	As of June 1, 1996
WAC 419-18-020	WAC 208-418-020
WAC 419-18-030	WAC 208-418-030
WAC 419-18-040	WAC 208-418-040
WAC 419-18-045	WAC 208-418-045
WAC 419-18-050	WAC 208-418-050
WAC 419-18-060	WAC 208-418-060
WAC 419-18-070	WAC 208-418-070
WAC 419-18-080	WAC 208-418-080

The changes are as follows:

WAC 208-418-020, amended to provide for only three types of fees: Quarterly asset assessments, pass through for certain attorney general costs, and other miscellaneous fees. Fees are due within thirty days after billing.

WAC 208-418-030, repealed, although the division does not intend to charge hourly examination fees to credit unions after the effective date of the rule, it will continue to charge hourly examination fees to the Washington Credit Union Share Guaranty Association (WCUSGA) at their current

levels. The division has clear statutory authority to charge such fees to WCUSGA pursuant to RCW 31.12A.120.

WAC 208-418-040, amended to provide for quarterly asset assessments with a revised rate schedule. Quarterly assessments are charged in advance for the following calendar quarter. April 1 and July 1 assessments will be based on the form 5300 as of the immediately preceding December 31; October 1 and January 1 assessments will be based on the form 5300 as of the immediately preceding June 30. Credit unions converting to state charter will be charged a prorated quarterly asset assessment for the quarter in which the conversion is completed.

WAC 208-418-045, amended to allow for acceleration of quarterly asset assessments.

WAC 208-418-050, amended to allow for pass through of the cost of certain limited types of attorney general assistance.

WAC 208-418-060, amended to provide for a one-time special assessment of \$184,000 during fiscal 1997. The division will bill credit unions for their pro rata share of the special assessment, based on total assets as of June 30, 1996. Credit unions may pay the special assessments in one lump sum or in four equal installments.

WAC 208-418-070, amended to provided an hourly fee of \$55.82 for: EDP examinations of parties other than a credit union and its subsidiaries; processing community field of membership applications; and special investigations.

WAC 208-418-080, repealed.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

The division has prepared this SBEIS in compliance with chapter 19.85 RCW, the Regulatory Fairness Act ("RFA"). The Preproposal Statement of Inquiry (form CR-101) in connection with the proposed rule was filed at WSR 96-03-037. As used in this SBEIS, the term "credit union" means a credit union chartered under the laws of the state of Washington.

BACKGROUND FOR PROPOSED RULE

The division and the Washington Credit Union League (WCUL) have worked together over the past year and a half to develop a new fee structure for the division and to pass necessary legislation to authorize the division to implement the new structure. Chapter \_\_\_\_ [274], Laws of 1996 (SHB 2939), provides such authority.

The proposed rule is intended to implement the new fee structure worked out with the WCUL, as authorized by SHB 2939.

DESCRIPTION OF PROPOSED RULE

The proposed rule amends chapter 419-18 WAC to increase the aggregate fees paid to the division and to restructure the fees paid by credit unions and related parties to the division. In part, the rule will increase the total amount of fees paid by the larger credit unions to the division, and will provide for credit unions to pay a one-time special assessment primarily to cover certain incurred costs of the division. More specifically, the rule:

1. Eliminates the hourly exam fees currently paid by credit unions.
2. Relies primarily on quarterly asset assessments to provide funding for the division. The asset assessments provided in the rule are as follows:

QUARTERLY ASSET ASSESSMENT SCHEDULE

<u>Asset size of credit union</u>	<u>Quarterly asset assessment or factor</u>
>\$500 million	\$18,357 + .015 per thousand>\$500 million
>\$100 million to \$500 million	\$5,104+.033134 per thousand>\$100 million
>\$20 million to \$100 million	.051035 per thousand>\$20 million
>\$10 million to \$20 million	\$1,125 per quarterly assessment
>\$2 million to \$10 million	\$750 per quarterly assessment
>\$200 thousand to \$2 million	\$500 per quarterly assessment
<\$200 thousand	\$0
Corporate	.0252 per thousand

3. Changes the current semiannual asset assessment dates to quarterly dates: January 1, April 1, July 1, and October 1. The April 1 and July 1 assessments will be based on total assets as reported in each credit union's form 5300 for the immediately preceding December 31; the October 1 and January 1 assessments will be based on total assets as reported in the form 5300 for the immediately preceding June 30.

4. Reallocates some of the burden of funding from the smaller credit unions to larger credit unions. On average, those credit unions with less than \$45.9 million in total assets (about 78% of all credit unions) will pay less under the new fee structure, while the larger credit unions (22% of all) will pay more, excluding the one-time special assessment in fiscal year 1997.

5. Assesses a one-time special assessment of \$184,000 in the aggregate. This assessment will be paid during fiscal 1997 by the credit unions pro rata based on their asset size as of June 30, 1996. Credit unions will be permitted to pay the special assessment in equal installments during fiscal 1997, which includes part of two calendar years (July 1, 1996, through June 30, 1997).

The special assessment is not part of the recurring annual funding of the division. Therefore, the increase in annual fees resulting from the rule is greater in the first calendar year (or two if the credit union pays the special assessment over two years) than in subsequent years.

6. Provides for a pass through of the costs charged to the division for certain attorney general (AG) assistance related to a credit union. The AG's fees currently range up to \$109 per hour, plus related costs. Of course, these fees

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are subject to change in the future. The hourly rate for AG assistance under the division's current rules is \$66.98.

7. Provides for an hourly fee ranging from \$44.65 to \$55.82 for: Electronic data processing examinations of parties other than a credit union and its subsidiaries; processing of community field of membership applications by the division; and special investigations of a credit union and its related parties. This is not an increase over existing hourly fees for these activities.

8. Eliminates the current schedule for automatic annual increases in the rate of fees based on the fiscal growth factor set by the state.

9. Effects these changes on July 1, 1996.

#### REQUIRED ELEMENTS OF SBEIS

The elements of the SBEIS required by the RFA are set forth below.

**ELEMENT 1. A brief description of the reporting, record-keeping, and other compliance requirements of the proposed rule and the kinds of professional services that a small business is likely to need in order to comply with the requirements.**

**RESPONSE:** In general, the proposed rule eliminates hourly examination fees for credit unions, and revises the rate schedule for asset assessments. The rule also increases the number of asset assessments from two to four per year.

The division believes that the increase from two to four asset assessments per year will not involve more than a minimal increase in reporting and administrative compliance costs. The division provides a simple, one-page worksheet for calculation of the assessments, which will be based on financial data that credit unions have previously reported to the division on form 5300. Each credit union will complete the worksheet and, based on the data, mail the worksheet and its asset assessment check to the division. Offsetting this minimal increase in reporting and administrative compliance cost is the decrease in such cost resulting from the elimination of the hourly exam fees, which credit unions have paid to the division when they were examined (every twelve to eighteen months). As a more significant offset, most credit unions (about 78%) will realize a reduction in the overall amount of fees paid to the division.

Consequently, the additional compliance costs resulting from the rule, such as reporting or record keeping, the use of additional labor or professional services, the purchase of additional equipment or supplies, or increased administrative costs, should be insignificant.

**ELEMENT 2. An analysis of the cost of compliance for identified industries, including costs of equipment, supplies, labor and increased administrative costs.**

**RESPONSE:** It appears that the only significant type of cost for compliance with the proposed rule is the increase in fees charged by the division. See the asset assessment schedule and response to Element 1, above. However, about 78% of state credit unions will pay less under the new fee structure, while 22% will pay more.

For the credit unions that will pay more in fees, that is, those with more than \$45.9 million in total assets, the annual fee increases for calendar [year] 1997 range up to \$59,500 per credit union, assuming the special assessment is paid entirely in 1997. For calendar years after 1997, the annual fee increases for this group range up to \$26,600 per credit union.

It should be noted that the rule does increase the cost charged to credit unions for certain attorney general (AG) assistance, from the hourly rate of \$66.98 under the current rule, to a pass through of such costs charged to the division by the AG, currently range up to \$109 per hour, plus related costs. However, it is rare for the division to incur such AG costs; the division did not incur any such costs during the last four calendar years. Consequently, it is not meaningful to attempt to factor in the increased cost resulting from this provision of the rule. Accordingly, the estimated costs of the rule set forth in this SBEIS do not factor in any increased cost for AG assistance. (It should be noted that the AG cost covered by this provision of the rule does not include the cost of tort litigation defense by the AG.)

**ELEMENT 3. Whether compliance with the proposed rule will cause business to lose sales or revenue.**

**RESPONSE:** As noted, about 78% of credit unions will see a decrease in fees as a result of the proposed rule. This will enhance their service to members and their profitability and capital levels.

About 22% of credit unions will pay more fees to the division under the rule. However, as a percentage of total assets, the largest annual fee increase to a credit union, including the one-time special assessment, is less than .001%. Typically, credit unions that show net income equal to at least 1.00% of total assets are considered healthy in terms of profitability. Accordingly, because the amount of increase to be paid by credit unions to the division under the proposed rule is not significant or material to their profitability, it is highly doubtful that the financial impact of the proposed rule will make these credit unions materially less competitive in the marketplace to the degree that they will lose sales or revenue to their competitors inside or outside of the credit union movement.

**ELEMENT 4. A comparison of the compliance costs for the small business segment and large business segment of the affected industry(ies).**

**RESPONSE:** The RFA provides that the compliance costs for small businesses affected by the proposed rule should be compared with such costs for the largest 10% of businesses affected by the rule, based on one or more of the following factors:

1. Cost per employee.
2. Cost per hour of labor to comply.
3. Cost per one hundred dollars of sales.

"Small business" is defined in the RFA as a business with fifty or fewer employees. There are about eighty-four (out of one hundred and one) credit unions that are considered small business under this definition. Of the eighty-four credit unions, only about four will pay an increase in annual fees under the rule. The largest 10% of credit unions is a group which includes the largest ten credit unions.

The required cost comparison is as follows:

#### Small business segment

Number of credit unions: 8

Average increase in annual fees: \$2,307

Average number of employees: 35.25

Average increase in annual fees, per employee: \$65.45

#### Largest 10% segment

Number of credit unions: 10

Average increase in annual fees: \$23,934

Average number of employees: 175.7  
Average increase in annual fees, per employee: \$136.22

These calculations include the increase from the one-time special assessment, as if it were paid entirely in one year. Of course, the increase in annual fees will be small for other years. The calculation for other years also results in a lower costs per employee for the small business segment.

Accordingly, the increase in annual fees per employee resulting from the rule is larger for the top 10% of credit unions than it is for the small business segment of credit unions, and does not disadvantage those few small business credit unions that will pay an increase in annual fees under the rule.

**ELEMENT 5. Steps taken by the agency to reduce the costs of the proposed rule on small businesses, or reasonable justification for not doing so, addressing the specified mitigation steps.**

**RESPONSE:** The RFA requires agencies to consider specific steps to mitigate the impact of the rule on small business, including:

1. Establishing different compliance or reporting requirements or timetables for small business.
2. Clarifying, consolidating or simplifying the compliance and reporting requirements for small business.
3. Establishing performance rather than design standards.
4. Exempting small business from any or all of the requirements.
5. Reducing or modifying fine schedules for not being in compliance.

Mitigating steps should be taken if they are legal and feasible in meeting the stated objective of the CU Act.

Throughout the process of working with the WCUL, serious consideration was given to the impact of the proposed rule on smaller credit unions. Partly as a result of this consideration, the rule was drafted to eliminate hourly exam fees and to reduce the fees on average paid by smaller credit unions. Moreover, the rule fixes the asset assessment for credit unions in smaller asset ranges: Those under \$200,000 in total assets pay no asset assessments; those from \$200,000 to \$2 million pay \$2,000 per year; those from \$2 million to \$10 million pay \$3,000 per year; those from \$10 million to \$20 million pay \$4,500 per year.

The benefit to eliminating hourly exam fees and relying instead on asset assessments, which are fixed for the smaller credit unions, is that this structure allows credit unions to more accurately budget for the level of fees that must be paid to the division. This also makes it easier for smaller credit unions to calculate the amount of their quarterly asset assessments. Even more significantly, overall fees to smaller credit unions were reduced.

Moreover, the one-time special assessment is structured to permit credit unions to pay the assessment in quarterly installments over the period from July 1, 1996, to June 30, 1997. This will permit credit unions to expense the assessment over two calendar years, diminishing its impact on net income. This is of particular help to the smaller credit unions.

**ELEMENT 6. A description of how the agency will involve small business in the development of the proposed rule.**

**RESPONSE:** The division has held meetings with various credit union groups to discuss the development of a new fee structure that is now set forth in the proposed rule. Moreover, all credit unions, including smaller credit unions, will be provided with a copy of the proposed rule. Credit unions are encouraged to contact the division to comment on the rule.

**ELEMENT 7. A list of the industry(ies) affected by the proposed rule.**

**RESPONSE:** The industry affected by the proposed rule is state-chartered credit unions, Standard Industrial Classification 6062.

A copy of the statement may be obtained by writing to J. Parker Cann, P.O. Box 41200, Olympia, WA 98504-1200, phone (360) 902-8778, or FAX (360) 902-8800.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 is not applicable to the rules of the Department of Financial Institutions, pursuant to section 201 (5)(a).

Hearing Location: At the following Washington Interactive TV sites: At Lacey, 710 Sleater-Kinney Road S.E., Suite Q, Lacey, WA; at Yakima, ESD #105 Building, 33 South 2nd Avenue, Yakima, WA; at Lynnwood, 2000 200 Place S.W., Lynnwood, WA; and at Spokane, 4022 East Broadway, Spokane, WA; on May 21, 1996, at 9-10 a.m.

Assistance for Persons with Disabilities: Contact J. Parker Cann by May 17, 1996, TDD (360) 664-8126.

Submit Written Comments to: FAX (360) 586-5068, by May 21, 1996.

Date of Intended Adoption: May 22, 1996.

April 3, 1996

J. Parker Cann

Assistant Director

Division of Credit Unions

#### Chapter 208-418 WAC

#### ~~((EXAMINATION AND SUPERVISION CHARGES FOR))~~ FEEES CHARGED TO CREDIT UNIONS AND RELATED PARTIES

AMENDATORY SECTION (Amending WSR 95-06-066, filed 2/28/95, effective 3/31/95)

WAC 208-418-020 Collection of ~~((examination and supervision costs—Collection method))~~ fees. ((The requirement of RCW 31.12.545 that the director collect from each credit union the actual costs of examinations and supervision shall be met in accordance with the procedures established in this chapter. The charges for this purpose shall consist of: (1) An hourly charge for conducting an examination of the credit union, (2) a semiannual asset charge, (3) an hourly charge for legal assistance, (4) an hourly charge for supervisory review of examinations, and (5) an hourly charge for special examinations. Charges must be paid promptly when due.)) Chapter . . . , Laws of 1996, authorizes the director to charge fees to credit unions and certain related parties in order to cover the costs of the operation of the division of credit unions and to establish a reasonable reserve for the division. As set forth in more

detail in this chapter, the fees for this purpose shall consist of:

- (1) Quarterly asset assessments charged to credit unions;
  - (2) Charges to a credit union for costs incurred by the division for certain types of attorney general assistance in regard to the credit union; and
  - (3) Certain other charges by the division.
- Fees must be paid promptly when due but no later than thirty days after receipt of any billing from the division.

**AMENDATORY SECTION** (Amending WSR 95-06-066, filed 2/28/95, effective 3/31/95)

**WAC 208-418-040** (~~(Semiannual)~~) **Quarterly asset ((charge)) assessments.** (1) The ~~((semiannual))~~ director will charge each credit union a quarterly asset ~~((charge will be assessed))~~ assessment at ~~((a))~~ the rate ~~((of 3.1863 cents per thousand dollars of total assets (defined below);))~~ set forth in subsection (2) of this section. Asset assessments will be charged on January 1, April 1, July 1, and October 1. The assessments will be computed on total assets as of ~~((March 31 and September 30 of each calendar year, and payable no later than fifteen days after the respective date.))~~ June 30 for the October 1 and January 1 assessments, and as of December 31 for the April 1 and July 1 assessments. Quarterly asset assessments are charged in advance for the following calendar quarter.

(2)

<u>Credit Union Total Asset</u>	<u>Quarterly Factor or Fee</u>
over \$500M	\$18,357 + .015 per K of total assets over \$500M
over \$100M - \$500M	\$5,104 + .033134 per K of total assets over \$100M
over \$20M up to \$100M	.051035 per K of total assets
over \$10M up to \$20M	\$1,125 per quarterly assessment
over \$2M up to \$10M	\$750 per quarterly assessment
over \$200K up to \$2M	\$500 per quarterly assessment
up to \$200K	No fee
Corporates	.0252 per K of total assets

M = Million K = Thousand

(3) A credit union converting to state charter will pay a prorated quarterly asset assessment for the quarter during which the conversion is completed.

(4) The director may accelerate asset assessments as provided in WAC 208-418-045.

(5) For the purpose of this ~~((section))~~ chapter, "total assets" includes all assets held by a Washington chartered credit union whether held within this state or a branch in another state and assets of foreign credit unions held through branches within the state of Washington, as reported on the credit union's form 5300. However, the director may waive ~~((the))~~ asset assessments of ~~((asset))~~ charges on assets held by Washington chartered credit unions through branches ~~((within))~~ in other states based upon reciprocal agreements with the foreign state's regulatory authority.

~~((The assessment of asset charges set forth in this section is subject to acceleration as provided in WAC 419-18-045.~~

~~((3) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.))~~

**AMENDATORY SECTION** (Amending WSR 95-06-066, filed 2/28/95, effective 3/31/95)

**WAC 208-418-045** **Credit unions examination fund—Minimum cash balance—Acceleration of ~~((semiannual))~~ quarterly asset ((charge)) assessments.** (1) The director ~~((shall))~~ will use best efforts to maintain a minimum cash balance in the credit unions examination fund of at least one month's allotment (defined below). However, if the balance drops below this figure, the director may ~~((declare))~~ accelerate the next ~~((semiannual))~~ quarterly asset ~~((charge))~~ assessment and declare it due and payable ~~((within thirty days after the declaration. The charge will be based on the then most current report of condition of each credit union)).~~ The director will bill each credit union for the accelerated asset ~~((charge;))~~ assessment. Payment is in lieu of the next regularly scheduled ~~((semiannual))~~ quarterly asset ~~((charge))~~ assessment.

(2) For the purpose of this section, "one month's allotment" means the quotient resulting from the division of the amount of the then current biennial budget (of the division of credit unions ~~((division))~~) by twenty-four.

**AMENDATORY SECTION** (Amending WSR 95-06-066, filed 2/28/95, effective 3/31/95)

**WAC 208-418-050** (~~((Hourly charge for legal assistance.))~~) **Pass through of attorney general costs.** ~~((+))~~ The ~~((hourly charge))~~ director will charge each credit union the actual cost incurred by the division of credit unions for certain legal assistance rendered by an assistant attorney general ~~((shall be assessed at the rate of \$63.72 per hour))~~ in regard to the credit union. Legal assistance includes, but is not limited to, legal assistance rendered in connection with supervisory committee meetings and board meetings; preparation and enforcement of removal actions, involuntary liquidations, declarations of insolvency, cease and desist orders, and other **enforcement** agreements or actions; preparation for administrative hearings; and preparation of ~~((memorandum opinions and legal))~~ written opinions requested by a credit union or the division of credit unions.

~~((2) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.))~~

**AMENDATORY SECTION** (Amending WSR 95-06-066, filed 2/28/95, effective 3/31/95)

**WAC 208-418-060** (~~((Hourly charge for supervisory review of examinations.))~~) **One-time special assessment for fiscal 1997.** (1) ~~((Upon completion of each examination, the analyst's report shall be reviewed and an examination letter prepared by administrative personnel. The hourly charge for the review and preparation of the examination letter will be assessed at the rate of \$53.10 per hour.~~

~~((2) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.))~~ The director will charge credit unions a one-time special assess-

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ment totaling \$184,000 during fiscal 1997. The assessment will be charged to credit unions pro rata based on their total assets as of June 30, 1996. The director will bill each credit union for its pro rata share of the special assessment.

(2) A credit union may pay the special assessment in one lump sum payment on or before February 1, 1997, or in four equal installments on September 30 and December 31, 1996, and March 31 and June 30, 1997.

(3) This section will expire on July 1, 1997.

**AMENDATORY SECTION** (Amending WSR 95-06-066, filed 2/28/95, effective 3/31/95)

**WAC 208-418-070** (~~Hourly charge for special examinations.~~) **Other fees.** (1) (~~Special examinations will be assessed at the rate of \$53.10 per hour, per examiner. Special examinations include, but are not limited to, electronic data processing examinations, special investigations, special investigations in the course of processing applications, special examinations involving the division's staff supervisory personnel, and other special examinations and reviews the director deems necessary.~~)

(2) ~~The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.~~) The director will charge an hourly fee of \$55.82 per hour per division examiner or other staff person for the examination, investigation or processing as follows:

(a) To a party other than a credit union or an entity owned by one or more Washington chartered credit unions, for each electronic data processing examination of the party by the division.

(b) To a credit union for processing of the credit union's application for a community field of membership by the division.

(c) To a credit union for special investigations of the credit union and/or its related parties by the division.

(2) In addition, the director may charge the actual cost of examinations performed under personal service contracts by third parties.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                 |   |
|-----------------|---|
| WAC 208-418-030 | Hourly charge for examinations.                                     |
| WAC 208-418-080 | Scheduled increases in rate of examination and supervision charges. |

#### WSR 96-08-081

#### PROPOSED RULES

#### PERSONNEL RESOURCES BOARD

[Filed April 3, 1996, 11:35 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Amending WAC 251-22-116 Family and medical leave, 251-22-167 Disability leave, 251-22-195 Parental leave and 251-22-200 Leave of absence without

pay; and repealing WAC 251-22-197 Family medical leave—Serious health condition.

Purpose: These rules apply to different kinds of leave. Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: These rule modifications are necessary to be in compliance with the federal Department of Labor Regulations of the Family and Medical Leave Act of 1993.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

Rule is necessary because of federal law, Title 29, Part 825 of the Code of Federal Regulations.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules describe various types of leaves. This proposal attempts to bring existing rules in compliance with the federal Department of Labor Regulations for the Family and Medical Leave Act of 1993.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996

Dennis Karras

Secretary

**AMENDATORY SECTION** (Amending WSR 93-14-115, filed 7/2/93, effective 8/5/93)

**WAC 251-22-116 Family and Medical Leave Act of 1993.** (~~((1) Pursuant to the Federal Family and Medical Leave Act of 1993, eligible employees shall be entitled to a total of twelve workweeks of leave during any twelve-month period for one or more of the following:))~~)

~~((a) Disability leave;))~~

~~((b) Parental leave;))~~

~~((c) Family medical leave serious health condition;))~~

~~((2) Institutions may grant to an employee additional disability leave or parental leave as provided in WAC 251-22-167(11) and 251-22-195 (2)(a);))~~

(1) Benefits provided through state laws and these rules shall not be diminished or withheld in complying with the Family and Medical Leave Act of 1993.

(2) An eligible employee is a permanent employee or an employee who has worked for the state for at least 12 months and for at least 1,250 hours during the previous 12-month period. Pursuant to the Family and Medical Leave



Act of 1993, during a 12-month period, a total of 12 work weeks of absence shall be granted to an eligible employee:

(a) as a result of the employee's serious health condition;

(b) to care for an employee's parent, spouse or child who has a serious health condition; and/or

(c) to provide care to an employee's newborn, adopted or foster child as provided in WAC 251-22-195.

(3) The employee may choose to use appropriate accrued paid leave or leave without pay for absence granted in accordance with the Family and Medical Leave Act. Use of accrued paid leave and leave without pay shall be in accordance with these rules.

(4) Employee absence granted for (2)(a) and (b) of this section shall be granted on an intermittent or reduced schedule at the employee's request.

(5) Following absence granted for the situations in (2) of this section, the employee shall return to the same or equivalent position held prior to the absence.

(6) The employer shall continue an eligible employee's existing employer-paid health insurance benefits during leave granted in accordance with the Family and Medical Leave Act.

(7) Each institution of higher education and related board shall develop and disseminate a policy specifying the procedures, required information, and time frames for employees to request and use leave in accordance with the state laws, these rules, and the Family and Medical Leave Act of 1993 law and regulations found in Title 29, Part 825 of the Code of Federal Regulations.

**AMENDATORY SECTION** (Amending WSR 93-16-061 and 93-14-115, filed 7/29/93 and 7/2/93, effective 8/5/93)

**WAC 251-22-167 Disability leave.** (1) ~~((Disability))~~ ~~((4))~~ Leave shall be granted for a reasonable period to a permanent employee who is precluded from performing his/her job duties because of a disability (including those related to pregnancy or childbirth). Disability leave includes a serious health condition of the employee as provided in the federal Family and Medical Leave Act of 1993 and WAC 251-22-116.

~~((2) An employee is entitled to a total of twelve workweeks for disability leave, parental leave, and family medical leave serious health condition during any twelve-month period as provided in WAC 251-22-116.)~~

~~((3) In any case in which the necessity for leave is foreseeable based on planned medical treatment, the employee shall provide not less than thirty days' notice, except that if the treatment requires leave to begin in less than thirty days, the employee shall provide such notice as is practicable.)~~

~~((4))~~ (2) The disability and recovery period shall be as defined and certified by the employee's licensed health care provider. The employee shall provide, in a timely manner, a copy of such certification to the employer.

~~((5) Certification provided under this section shall be sufficient if it states:)~~

~~((a) The date on which the condition commenced;)~~

~~((b) The probable duration of the condition;)~~

~~((c) The appropriate medical facts within the knowledge of the health care provider regarding the condition;)~~

~~((d) A statement that the employee is unable to perform the essential functions of his/her position.))~~

~~((6) The employer may require, at its expense, that the employee obtain the opinion of a second health care provider designated or approved by the employer. The health care provider shall not be employed on a regular basis by the employer.)~~

~~((7) In any case in which the second opinion differs from the original certification, the employer may require, at its expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee. The opinion of the third health care provider shall be final and binding.)~~

~~((8) The employer may require that the employee obtain subsequent recertifications on a reasonable basis.)~~

~~((9))~~ (3) Disability leave, including leave due to serious health condition per WAC 251-22-116, may be a combination of sick leave, vacation leave, personal holiday, compensatory time, and leave of absence without pay and shall be granted at the written request of the employee. The combination and use of paid and unpaid leave during a disability leave shall be per the choice of the employee.

~~((10) The institution shall maintain health care coverage during disability leave granted under the provisions of WAC 251-22-116, in accordance with the requirements of the public employees' benefits board. As specified in the federal Family and Medical Leave Act of 1993, the institution may recover the premium for maintaining coverage during the period of unpaid disability leave if the employee does not return to work.)~~

~~((11))~~ (4) If necessary due to continued disability, the employee shall be allowed to use eight hours of accrued paid leave per month for up to four months, including the twelve workweeks provided in WAC 251-22-116, to provide for continuation of benefits as provided by the public employees' benefits board. The employer shall designate on which day of each month the eight hours paid leave will be used.

**AMENDATORY SECTION** (Amending WSR 93-16-061 and 93-14-115, filed 7/29/93 and 7/2/93, effective 8/5/93)

**WAC 251-22-195 Parental leave.** (1) Parental leave shall be granted to a permanent employee because of the birth of a child of the employee and in order to provide care, or because of the placement of a child with the employee for adoption or foster care.

~~((2) An employee is entitled to a total of twelve workweeks for disability leave, parental leave, and family medical leave serious health condition during any twelve-month period as provided in WAC 251-22-116.)~~

(a) Parental leave shall not total more than four months, including ~~((the twelve workweeks provided))~~ any portion covered by Family and Medical Leave Act as specified in WAC 251-22-116, unless additional time is granted by the ~~((personnel officer))~~ employer.

(b) Requests for up to four months of parental leave that exceed the provisions of WAC 251-22-116 may be denied on the basis of operational necessity.

(c) Parental leave must be taken during the first year following the child's birth or placement of the child with the employee for adoption or foster care.



~~((3))~~ (2) The employee shall submit a written request for parental leave to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(a) The employee shall provide not less than thirty days' notice, except that if the child's birth or placement requires leave to begin in less than thirty days, the employee shall provide notice as is practicable.

(b) Within ten working days of the receipt of the request for leave not covered by WAC 251-22-116, the institution shall provide the employee with a written response and, if the leave is denied, rationale supporting the operational necessity and the notice of the employee's right to appeal per WAC 251-12-076.

~~((4))~~ (3) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, and leave of absence without pay. The combination and use of paid and unpaid leave during a parental leave shall be per choice of the employee.

~~((5) The institution shall maintain health care coverage during parental leave granted under the provisions of WAC 251-22-116, in accordance with the requirements of the public employees' benefits board. As specified in the federal Family and Medical Leave Act of 1993, the institution may recover the premium for maintaining coverage during the period of unpaid parental leave if the employee does not return to work.)~~

~~((6))~~ (4) If necessary due to continued approved parental leave, the employee shall be allowed to use eight hours per month of the accrued paid leave identified in subsection (4) of this section for up to four months, including the twelve workweeks provided in WAC 251-22-116, during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer shall designate on which day of each month the eight hours paid leave will be used.

(5) A total of 12 work weeks of appropriate paid leave or leave without pay in a 12-month period for an eligible employee may be designated under the Family and Medical Leave Act for child care or serious health condition or a combination of both as described in WAC 251-22-116. An eligible employee for Family and Medical Leave Act is a permanent employee or an employee who has worked for the state for 12 months for at least 1,250 hours and who is the parent of a newborn, adopted, or foster child.

#### REPEALER

WAC 251-22-197 Family medical leave—Serious health condition.

AMENDATORY SECTION (Amending WSR 93-14-115, filed 7/2/93, effective 8/5/93)

**WAC 251-22-200 Leave of absence without pay.** (1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Disability leave;
- (c) Educational leave;
- (d) Leave for government service in the public interest;

- (e) Parental leave;
- (f) Child care emergencies;
- (g) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 251-19-130;

(h) ~~((Family medical leave))~~ ~~((+))~~ Serious health condition of an eligible employee's child, spouse, or parent as provided in WAC 251-22-116.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

**WSR 96-08-082  
PROPOSED RULES  
PERSONNEL RESOURCES BOARD**

[Filed April 3, 1996, 11:39 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Repealing WAC 356-05-171 Family and medical leave; and amending WAC 356-14-260 Compensatory time—Liquidation, 356-15-030 Overtime provisions and compensation, 356-81-060 Paid sick leave—Use, 356-18-080 Leave—Worker's compensation, 356-18-110 Vacation leave—Allowance, 356-18-140 Leave without pay, 356-18-145 Leave without pay—Serious health condition, and 356-18-150 Leave—Newborn, adoptive, or foster child care—Provision.

**Purpose:** These rules apply to compensatory time, overtime and different kinds of leave usage.

**Statutory Authority for Adoption:** Chapter 41.06 RCW. **Statute Being Implemented:** RCW 41.06.150.

**Summary:** These rule modifications are necessary to be in compliance with the federal Department of Labor Regulations of the Family and Medical Leave Act of 1993.

**Name of Agency Personnel Responsible for Drafting:** Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; **Implementation and Enforcement:** Department of Personnel.

**Name of Proponent:** Department of Personnel, governmental.

Rule is necessary because of federal law, Title 29, Part 825 of the Code of Federal Regulations.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules describe various types and uses of accrued leaves, leave without pay and compensatory time. This proposal attempts to bring existing rules in compliance with the federal Department of Labor Regulations for the Family and Medical Leave Act of 1993.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996  
Dennis Karras  
Secretary

## REPEALER

WAC 356-05-171 Family and medical leave.

## AMENDATORY SECTION (Amending WSR 93-19-152 (Order 431), filed 9/22/93, effective 10/23/93)

**WAC 356-14-260 Compensatory time—Liquidation.** Agencies may require that compensatory time off shall be scheduled as soon as possible after accrual and with due regard for the employee's needs, insofar as this can be accomplished without detracting from sound and orderly administration. Accumulated compensatory time shall be granted for purposes of WAC 356-18-145, (~~Leave without pay—Serious health condition~~) Family and Medical Leave Act of 1993, or WAC 356-18-150, (~~Leave—~~) Newborn, adoptive, or foster child care(~~—Provision~~). Compensatory time taken for the situations described in WAC 356-18-145(2) shall not be counted as part of the 12 weeks total absence granted for Family and Medical Leave Act.

Agencies may require that accumulated compensatory time be liquidated before vacation leave is granted except in those instances where this procedure would result in loss of accumulated vacation leave.

## AMENDATORY SECTION (Amending WSR 93-19-152 (Order 431), filed 9/22/93, effective 10/23/93)

**WAC 356-15-030 Overtime provisions and compensation.** (1) The following conditions constitute overtime:

(a) For full-time employees, work in excess of the workshift within the work day.

(b) Work in excess of forty nonovertime hours in one workweek or eighty nonovertime hours in a scheduled fourteen consecutive day period as authorized under WAC 356-15-020 (2)(a)(ii).

(c) Work on a holiday (except Sunday when it is within the scheduled workshift). Scheduled work performed on a Sunday which is coincidental with some other state holiday is overtime work.

(d) Work on a scheduled day off.

(e) Time worked in excess of the 28-day work period by law enforcement positions.

(2) Scheduled work period employees shall receive overtime compensation for work which meets subsection (1)(a) through (d) of this section.

(3) Nonscheduled work period employees shall receive overtime compensation for work which meets subsection (1)(b) through (d) of this section and may be paid overtime compensation for work which meets subsection (1)(a) of this section.

(4) Law enforcement positions have a one hundred sixty-hour, twenty-eight-day work period, rather than a forty-hour workweek.

(a) When the combination of credited work hours (vacation, sick leave, holidays, or compensatory time) and actual work hours exceeds one hundred sixty hours, the employee shall be compensated at time and one-half rates in cash or compensatory time at the option of the agency.

(b) Overtime compensation for actual work in excess of one hundred seventy-one hours in a work period may be in the form of compensatory time off if the employee and the agency agree.

(c) Assigned, actual work on a holiday shall be considered as work in excess of one hundred sixty hours.

(d) For the positions receiving assignment pay for an extended work period, the following special provisions apply:

(i) These law enforcement classes or positions have a one hundred seventy-one-hour, twenty-eight-day work period, for which they receive four ranges (approximately ten percent) above the base salary range.

(ii) When the combination of credited work hours and actual work hours exceeds one hundred seventy-one hours, the employee shall be compensated at time and one-half rates. Compensation may be in the form of compensatory time off if the employee and the agency agree.

(iii) Assigned, actual work on a holiday shall be considered as work in excess of one hundred seventy-one hours.

(5) Exceptions work period employees are not required to be compensated beyond their regular monthly rate of pay for work which meets subsection (1)(a) through (d) of this section. However, they may be compensated or granted exchange time for any of those conditions if their appointing authority deems it appropriate.

(a) If overtime compensation is authorized, the appointing authority may fix the rate, not to exceed the overtime rate (WAC 356-05-231). As indicated in subsection (5) of this section, the agency and the employee may agree to use compensatory time off in lieu of cash; in that event, the rules covering liquidation of compensatory time apply.

(b) Exchange time may be authorized for any number of hours worked beyond the exceptions work period employee's normal hours of work. For those hours authorized, the rate shall be equal hours off for those worked. Exchange time can be accrued to a limit determined by each agency, not to exceed one hundred seventy-four hours. The exchange time

accrual for incumbents in the class of youth development and conservation corps camp supervisor only may be increased to four hundred eighty hours by the employing agency.

(c) Employees must be allowed, and may be required, to use all exchange time in excess of eighty hours prior to each April 1 and October 1, or other semiannual dates fixed by an agency and made known to its employees and the director of personnel by that agency's director. As an exception to the above, the director of personnel may establish a single annual date based on the special needs of the requesting agency. Employees must exhaust their exchange time before using compensatory time or vacation leave unless this would result in a loss of accumulated leave.

(d) Accumulated exchange time shall be granted for the purposes of WAC 356-18-145, (~~Leave without pay—Serious health condition~~) Family and Medical Leave Act of 1993, or WAC 356-18-150, (~~Leave—~~) Newborn, adoptive, or foster child care (~~—Provision~~).

(e) Employee absence on approved exchange time shall be considered as time worked for payroll purposes.

(f) Exchange time has no cash liquidation value. However, employees voluntarily terminating from state service or transferring to another agency must be offered the opportunity to postpone their cessation of employment by the granting agency until their accumulated, authorized exchange time has been used. Employees who were separated due to a reduction in force or disability separation are entitled to reinstatement of accumulated exchange time if they are rehired on a permanent basis by the granting agency within three years of separation.

(6) Overtime shall be compensated in accord with the provisions of WAC 356-14-230 through 356-14-265.

(7)(a) Part-time employees whose positions are in job classes designated as scheduled, nonscheduled, or law enforcement shall receive overtime compensation for work which meets subsection (1)(b) or (c) of this section.

(b) Hourly paid employees whose positions are in job classes designated as exceptions are not exempt from the overtime provisions of the Fair Labor Standards Act. For these employees, an agency must determine and notify the employee of the beginning of the workweek, must maintain the wage and hour records identified in WAC 356-14-220, and must pay overtime compensation for actual hours worked in excess of 40 nonovertime hours in a workweek.

**AMENDATORY SECTION** (Amending WSR 93-19-152 (Order 431), filed 9/22/93, effective 10/23/93)

**WAC 356-18-060 Paid sick leave—Use.** (1) Personal illness: Accumulated sick leave shall be granted when an employee is required to be absent from work for any of the following reasons:

(a) Illness or injury of the employee or for preventative health care.

(b) Exposure of the employee to contagious disease when attendance at work would jeopardize the health of others.

(c) Disability of the employee due to pregnancy or childbirth.

(d) The serious health condition of an eligible employee as provided in WAC 356-18-145.

(2) Illness of children: Accumulated sick leave shall be granted when an employee is required to be absent from work to provide care to a child under the age of eighteen with a health condition requiring treatment or supervision. For the purpose of this subsection, "children" shall be limited to the son or daughter of the employee or the employee's spouse.

(3) Illness of relatives or household members: For purposes other than serious health condition as provided in subsection (4) of this section, ((~~U~~)) up to five days of accumulated sick leave shall be granted for each occurrence or as extended by the agency when an employee is required to be absent from work to provide care to members of the employee's household or relatives of the employee or the employee's spouse who experience an illness or injury. For purposes of this subsection, "relatives" shall be limited to:

(a) Spouse.

(b) Son or daughter, eighteen years of age or over, grandchild, or foster child.

(c) Grandparent or parent.

(4) ((~~Accumulated sick leave shall be approved for the purpose of WAC 356-18-145, Leave without pay—Serious health condition—~~) Serious health condition of spouse, child or parent: Accumulated sick leave shall be granted when an eligible employee is required to be absent from work to provide care to the employee's spouse, child or parent with a serious health condition as provided in WAC 356-18-145.

(5) Preventative health care of relatives or household members: Up to one day of sick leave shall be granted for each occurrence or as extended by the agency when an employee is required to be absent to provide care or transportation for a relative of the employee or the employee's spouse or for a member of the employee's household obtaining preventative health care. For the purposes of this subsection "relatives" shall be limited to:

(a) Spouse.

(b) Son, daughter, grandchild, or foster child.

(c) Grandparent or parent.

(6) For purposes of the provisions of subsections (3), (5), and (7)(a) of this section:

Members of household means "persons who reside in same home, who have reciprocal and natural and/or moral duties to and do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune."

(7) Bereavement: Accumulated sick leave shall be granted up to three days for each occurrence or as extended by the agency for reasons of travel when an employee is required to be absent from work for any of the following reasons:

(a) Death of members of the employee's household or relatives of the employee or the employee's spouse.

(b) For purposes of the provisions of subsection (7)(a) of this section, "relatives" shall be limited to:

(i) Spouse.

(ii) Son, daughter, grandchild, foster child, son-in-law, or daughter-in-law.

(iii) Grandparent, parent, brother, sister, niece, nephew, aunt, uncle, first cousin, brother-in-law, or sister-in-law.

(8) Inclement weather: Up to three days of accumulated sick leave shall be granted when the employee is unable to

report for scheduled work because of severe inclement weather. (Such use of sick leave shall be limited to three days in any calendar year and shall be used only as specified in WAC 356-18-115.)

(9) Unforeseen family care requirements: Such use of sick leave shall normally be limited to a maximum of one day per incident, and to three days in any calendar year, unless extended by the appointing authority, and shall be used only as specified in WAC 356-18-116.

(10) When a condition listed under subsection (1)(a) or (c) of this section arises while the employee is on vacation leave, the employee shall be granted accrued sick leave as provided above for the condition (in lieu of the approved vacation leave) provided that the employee requests such sick leave within fourteen days after return to work. Such conversion rights shall not extend to vacation leave taken prior to an employee's separation as provided in WAC 356-18-100(2).

**AMENDATORY SECTION** (Amending WSR 89-06-028 (Order 314), filed 9/24/89 [2/24/89], effective 4/1/89)

**WAC 356-18-080 Leave—Worker's compensation.**

(1) Employees who suffer a work related injury or illness (occupational disease) shall file an application for worker's compensation in accordance with chapter 51.28 RCW.

(2) Employees who suffer a work related injury or illness and are unable to work due to such injury or illness may elect to receive time loss compensation exclusively, leave payment exclusively or a combination of time loss compensation and paid leave. The employing agency shall make such options known to the employee.

(3) Employees who elect to use sick leave during a period in which they receive worker's time loss compensation under the industrial insurance provisions for a work related illness or injury shall receive full sick leave pay, less any industrial insurance payments for time loss during the sick leave period.

(a) Until eligibility for worker's compensation is determined by the department of labor and industries, the employee may elect to use accrued sick leave, provided that the employee shall return any subsequent overpayment to the agency.

(b) Sick leave hours charged to an employee who receives worker's compensation as a result of the time loss shall be proportionate to that portion of the employee's salary paid by the agency during the claim period.

(4) When an employee elects to receive pay for vacation leave, compensatory time off or exchange time and also receives worker's compensation for time loss, the employee is entitled to both payments without any deductions for the time loss payment except for employees of the departments of social and health services, corrections and veterans affairs who miss work due to an assault that occurred on the job and are receiving compensation in an amount equal to full pay, as provided in chapters 72.01 and 72.09 RCW. Pay for vacation leave, compensatory time off or exchange time to such employees shall be limited to an amount equal to the amount of their worker's compensation for time loss.

(5) When an employee receives pay for a holiday and also receives worker's compensation for time loss, the

employee is entitled to both payments without any deductions for the time loss payment.

(6) Should an employee apply for time loss compensation and the claim is then or later denied, accrued leave may be used for the absence.

(7) Employees who suffer a work related injury or illness and are unable to work due to such injury or illness may request such leave be designated in accordance with WAC 356-18-145, Family and Medical Leave Act of 1993.

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

**AMENDATORY SECTION** (Amending WSR 93-19-152 (Order 431), filed 9/22/93, effective 10/23/93)

**WAC 356-18-110 Vacation leave—Allowance.** (1) Full-time employees shall not use or be compensated for vacation leave credits until completion of six months continuous state service. Employees whose payroll hours are usually less than 40 hours a week shall not use nor be compensated for vacation leave credits until completion of twelve continuous months of state service.

(2) All requests for vacation leave shall be in writing and must be approved in advance of the effective date unless used in lieu of sick leave or to respond to unforeseen child care requirements, or the supervisor chooses to approve the vacation leave on a retrospective basis.

(3) Accumulated vacation leave shall be approved for the serious health condition of the eligible employee, or the eligible employee's spouse, child or parent as provided in ~~((purposes of))~~ WAC 356-18-145 ~~(Leave without pay—Serious health condition, or WAC 356-18-150, Leave—Newborn, adoptive, or foster child care—Provision))~~.

(4) Accumulated vacation leave shall be approved for newborn, adoptive or foster child care as provided in WAC 356-18-150 and 356-18-145.

~~((4))~~ (5) Vacation leave shall be charged in half-hour increments or in smaller increments as set by the employing agency.

~~((5))~~ (6) When considering requests for vacation leave the employing agency shall give due regard to the needs of the employee but may require that leave be taken when it will least interfere with the work of the agency.

~~((6))~~ (7) Vacation leave for religious observances should be granted to the extent agency or program requirements permit.

**AMENDATORY SECTION** (Amending WSR 95-19-098, filed 9/20/95, effective 11/1/95)

**WAC 356-18-140 Leave without pay.** (1) Leave without pay may be allowed when such leave will not operate to the detriment of the state service.

(2) Leave without pay may be authorized for any reasons applicable to:

(a) Leave with pay.

(b) Educational leave.

~~((c) Newborn or adoptive child care leave as provided in WAC 356-18-150))~~

~~((d))~~ (c) Military and U.S. Public Health Service and Peace Corps leave.

~~((e))~~ (d) Specific leaves granted for government service in the public interest upon specific request of an employee, concurred in by the appointing authority.

~~((f))~~ (e) Leave taken voluntarily to reduce the effect of an agency reduction in force. Such leave shall not affect an employee's seniority.

~~((g))~~ (f) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(3) Authorized leave without pay shall be limited to not more than 12 months in any consecutive five-year period, except for:

(a) Leaves without pay for military, U.S. Public Health Service or Peace Corps;

(b) Authorized government leave not exceeding two years;

(c) Employees receiving time loss compensation;

(d) Educational leaves under provisions of WAC 356-39-120;

(e) Leave for serious health condition for an eligible employee or the employee's spouse, child or parent and ~~((N))~~ newborn, ~~((or))~~ adoptive or foster child care ~~((leave))~~ under provisions of WAC 356-18-150 and 356-18-145;

(f) Leave taken voluntarily to reduce the effect of an agency reduction in force under the provisions of WAC 356-30-335.

(g) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(4) Leave without pay exceeding twelve months in a consecutive five-year period, not covered by the exceptions noted in subsection (3) of this section, shall be treated as unauthorized absence.

(5) Employees returning from authorized leave without pay shall be employed in the same position, or in another or similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to reduction in force.

**AMENDATORY SECTION** (Amending WSR 93-19-152 (Order 431), filed 9/22/93, effective 10/23/93)

**WAC 356-18-145** (~~Leave without pay—~~**Family and Medical Leave Act of 1993.**)

~~((1) Pursuant to the federal Family and Medical Leave Act of 1993, a total of 12 work weeks, during any 12-month period, shall be allowed under the following circumstances:))~~

~~((a) The eligible employee's own serious health condition that prevents the employee from performing the functions of the job; or))~~

~~((b) Serious health conditions of a parent, spouse or child.))~~

~~((2) A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves:))~~

~~((a) in-patient care in a hospital, hospice, or residential medical care facility; or))~~

~~((b) continuing treatment by a health care provider.))~~

~~((i) A health care provider is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery~~

~~(as appropriate) by the state in which the doctor practices; or))~~

~~((ii) any other person determined by the secretary of the department of labor as being capable of providing health care services.))~~

~~((3) For purposes of this section, the following definitions will apply:))~~

~~((a) Eligible employee: An employee who has worked for the state for at least 12 months and for at least 1,250 hours during the previous 12-month period.))~~

~~((b) Parent: Biological parent or other person that acted as a parent to an employee.))~~

~~((c) Spouse: Husband or wife.))~~

~~((d) Child: A biological, adopted, or foster child, a step child, a legal ward, or a child of a person acting as a parent who is:))~~

~~((i) Under 18 years of age; or))~~

~~((ii) Eighteen years of age or older and incapable of self care because of a mental or physical disability.))~~

(1) Benefits provided through state laws and these rules shall not be diminished or withheld in complying with the Family and Medical Leave Act of 1993.

(2) An eligible employee is a permanent employee or an employee who has worked for the state for at least 12 months and for at least 1,250 hours during the previous 12-month period. Pursuant to the Family and Medical Leave Act of 1993, during a 12-month period, a total of 12 work weeks of absence shall be granted to an eligible employee:

(a) as a result of the employee's serious health condition;

(b) to care for an employee's parent, spouse or child who has a serious health condition; and/or

(c) to provide care to an employee's newborn, adopted or foster child as provided in WAC 356-18-150.

(3) The employee may choose to use appropriate accrued paid leave or leave without pay for absence granted in accordance with the Family and Medical Leave Act. Use of accrued paid leave and leave without pay shall be in accordance with these rules.

(4) Employee absence granted for (2)(a) and (b) of this section shall be granted on an intermittent or reduced schedule at the employee's request.

(5) Following absence granted for the situations in (2) of this section, the employee shall return to the same or equivalent position held prior to the absence.

(6) The employer shall continue an eligible employee's existing employer-paid health insurance benefits during leave granted in accordance with the Family and Medical Leave Act.

(7) Each agency shall develop and disseminate a policy specifying the procedures, required information, and time frames for employees to request and use leave in accordance with the state laws, these rules, and the Family and Medical Leave Act of 1993 law and regulations found in Title 29, Part 825 of the Code of Federal Regulations.

**AMENDATORY SECTION** (Amending WSR 93-19-152 (Order 431), filed 9/22/93, effective 10/23/93)

**WAC 356-18-150** (~~Leave—~~**Newborn, adoptive, or foster child care**~~(—Provision)~~). (1) Leave without pay for ~~((C))~~ child care ~~((leave without pay))~~ shall be authorized to

WSR 96-08-083

PROPOSED RULES

## PERSONNEL RESOURCES BOARD

[Filed April 3, 1996, 11:40 a.m.]

an eligible employee. An eligible employee is a permanent employee or an employee who has worked for the state for 12 months for at least 1,250 hours and who is the parent of a newborn, adopted, or foster child (~~(, the adoptive parent, or foster parent of a child)~~). ~~((The duration of such leave without pay shall be no more than six months and must be utilized within the first 12 months of birth, adoption or foster child care.))~~

(2) The employee shall make the request for leave without pay for child care (~~(leave without pay)~~) in writing and indicate the duration of the leave. The duration of such leave without pay for child care shall be no more than six months and such leave must be utilized within the first 12 months of birth, adoption or foster child care. The employee shall make every attempt to give the employer at least 30 days' notice, if possible. Employees shall be allowed to use their accrued vacation leave, or any portion thereof, in conjunction with leave without pay for child care (~~(leave without pay)~~) authorized in accordance with this section.

(3) If both parents are state employees and both have requested leave under this section, the employers may limit the employees to a total absence of 12 work weeks for child care which they may share.

~~((3)) (4) ((Eligible employees are entitled to a minimum of 12 weeks of leave without pay. However, a)) Agencies may deny requests for leave for child care beyond 12 weeks on the basis of operational necessity. ((If both spouses are state employees and both have requested leave under this section, an agency(ies) may limit them to a total of 12 weeks of leave without pay which they may share.)) Denials shall be in writing to the employee and shall inform the employee of the right to petition the director of personnel for review. The director of personnel shall review the petition and may require the agency to authorize the leave for child care.~~

~~((4) The director shall review the petition and may require the agency to authorize the child care leave request.))~~

(5) When an agency denies leave for child care (~~(leave)~~) under this section, and the director of personnel does not require it, an employee who vacates his/her position for the purpose of leave for child care (~~(leave)~~) may request to return to state service. Such employee must notify the department of personnel, within six months of vacating the position, of ~~(their)~~ his/her desire to return to work. The department of personnel shall direct the former employing agency to offer the employee the first vacancy in the employee's former class and geographic work location. This offer shall take precedence over all registers except for reduction-in-force registers.

(6) A total of the first 12 work weeks of appropriate paid leave or leave without pay in a 12-month period for an eligible employee may be designated under the Family and Medical Leave Act of 1993 for child care or serious health condition or a combination of both as described in WAC 356-18-145. An eligible employee for Family and Medical Leave Act is a permanent employee or an employee who has worked for the state for 12 months for at least 1,250 hours and who is the parent of a newborn, adopted, or foster child.

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 356-18-112 Shared leave.

Purpose: This rule applies to shared leave.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: This rule modification will also allow agency heads to permit state employees to transfer sick leave and all or part of a personal holiday to an employee who qualifies for shared leave. The existing WAC only allows the transfer of vacation leave.

Reasons Supporting Proposal: This rule modification is needed to comply with 1996 legislative changes.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule allows state employees to come to the aid of fellow state employees suffering from or who has a relative of household or household member suffering from an extraordinary or severe illness, by sharing annual leave at no increased cost to the state. This modification would also allow agency heads to permit state employees to transfer sick leave and all or a part of a personal holiday to an employee who qualifies for shared leave.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 91-07-055 (Order 371), filed 3/19/91, effective 5/1/91)

WAC 356-18-112 Shared leave. (1) The purpose of the state leave sharing program is to permit state employees to donate vacation leave, sick leave, or personal holidays to a fellow state employee who is suffering from or has a

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relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. An employee is eligible to request participation in the shared leave program when the employee is able to use accrued vacation leave, sick leave, or a personal holiday. For purposes of the Washington state leave sharing program, the following definitions apply:

(a) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

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

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

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

(2) An employee may be eligible to receive shared leave under the following conditions:

(a) The employee's agency head determines that the employee meets the criteria described in this section.

(b) The employee is not eligible for time loss compensation under chapter 51.32 RCW. If the time loss claim is approved at a later time, all leave received shall be returned to the donors (~~and the employee will return any and all overpayments to the agency~~).

(c) The employee has abided by agency policies regarding the use of sick leave.

(d) Donated (~~(vacation)~~) leave is transferable between employees in different state agencies with the agreement of both agency heads.

(3) An employee may donate vacation leave, sick leave, or personal holiday to another employee only under the following conditions:

(a)(i) The receiving employee has exhausted, or will exhaust, his or her vacation leave, and sick leave due to an illness, injury, impairment, or physical or mental condition, which is of an extraordinary or severe nature, and involves the employee, the employee's relative or household member; and

(ii) The condition has caused, or is likely to cause, the employee to go on leave without pay or terminate state employment; and

(iii) The agency head permits the leave to be shared with an eligible employee.

(b) The donating employee may donate any amount of vacation leave provided the donation does not cause the employee's vacation leave balance to fall below eighty hours.

(c) Employees may not donate excess vacation leave that the donor would not be able to take due to an approaching anniversary date.

(d) The donating employee may donate any specified amount of sick leave provided the donation does not cause the employee's sick leave balance to fall below four hundred

eighty hours after the transfer. In no event may the donating employee transfer more than six days of sick leave during any 12-month period.

(e) The donating employee may donate all or part of a personal holiday.

(4) The agency head shall determine the amount of donated leave an employee may receive and may only authorize an employee to use up to a maximum of two hundred sixty one days of shared leave during total state employment, except that a nonpermanent employee who is eligible to use accrued (~~(vacation)~~) leave or personal holiday may not use shared leave beyond the earlier date of:

(a) The termination date specified in the nonpermanent employee's appointment letter, or

(b) Nine months or 1560 nonovertime hours from date of appointment to the nonpermanent position; unless extended by the director per WAC 356-30-065(4), 356-30-067(6), and 356-30-140(6).

(5) The agency head shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

(6) Any donated leave may only be used by the recipient for the purposes specified in this section.

(7) The receiving employee shall be paid his or her regular rate of pay; therefore, one hour of shared leave may cover more or less than one hour of the recipient's salary. The calculation of the recipient's leave value shall be in accordance with office of financial management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received will be coded as shared leave and be maintained separately from all other leave balances.

(8) All forms of paid leave available for use by the recipient must be used prior to using shared leave.

(9) Any shared leave not used by the recipient during each incident/occurrence as determined by the agency director shall be returned to the donor(s). The shared leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to each donor's (~~(vacation)~~) appropriate leave balance.

(10) All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating (~~(vacation)~~) leave for purposes of this program.

(11) Agencies shall maintain records which contain sufficient information to provide for legislative review.

(12) An employee who uses leave that is transferred under this section may not be required to repay the value of the leave that he or she used.

WSR 96-08-084

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed April 3, 1996, 11:41 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

PROPOSED



Title of Rule: Amending WAC 251-22-250 Shared leave, 251-22-270 Shared leave use, 251-22-280 Annual leave donation, and 251-22-290 Shared leave administration.

Purpose: These rules apply to the uses and administration of shared leave.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: This modification will also allow institutions of higher education to permit state employees to transfer sick leave and all or part of a personal holiday to an employee who qualifies for shared leave. The existing WACs only allow the transfer of vacation leave.

Reasons Supporting Proposal: This rule modification is needed to comply with 1996 legislative changes.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules allows state employees to come to the aid of fellow state employees suffering from or who has a relative of household or household member suffering from an extraordinary or severe illness, by sharing annual leave at no increased cost to the state. This modification would also allow institutions of higher education to permit state employees to transfer sick leave and all or a part of a personal holiday to an employee who qualifies for shared leave.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996  
Dennis Karras  
Secretary

AMENDATORY SECTION (Amending WSR 92-13-012 [91-13-012], filed 6/7/91, effective 8/1/91)

**WAC 251-22-250 Shared leave.** The purpose of the Washington state leave sharing program is to permit state employees, at no significantly increased cost to the state of providing (~~annual~~) leave, to come to the aid of another state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take

leave without pay or terminate his or her employment. For purposes of the Washington state leave sharing program, the following definitions apply:

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

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

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

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

AMENDATORY SECTION (Amending WSR 89-22-019, filed 10/24/89, effective 12/1/89)

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

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

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

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

(5) Annual leave, sick leave, or all or part of a personal holiday transferred ~~from a donating employee~~ under these rules shall be used solely for the purpose stated in WAC 251-22-250.

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

AMENDATORY SECTION (Amending WSR 89-22-019, filed 10/24/89, effective 12/1/89)

**WAC 251-22-280 ((Annual)) ((L))Leave donation.** An employee may donate annual leave, sick leave, or personal holiday time to another employee for purposes of the Washington state leave sharing program under the following conditions:



(1) The employee's agency/institution head approves the employee's request to donate a specified amount of annual leave to an employee authorized to receive shared leave; and  
 ((2)) (a) The employee's request to donate leave will not cause his/her annual leave balance to fall below ten days; and

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

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

(a) The employee's request to donate leave will not cause his/her sick leave balance to fall before four hundred eight hours after the transfer; and

(b) In not event may a donating employee transfer more than six days of sick leave during any 12-month period.

(3) The employee's agency/institution head approves the employee's request to donate all or part of his or her personal holiday to an employee authorized to receive shared leave.

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

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

**Reviser's note:** 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 WSR 89-22-019, filed 10/24/89, effective 12/1/89)

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

(2) An employee on leave transferred under these rules shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave. Except that annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

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

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

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

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

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

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

(8) An employee who uses leave that is transferred under this section may not be required to repay the value of the leave that he or she used.

**WSR 96-08-085**  
**PROPOSED RULES**  
**PERSONNEL RESOURCES BOARD**

[Filed April 3, 1996, 11:42 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Amending WAC 356-22-220 Examinations—Veterans preference—Eligibility periods—Percentage allowance.

Purpose: This rule applies to veterans preference in examinations.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: This rule modification grants veteran's preference for newly designated combat areas.

Reasons Supporting Proposal: This rule modification is necessary to comply with 1996 legislative changes.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule describes the eligibility periods in which a person who has served in any branch of the armed forces of the United States during certain periods of war and how much preference will be given to qualified persons. This modification adds newly designated combat areas to the existing list of periods of war.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

PROPOSED

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996  
Dennis Karras  
Secretary

AMENDATORY SECTION (Amending WSR 84-14-006 (Order 207), filed 6/22/84)

**WAC 356-22-220** (~~(Examinations)~~) **Veterans preference in examinations** (~~(—Eligibility periods—Percentage allowance—)~~) (1) The term veteran as used in this rule shall include any person who has served in any branch of the armed forces of the United States during:

(a) World War II,  
(b) the Korean Conflict,  
(c) the Viet Nam Era, ((~~†~~)) beginning August 5, 1964 (~~(—)~~) and ending May 7, 1975;  
(d) the Persian Gulf War beginning August 2, 1990 and ending on the date prescribed by presidential proclamation or law;

(e) the following armed conflicts, if the participant was awarded the respective campaign badge or medal: the crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor;  
or

(f) who has received the armed forces expeditionary medal, Marine Corps expeditionary medal, or Navy expeditionary medal, for opposed action on foreign soil.

(2) Further, only persons who received an honorable discharge or who received a discharge for physical reasons with an honorable record or who were released from active duty under honorable circumstances shall be eligible for this veterans preference.

(3) In all competitive examinations, veterans shall be given a preference by adding to the passing grade, based upon a possible rating of 100 points as perfect, a percentage of such passing grade under the following conditions:

(a) Ten percent to a veteran who is not receiving any veterans retirement payments. This preference shall be utilized until one of the examinations results in a veteran's first appointment and not in any promotional examination.

(b) Five percent to a veteran who or is receiving any veterans retirement payments. This percentage shall be utilized until one of the examinations results in a veteran's first appointment and not in any promotional examination.

(c) Five percent to a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be utilized on the first promotional examination only.

(4) The above preference provisions must be claimed within eight years of the date of release from active 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.

**WSR 96-08-086**  
**PROPOSED RULES**  
**PERSONNEL RESOURCES BOARD**

[Filed April 3, 1996, 11:43 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 251-17-150 Veterans preference.

Purpose: This rule applies to veterans preference in examinations.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: This rule modification grants veteran's preference for newly designated combat areas.

Reasons Supporting Proposal: This rule modification is necessary to comply with 1996 legislative changes.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule describes the eligibility periods in which a person who has served in any branch of the armed forces of the United States during certain periods of war and how much preference will be given to qualified persons. This modification adds newly designated combat areas to the existing list of periods of war.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996  
Dennis Karras  
Secretary

AMENDATORY SECTION (Amending WSR 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88)

**WAC 251-17-150 Veterans preference.** (1) Veterans who claim veterans preference and meet the criteria specified in subsections (2) through (4) of this section shall have added to their final passing scores:

(a) Ten percent of the final passing score for a veteran who is not receiving any veteran's retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment-and not in any promotional examination.

(b) Five percent of the final passing score for a veteran who is receiving any veteran's retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(c) Five percent of the final passing score for a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be limited to the first promotional examination following return from military service.

(2) Veterans preference must be claimed within eight years of the date of release from active service.

(3) The term "veteran" as used in these rules shall include every person who has received an honorable discharge or received a discharge for physical reasons with an honorable record and:

(a) Has served in any branch of the armed forces of the United States between World War I and World War II or during any period of war; or

(b) Has served in any branch of the armed forces of the United States and received the armed forces expeditionary medal, or Marine Corps and Navy expeditionary medal, for opposed action on foreign soil.

(4) A "period of war" includes:

(a) World War I,

(b) World War II,

(c) the Korean conflict,

(d) the Viet Nam era, beginning August 5, 1964, and ending on May 7, 1975, ((and))

(e) The Persian Gulf War, beginning August 2, 1990 and ending on the date prescribed by presidential proclamation or law;

(f) the following armed conflicts, if the participant was awarded the respective campaign badge or medal: the crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor; and

(g) the period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress. ~~((The "Viet Nam era" means the period beginning August 5, 1964, and ending on May 7, 1975.))~~

**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 96-08-087**  
**PROPOSED RULES**  
**PERSONNEL RESOURCES BOARD**

[Filed April 3, 1996, 11:44 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Amending WAC 356-10-020 Classification plan—Revision and 356-06-080 Personnel board—Powers—Duties.

Purpose: These rules apply to the classification and compensation plans.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: These rule modifications are necessary to be in compliance with new legislative requirements regarding classification and compensation.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board has to comply with certain statutes when adopting or revising the classification and compensation plans. This modification revises the references to which statutes the board has to comply with in revising the classification and compensation plans.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996  
 Dennis Karras  
 Secretary

AMENDATORY SECTION (Amending WSR 95-19-054, filed 9/15/95, effective 10/6/95 [10/16/95])

**WAC 356-10-020 Classification plan—Revision.** The director shall submit proposed revisions to the classification plan to the board for review and approval.

(1) The board shall hold open hearings on the proposals after 20 days notice to employee organizations and agencies. The board may modify the proposals.

PROPOSED

(2) (~~However, beginning July 1, 1995, i)~~) In adopting these revisions the Board shall comply with Senate Bill S6767 of 1996, 41.06.150(15)<sub>2</sub>, and 43.88 RCW.

**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.

**AMENDATORY SECTION** (Amending WSR 95-19-054, filed 9/15/95, effective 10/16/95)

**WAC 356-06-080 Personnel board—Powers—Duties.**

It shall be the responsibility of the personnel board to:

(1) Establish general policies for the administration of merit system examinations and the hearing of personnel appeals.

(2) Make rules and regulations providing for employee participation in the development and administration of personnel policies.

(3) Hear personnel appeals.

(4) Promote public understanding of the purposes, policies, and practices of the merit system.

(5) Adopt and promulgate rules and regulations consistent with the purposes and provisions of the state civil service law and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The demotion, suspension, reduction in salary or dismissal of an employee and appeals therefrom.

(b) Certification of names for vacancies including departmental promotions.

(c) Examinations for all positions in the competitive and noncompetitive service.

(d) Appointments.

(e) Probationary periods of six to twelve months and rejections therein.

(f) Transfers.

(g) Sick and vacation leaves.

(h) Hours of work.

(i) Layoffs, when necessary, and subsequent reemployment.

(j) Agreements between agencies and certified exclusive representatives providing for grievance procedures and collective negotiations on personnel matters.

(k) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of duties and responsibilities of each position. (~~However, beginning July 1, 1995, i)~~) In adopting these revisions the Board shall comply with Senate Bill S6767 of 1996, 41.06.150(15)<sub>2</sub>, and 43.88 RCW.

(l) Allocation and reallocation of positions within the classification plan.

(m) Adoption and revision of a state salary schedule to reflect not less than the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature, with adoption and revision subject to approval by the director of the office of financial management in accordance with the provisions of chapter 43.88 RCW.

(n) Training programs, including in-service, promotional and supervisory.

(o) Regular increments within the series of steps for each pay range, based on length of service for all employees whose standards of performance are such as to permit them to retain job status within the classified service.

(p) Compliance with existing veterans preference statutes.

**WSR 96-08-088**

**PROPOSED RULES**

**PERSONNEL RESOURCES BOARD**

[Filed April 3, 1996, 11:45 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Amending WAC 251-06-020 Classification plan—Adoption and 251-04-050 Higher Education Personnel Board.

Purpose: These rules apply to the classification and compensation plans.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: These rule modifications are necessary to be in compliance with new legislative requirements regarding classification and compensation.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board has to comply with certain statutes when adopting or revising the classification and compensation plans. This modification revises the references to which statutes the board has to comply with in revising the classification and compensation plans.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 9, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 2, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 7, 1996.

Date of Intended Adoption: May 9, 1996.

April 3, 1996  
Dennis Karras  
Secretary

**AMENDATORY SECTION** (Amending WSR 95-19-055, filed 9/15/95, effective 10/16/95)**WAC 251-06-020 Classification plan adoption. (1)**

The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by the director for adoption, revision or rejection. After twenty calendar days notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board.

(2) ~~((However, beginning July 1, 1995 -))~~ In adopting these revisions the Board shall comply with Senate Bill S6767 of 1996, 41.06.150(15), and 43.88 RCW. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures.

**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 WSR 95-19-055, filed 9/15/95, effective 10/16/95)**WAC 251-04-050 Higher education personnel board**

(1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the board or performs statutorily prescribed duties approved by the chairperson of the board. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally, in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a

hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) the dismissal, suspension, or demotion of an employee, and appeals therefrom;

(b) certification of names for vacancies, including promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists;

(c) examination for all positions in the competitive and noncompetitive service;

(d) appointments;

(e) probationary periods of six to twelve months and rejections therein depending on the job requirements of the class;

(f) transfers;

(g) sick leaves and vacations;

(h) hours of work;

(i) layoffs when necessary and subsequent reemployment according to seniority;

(j) determination of appropriate bargaining units within any institution or related board: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees;

(k) certification and decertification of exclusive bargaining representatives;

(l) agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein permits or grants to

any employee the right to strike or refuse to perform his/her official duties;

(m) adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position: ~~However, beginning July 1, 1995, i)~~ In adopting these revisions the Board shall comply with Senate Bill S6767 of 1996, 41.06.150(15) and 43.88 RCW; allocation and reallocation of positions within the classification plans;

(n) adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC;

(o) training programs including in-service, promotional, and supervisory;

(p) increment increases within the series of steps for each pay grade; and

(q) veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

**WSR 96-08-089**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 3, 1996, 11:46 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 356-56-115 Salary adjustments.

Purpose: This rule applies to the adjustment of salaries for Washington management employees.

Statutory Authority for Adoption: Chapter 41.06 RCW.  
Statute Being Implemented: RCW 41.06.500.

Summary: This rule modification is necessary to be in compliance with new legislative requirements regarding salary adjustments.

Reasons Supporting Proposal: This rule modification is needed to comply with 1996 legislative changes.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule describes the conditions when salary adjustments may be made. This modification is the result of legislative action which requires review and approval by the director of personnel for salary changes greater than five percent proposed for any group of employees.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not required.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 16, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by May 14, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by May 16, 1996.

Date of Intended Adoption: May 23, 1996.

April 3, 1996

Dennis Karras

Director

**AMENDATORY SECTION** (Amending WSR 95-19-056, filed 9/15/95, effective 10/16/95)

**WAC 356-56-115 Salary adjustments.** (1) Adjustments to the compensation for a position with no change in evaluation points shall not exceed the maximum or fall below the minimum amount set by the director of personnel for the management band. After the initial transition evaluation, salary adjustments initiated by the agency, other than for promotion or demotion, will not normally exceed a total of ten percent for a single fiscal year. Excluded from the ten percent limit on salary increases are annual periodic increments, legislatively approved increases, movement of a position to the minimum of the band, initial transition evaluation adjustments, and promotional increases. Requests for exception may be granted only by the director of personnel. Salary adjustments may be made under the following conditions:

(a) Legislatively directed general and/or special increase;  
(b) Documented recruitment and/or retention problems as approved by the agency director or designee;

(c) Documented agency and/or state internal salary relationship problems, as approved by the agency director or designee; or

(d) Progression adjustments may be granted in recognition of the employees demonstrated growth and development following initial transition, hire, transfer, or a promotion by up to five percent annually, for a maximum total of twenty percent.

(2) Voluntary movement in or to a position of lower evaluation points may result in a salary decrease which

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exceeds ten percent but does not fall below the minimum amount of the band.

(3) A promotion is the assignment of additional responsibilities which results in higher evaluation points for the same position, or movement to a different position that has higher evaluation points. Promotional increases may exceed ten percent.

(4) A disciplinary demotion for cause is the assignment of responsibilities which results in lower evaluation points for the same position, or movement to a different position that has lower evaluation points. The resulting salary decrease may exceed ten percent and must be in conformance with the provisions of the Fair Labor Standards Act.

(5) Involuntary downward movement based on a nondisciplinary reassignment of duties that results in lower evaluation points for an employee's present position shall not cause a decrease in the employee's current salary. The employee's current salary will be retained until such time as it is exceeded by the Washington management service salary structure or the employee leaves the position.

(6) An agency may provide a lump sum recognition payment within guidelines established by the department of personnel in recognition of documented exceptional work and performance results. Such compensation shall not become a permanent salary increase but is considered to be income for recognizing documented exceptional work and performance results. A payment made as a lump sum for recognition purposes shall be included within the ten percent annual adjustment limitation in the fiscal year in which it is paid.

(7) Salary changes greater than five percent proposed for any group of employees shall require review and approval by the director of personnel.

**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 96-08-090**  
**PROPOSED RULES**  
**HEALTH CARE POLICY BOARD**

[Filed April 3, 1996, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-04-059.

Title of Rule: WAC 245-02-040 Collective negotiations—Policy statement—Permitted negotiations—Petitions.

Purpose: To substitute the Health Care Policy Board in place of current references to the Health Services Commission and to resolve ambiguity resulting from the legislature's elimination of references to certified health plans in some 1995 amendments and its continued use of the term in RCW 43.72.310 as amended.

Statutory Authority for Adoption: RCW 43.72.310.

Statute Being Implemented: RCW 43.72.310.

Summary: The proposed rule will substitute Health Care Policy Board for Health Services Commission and will substitute "health carrier" for "certified health plan."

Reasons Supporting Proposal: To resolve ambiguity resulting from 1995 amendments.

Name of Agency Personnel Responsible for Drafting: Duane Thurman, P.O. Box 41185, Olympia, WA 98504, (360) 407-0154; Implementation and Enforcement: Tom L. Hilyard, P.O. Box 41185, Olympia, WA 98504, (360) 407-0041.

Name of Proponent: Health Care Policy Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule currently sets forth policy statement and procedures regarding competing providers collective negotiation of certain nonfee terms and conditions of contracts with certified health plans. See WAC 245-02-040. The revised rule will substitute the Health Care Policy Board in place of references to the Health Services Commission and will clarify with whom providers may negotiate by incorporating the term "health carrier" in place of "certified health plan."

Proposal Changes the Following Existing Rules: See Summary, Reasons Supporting Proposal, and Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not impose more than minor costs on businesses in the industry for compliance therewith.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Health Care Policy Board is not one of the agencies enumerated by section 201, chapter 403, Laws of 1995.

Hearing Location: Attorney General's Conference Center, RoweSix, Building One, 4224 6th Avenue S.E., Lacey, WA, on May 8, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Theresa Walker by May 6, 1996, TDD (360) 407-0039.

Submit Written Comments to: Duane Thurman, FAX (360) 407-0069, by May 7, 1996.

Date of Intended Adoption: May 14, 1996.

April 2, 1996  
Bernie Dochnahl  
Chair

AMENDATORY SECTION (Amending WSR 95-04-115, filed 2/1/95)

**WAC 245-02-040 Collective negotiations—Policy statement—Permitted negotiations—Petitions.** (1) The ~~Board Commission~~ finds that collective negotiation by competing health care providers of certain non-fee terms and conditions of contracts with health carriers ~~certified health plans~~ may result in procompetitive effects in the absence of any express or implied threat of retaliatory collective action by health care providers. However, the ~~Board Commission~~ finds few or no procompetitive effects in permitting competing health care providers to collectively negotiate contract terms and conditions that include fees or prices for provider services. The potential anticompetitive harms arising from collective exchanges of fee or price information by competing providers and collective negotiation by competing providers of the fees to be paid providers by health carriers ~~plans~~ far outweigh any potential gains in simplifying



provider and health carrier plan negotiations, any reduction in transaction costs, and any potential gains in cost-effective health care delivery systems. To the contrary, the Board Commission finds that collective negotiation of fees or other prices for services by competing health care providers creates the potential to thwart the cost containment goals of health care reform by enabling health care providers to resist health carrier plan and purchaser pressure to reduce or limit the increase in prices for health care services. Except as herein provided, nothing contained in this section shall authorize any person or entity to engage in activities that would constitute violations of state or federal antitrust laws.

(2) Competing health care providers within the service area of a health carrier certified health plan may meet and communicate for the purposes of collectively negotiating the following terms and conditions of contracts with health carriers certified health plans:

(a) respective provider and health carrier plan liability for the treatment or lack of treatment of health carrier plan enrollees;

(b) administrative procedures including methods and timing of provider payment for services;

(c) dispute resolution procedures relating to disputes between health carriers (~~(plans)~~) and providers including disputes between providers and health carriers (~~(plans)~~) that originate from enrollees;

(d) patient referral procedures;

(e) formulation and application of reimbursement methodology, e.g., risk pools, capitation, and capitation between providers and hospitals, except as provided in section 3;

(f) quality assurance programs;

(g) health service utilization review procedures; and

(h) carrier provider selection and termination criteria, or whether to engage in selective contracting.

Nothing herein shall be construed to allow a boycott.

(3) Competing health care providers shall not meet and communicate for the purposes of collectively negotiating the following terms and conditions of contracts with health carriers certified health plans:

(a) the fees or prices for services, including those arrived at by applying any reimbursement methodology procedures;

(b) the conversion factor in a resource based relative value scale reimbursement methodology or similar methodologies;

(c) the amount of any discount on the price of services to be rendered by providers;

(d) the dollar amount of capitation or fixed payment for health services rendered by providers to health carrier plan enrollees; or

(e) the inclusion or alteration of terms and conditions to the extent they are the subject of government regulation prohibiting or requiring the particular term or condition in question; however, such restriction does not limit provider rights to collectively petition government for a change in such regulation.

(4) competing health care providers' exercise of collective negotiation rights granted by this section shall conform to the following criteria:

(a) providers shall communicate or negotiate with health carriers certified health plans through a third party who is authorized by the providers;

(b) each competing provider involved in the communication and negotiation with health carriers certified health plans shall make an independent decision to accept or reject a specific offer from a health carrier certified health plan;

(c) health carriers certified health plans communicating or negotiating with the providers' representative shall remain free to contract with or offer different contract terms and conditions to individual competing providers;

(d) the providers' representative shall not recommend to providers that providers accept or reject the health carrier certified health plan offer; the representative may only deliver the offer to providers and communicate to providers an evaluation of the positive or negative aspects of the offer;

(e) the providers' representative shall not represent more than 30% of the market of practicing providers for the provision of services of a particular provider type or specialty in the service area or proposed service area of a health carrier certified health plan with less than 5% of the market, as measured by 1) the number of covered lives as reported by the insurance commissioner, or 2) the actual number of consumers of prepaid comprehensive health services; and

(f) the providers' representative shall comply with the provisions of subsection (5) of this section.

(5) Any person or organization proposing to act or acting as a representative of providers for the purpose of exercising the authority granted under this section shall comply with the following requirements:

(a) before engaging in any collective negotiation with health carriers certified health plans on behalf of competing health care providers, the representative shall file with the Board Commission information identifying the representative, the representative's plan of operation, and the representative's procedures to ensure compliance with this section;

(b) Before engaging in any collective negotiations with health carriers certified health plans on behalf of providers, the representative shall furnish for the Board's Commission's approval, a brief report identifying the proposed subject matter of the negotiations or discussions with health carriers certified health plans and the efficiencies expected to be achieved thereby.

Approval shall be withheld by the Board Commission if the proposed negotiations would exceed the authority granted under this section. The representative shall supplement the report to the Board Commission as new information becomes available that indicates that the subject matter of the negotiations with the health carrier plan has or will change;

(c) within fourteen days of a health carrier certified health plan decision declining negotiation, terminating negotiation, or failing to respond to a request for negotiation the representative shall report to the Board Commission the end of negotiations;

(d) before reporting the results of negotiations with a health carrier certified health plan and before giving providers an evaluation of any offer made by a health carrier certified health plan, the representative shall furnish for the Board's Commission's approval prior to dissemination to providers, a copy of all communications to be made to



providers related to negotiations, discussions, and health carrier certified health plan offers.

(6) With the advice of the attorney general, the Board Commission shall either approve or disapprove the activity as identified in the report within thirty days of filing. If disapproved, the Board Commission shall furnish a written explanation of any deficiencies along with a statement of specific remedial measures as to how such deficiencies could be corrected. A representative who fails to obtain the Board's Commission's approval is deemed to act outside the authority granted under this section.

(7) Nothing contained in this section is intended to authorize competing providers to act in concert in response to a report issued by the providers' representative related to the representative's discussions or negotiations with health carriers certified health plans. The representative of the providers shall advise providers of the provisions of this section and shall warn providers of the potential for legal action against providers who violate state or federal antitrust laws by exceeding the authority granted under this section.

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

PROPOSED



**WSR 96-08-001  
PERMANENT RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Order 96-05—Filed March 21, 1996, 10:55 a.m.]

Date of Adoption: March 20, 1996.

Purpose: Chapter 392-109 WAC, to provide for the periodic election of State Board of Education members.

Citation of Existing Rules Affected by this Order: Amending WAC 392-109-040 through 392-109-120.

Statutory Authority for Adoption: RCW 28A.305.020. Adopted under notice filed as WSR 96-04-033 on February 2, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 11, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 11, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 11, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
March 20, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-040 Purpose.** The state board of education consists of (~~sixteen voting~~) nine members elected by the members of public school boards of directors (~~and~~), one (~~nonvoting~~) member elected by private school boards of directors and the superintendent of public instruction who is an ex officio member of the board. The purpose of this chapter is to provide for the annual election of members to the state board of education by establishing policies and procedures which implement the statutory election process for such positions.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-047 Annual elections.** Elections for members of the state board of education shall be conducted (~~annually~~) each year preceding the year in which the term of one or more members expires, and as required by RCW 28A.305.090 following a vacancy on the board.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-058 Tentative certification of electors.** On or before August twenty-first of each year or if such date is a Saturday, Sunday, or holiday, on or before the state working day immediately preceding such date, the superintendent of public instruction shall certify a tentative list of electors consisting of all persons eligible to vote if the election were held on that date. Such list shall include the weighted vote for each elector based on the previous year's September enrollment.

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-109-065 Candidates—Eligibility—Filing.**

(1) Eligibility: A person is eligible to be a candidate for only one vacancy on the state board of education at a time. A candidate for a vacancy among the (~~sixteen voting~~) nine positions on the state board elected by members of public school boards of directors must be a resident of the congressional district represented by the position and meet the other qualifications established by RCW 28A.305.040. A candidate for a vacancy in the (~~nonvoting~~) position on the state board elected by private school boards of directors must be a resident of the state of Washington and meet the other qualifications established by RCW 28A.305.040.

(2) Forms for filing: A person who desires to be a candidate shall complete:

(a) The declaration of candidacy and affidavit form provided for in WAC 392-109-070; and

(b) The biographical data form provided for in WAC 392-109-075: *Provided*, That a declarant may elect not to submit biographical data.

(3) Filing period: The filing period for candidates for any position on the state board of education is from September 1 through September 16. Any declaration of candidacy that is not received by the superintendent of public instruction on or before 5:00 p.m. September 16 shall not be accepted and such a declarant shall not be a candidate: *Provided*, That any declaration that is postmarked on or before midnight September 16 and received by mail prior to the printing of ballots shall be accepted: *Provided further*, That any declaration received pursuant to the United States mail on or before 5:00 p.m. September 21 that is not postmarked or legibly postmarked shall also be accepted.

AMENDATORY SECTION (Amending Order 84-27, filed 7/11/84)

**WAC 392-109-070 Declaration and affidavit of candidacy form.** The declaration and affidavit of candidacy which each candidate is required to substantially complete and to file as a condition to having his or her name placed on an official ballot shall be as follows:

I, . . . . ., solemnly swear (or affirm): That (if filing for a (~~voting~~) position elected by members of public school boards of directors) I reside in the . . . . . Congressional District of the state of Washington or (if filing for the (~~nonvoting~~) position elected by private school boards of directors) I reside within the state of Washington; That I am aware that if elected, I cannot concurrently serve as a

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member of the state board of education and as an employee of any school, college, university, or other educational institution, or any educational service district superintendent's office, or in the office of the superintendent of public instruction, or as a member of the board of directors of either a common school district or a private school; and, That I hereby declare myself a candidate for membership on the state board of education for a term of . . . . . years beginning on the second Monday in January, 19 . . . , subject to the election to be held during the month of October, 19 . . . , and I request that my name be listed on the ballot therefor.

Further, I solemnly swear (or affirm) that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

((Signed) \_\_\_\_\_

Address: \_\_\_\_\_

SUBSCRIBED and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_,

Notary Public in and for the state of Washington, residing at \_\_\_\_\_))

(Signature) \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number \_\_\_\_\_

State of Washington

County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on (date) \_\_\_\_\_ by (name of person making statement).

(Signature) \_\_\_\_\_

(Seal or stamp)

Notary Public

My appointment

expires \_\_\_\_\_

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-109-072 Candidates for new congressional district positions—First elections—Term of office.** Pursuant to RCW 28A.305.030, at the first election (~~to the two positions in~~) following the creation of a new congressional district, one position shall be elected to serve a ~~((six))~~ four-year term (~~and the other shall serve a three year term~~). ~~Candidates filing for election to a new congressional district position for the first such election shall indicate on the declaration and affidavit of candidacy form required by WAC 392-109-070 the initial term of office sought as either six years or three years).~~

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-085 Ballots and envelopes—Mailing to voters.** (1) On or before October 1 ballots shall be mailed to voters together with two envelopes to be used for voting. The outer and larger envelope (i.e., official ballot return envelope) shall:

(a) Be labeled "official ballot return envelope";

(b) Be preaddressed with the "superintendent of public instruction" as addressee;

(c) Have provision for prepaid postage; and

(d) Have provision for the identification of the voter, his or her school district or school and his or her congressional district if pertinent.

The inner and smaller envelope shall be unlabeled and unmarked.

(2) One ballot and the two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each member of a public school district board of directors.

(3) One official ballot, a number of copies of the ballot, two envelopes to be used for voting purposes, any candidates' biographical data and pertinent instructions for voting purposes shall be mailed to each private school addressed as follows: Chairperson of the board of directors, c/o principal or chief administrator, (name and address of the particular private school). It shall be the responsibility of each such chairperson to duplicate the ballot, biographical data and pertinent instructions for voting purposes if necessary and provide a copy to each member of the private school's board of directors.

AMENDATORY SECTION (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-090 Voting—Marking and return of ballots.** (1) Public school board members: Each member of a public school district board of directors may vote for one of the candidates named on his or her ballot by placing an "x" or other mark in the space provided next to the name of a candidate.

(2) Private school board members: Each member of a private school board of directors shall return his or her marked ballot to the chairperson of the board. The chairperson shall tabulate the votes and be entitled to cast one vote for the candidate who receives a majority of the board members' votes. The chairperson shall then mark the official ballot accordingly.

(3) Return of ballots: Each member of a public school district board of directors and each chairperson of a private school board of directors shall complete voting by:

(a) Placing his or her marked official ballot in the smaller, unmarked envelope and sealing the same;

(b) Placing the smaller envelope containing the ballot in the larger preaddressed envelope marked "official ballot return envelope" and sealing the same;

(c) If not already designated, completing the following information on the face of the official ballot return envelope: Name, identification of school district or private school and, in the case of public school district board members, identification of the congressional district of residence; and

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(d) Placing the official ballot return envelope in the United States mail or otherwise delivering the ~~((ballot))~~ envelope to the superintendent of public instruction.

**AMENDATORY SECTION** (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-100 Receipt of ballots and count of votes.** (1) As official ballot return envelopes are received by the superintendent of public instruction, a preliminary determination shall be made as to the eligibility of the voter, and a record shall be made on a list of eligible voters and private schools that the voter or school has voted. Official ballot return envelopes not submitted in compliance with this chapter and other envelopes containing ballots shall be set aside for a final review and acceptance or rejection by the election board.

(2) The election board shall convene for the purpose of counting votes on or before October 25 or if such date is a Saturday, Sunday, or holiday, on or before the state working day immediately preceding such date at a date, time and place designated by the superintendent of public instruction. Official ballot return envelopes that are accepted by the election board shall be opened, and the inner envelopes containing ballots shall be removed and placed aside, still sealed. The inner envelopes shall then be opened and the votes counted by the election board.

(3) No record shall be made or maintained of the candidate for which any voter cast his or her vote.

**AMENDATORY SECTION** (Amending Order 84-8, filed 5/15/84)

**WAC 392-109-105 Ineligible votes.** The following ballots and votes shall be declared void and shall not be accepted:

- (1) Votes for write-in candidates;
- (2) Votes cast on other than an official ballot provided pursuant to this chapter;
- (3) Ballots which contain a vote for two or more of the named candidates;
- (4) Ballots contained in other than an official ballot return envelope provided pursuant to this chapter;
- (5) Ballots contained in an official ballot return envelope upon which the voter is not designated by name;
- (6) Ballots received after 5:00 p.m. October 16: *Provided*, That any official ballot return envelope that is postmarked on or before midnight October 16 and received pursuant to the United States mail prior to the initial counting of votes by the election board shall be accepted: *Provided further*, That any official ballot return envelope received pursuant to the United States mail on or before 5:00 p.m. on October 21 that is not postmarked or legibly postmarked shall also be accepted; and
- (7) Such other ballots or votes as the election board shall determine to be unidentifiable or unlawful.

**AMENDATORY SECTION** (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-109-120 Special elections.** Special elections provided for in RCW 28A.305.030 (new congressional districts), 28A.305.060 (run-off elections) and ~~((28A.04.090))~~

28A.305.090 (vacancies) shall be conducted in accordance with the pertinent procedural and substantive provisions of this chapter, including the time schedules governing the conduct of elections, as modified by the superintendent of public instruction to accommodate the special nature of the election and special statutory dates and requirements.

**WSR 96-08-006  
PERMANENT RULES  
DEPARTMENT OF HEALTH**  
[Filed March 22, 1996, 9:30 a.m.]

Date of Adoption: February 10, 1996.

Purpose: Amend WAC 246-924-990 Psychology fees, this rule describes all of the fee categories for applicants and licensed psychologists. Proposed amendments will eliminate written examination fee as candidates will be paying this fee directly to the testing agency. Creates new renewal fee for retired active.

Citation of Existing Rules Affected by this Order: Amending WAC 246-924-990 Psychology fees.

Statutory Authority for Adoption: RCW 43.70.250.

Adopted under notice filed as WSR 96-02-085 on January 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
March 21, 1996  
Bruce Miyahara  
Secretary

**AMENDATORY SECTION** (Amending Order 173, filed 6/6/91, effective 7/7/91)

**WAC 246-924-990 Psychology fees.** The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application—Nonrefundable	\$250.00
<del>((Application—Written examination (initial and retake))</del>	<del>225.00</del>
<del>Application—Oral examination (initial and retake)</del>	<del>250.00))</del>
Renewal	275.00
Renewal retired active	175.00
Late renewal penalty	100.00

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Duplicate license	25.00
Written examination <u>administration</u>	((225.00)) 80.00
Oral examination	250.00
Certification	25.00
Renewal	275.00
Renewal penalty	100.00
Amendment of certificate of qualification	30.00

**WSR 96-08-007**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed March 22, 1996, 9:36 a.m.]

Date of Adoption: February 10, 1996.

Purpose: Creates WAC 246-924-500 Retired active psychologist license, allowing licensed retired psychologists to provide pro bono services to agencies. Amends WAC 246-924-470, 246-924-250, and 246-924-080 to make typographical corrections and clarify requirements and deadlines.

Citation of Existing Rules Affected by this Order: Amending WAC 246-924-470, 246-924-250, and 246-924-080.

Statutory Authority for Adoption: RCW 18.130.250 Retired active license.

Other Authority: RCW 18.83.050 Powers and duties.

Adopted under notice filed as WSR 96-02-086 on January 3, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-924-250 was additionally amended to correct a typographical error regarding the American Board of Professional Psychology (ABPP).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 3, repealed 0.

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

February 9, 1996

Arreed Barabasz, Ed.D., Ph.D., ABPP  
 Chair

**AMENDATORY SECTION** (Amending WSR 94-12-039, filed 5/25/94, effective 6/25/94)

**WAC 246-924-080 Psychology examination—Application submittal date.** To be eligible to take any particular written examination, an applicant for licensure must file his or her application and examination administration fee with the department of health not less than sixty

days prior to the examination date. In the case of late filing, the time requirement for filing may be reduced if good cause for the late filing is shown and the application can still be processed prior to the examination date.

Examinations are normally held in April and October of each year.

**AMENDATORY SECTION** (Amending WSR 94-12-039, filed 5/25/94, effective 6/25/94)

**WAC 246-924-250 Continuing education—Special considerations.** In lieu (total or partial) of sixty hours of CPE the board may consider credit hour approval and acceptance of other programs as they are developed and implemented, such as:

(1) Compliance with a CPE program developed by the American Psychological Association which provides either a recognition award or certificate, may be evaluated and considered for partial or total fulfillment of the CPE credit hour requirements of the board.

(2) Psychologists licensed in the state of Washington but practicing in a different state or country which has a mandatory or voluntary CPE program may submit to the board evidence of completion of that other state's or country's CPE requirements for evaluation and partial or total credit hour approval.

(3) Psychologists licensed in the state of Washington but practicing in a state, U.S. territory or foreign country without CPE requirements, or who are not legally required to meet those CPE requirements, may submit evidence of their CPE activities pursued outside of Washington state directly to the board for evaluation and approval based on conformity to the board's CPE requirements.

(4) The board may also accept evidence of diplomate award by the American Board of ((~~Examiners in~~) Professional Psychology (ABPP) and American Board of ((~~Professional~~) Psychological Hypnosis (ABPH) in lieu of sixty hours of CPE for that three year period in which the diplomate was awarded.

(5) Credit hours may be earned for other specialty board or diploma certifications if and when such are established.

(6) All board members appointed after December 31, 1985 shall receive, for each year of service on the board, ten continuing education credits, to be applied in any category the board member chooses.

**AMENDATORY SECTION** (Amending Order 117B, filed 1/28/91, effective 2/28/91)

**WAC 246-924-470 ((~~License application~~) Examination fees—Failure to appear at examination session.** ((~~License application~~) Examination and examination administration fees shall be forfeited whenever a candidate fails to attend a scheduled examination session, except in the case of a bona fide emergency.

**NEW SECTION**

**WAC 246-924-500 Retired active psychologist license.** (1) Pursuant to RCW 18.130.250, the board authorizes a retired active license status for licensees who wish to practice only in emergent or intermittent circumstances and meet the following criteria:

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- (a) Hold a current Washington state license;
- (b) The licensee's practice is limited to providing psychological services without compensation;
- (c) Services are provided in clinics or organizations that are operated by public or private tax-exempt corporations or agencies.

(2) "Emergent or intermittent circumstances" means:

- (a) Performing psychological services no more than thirty days each year in Washington state; or
- (b) If not practicing on an intermittent basis, available to perform psychological services for an extended period of time for the purpose of providing such services in emergency circumstances such as earthquakes, floods, times of declared war, or other declared states of emergency.

(3) Licensees wishing to obtain retired active license status must submit a letter to the board with their renewal declaring their intent to practice only in emergent or intermittent circumstances. Subsequent to being issued a retired active license, the licensee must certify, with the renewal payments, the dates and circumstances under which he or she practiced during the previous year.

(4) A retired active licensee is subject to chapters 18.130 and 18.83 RCW and the applicable rules and regulations, including continuing education requirements, to the same degree as those with full active status.

(5) A retired active licensee who wishes to return to full active status must meet the requirements for relicensure. The retired active licensee must notify the board thirty days in advance of the change to reinstate the license to an active license status. Retired active license status will not be retroactively issued.

**WSR 96-08-008**  
**PERMANENT RULES**  
**CRIMINAL JUSTICE**  
**TRAINING COMMISSION**  
 [Filed March 22, 1996, 10:00 a.m.]

Date of Adoption: March 14, 1996.

Purpose: Provide a procedure to govern appeals from staff dismissal of students.

Citation of Existing Rules Affected by this Order: Amending WAC 139-01-810.

Statutory Authority for Adoption: RCW 43.101.080(2).

Adopted under notice filed as WSR 96-03-025 on January 8, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making:

New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

March 18, 1996

James C. Scott

Executive Director

AMENDATORY SECTION (Amending Order 1-B, filed 9/10/86)

**WAC 139-01-810 Review and appeal of action.** (1) ~~((Any action which directly and adversely affects an individual's interest under this title or chapter 43.101 RCW))~~ Unless otherwise provided in this title, student dismissal for academic or disciplinary reasons may be reviewed at the request of such individual, or the head of such individual's employing agency, and shall be considered in accordance with the process hereinafter provided. This section shall not apply to a request for a variance or exemption pursuant to WAC 139-01-820.

(2) An individual requesting review shall submit a request in writing to the executive director and shall therein specify and include, where applicable:

- (a) The action for which review is requested, identified by date and description of action;
- (b) The direct and adverse effects of such action;
- (c) The corrective or remedial action or other relief sought;
- (d) The name and mailing address of the requesting party, any witness to be called by the requesting party, and any person who will personally appear in support of the requesting party, including legal counsel; and

(e) A statement that the person signing the request for review has read it and that to the best of his or her knowledge or information and belief the contents thereof are true.

(3) ~~((Upon receipt of a request for review which satisfies the requirements of subsection (2) of this section, the executive director shall conduct the review within thirty days.~~

~~(4) In conducting the review, the executive director may consider any information or testimony determined to be relevant to full consideration of the matter for which review is requested. At least five days prior to the review proceeding, commission staff shall provide to the individual requesting review a complete listing of those individuals who are expected to provide testimony and a copy of any document or other written material which will be offered. If a request is made by commission staff, the individual requesting review shall, at least five days prior to the review proceeding, provide to the commission a complete listing of those individuals who are expected to provide testimony and a copy of any document or any other material which will be offered. At the time of the proceeding, additional witnesses and written materials may be offered by staff or the requesting party, but only if there is a showing of good cause for the failure to provide prior notice of such additional evidence and witnesses. Each review proceeding shall be recorded electronically. Thereafter, such recording shall be transcribed in writing if requested by the appealing party or if directed by the commission or staff.~~

(5) After full consideration of the matter, the executive director shall affirm, rescind, or modify the action for which

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~~review is requested and shall give written notice of his decision to the individual requesting review. Such decision of the executive director shall become final unless a written appeal is received by the commission within thirty days of the receipt of such notice. Appeal of such determination may be taken to the training commission at its next scheduled meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency, unless there is insufficient time to permit administration of the appeal, in which case the appeal will be considered at the next succeeding scheduled meeting of the commission. In considering such appeal, the commission shall not be bound by any previous action or determination and may take any action it deems necessary and appropriate to the matter. The commission may consider only the record of the matter consisting of the transcript of the review proceeding and any written material considered by the executive director, as well as any information requested or deemed relevant by the commission chairperson. A complete copy of such record shall be provided to the appellant at least five days prior to the appeal proceeding before the commission. Additional written materials may be submitted at the time of the appeal proceeding by staff or the requesting party if there is a showing of good cause for the failure to provide prior notice of such additional written evidence. Oral arguments by the appellant or the appellant's representative shall be allowed, subject to time limitations set by the chairperson of the commission.)~~ A request for review must be mailed to or personally served upon the director of the commission within thirty days of the date of written communication of commission staff action. "Mailing" for purposes of this regulation means posting in the United States mail, properly addressed, postage prepaid.

(4) A requesting party may notify the director of the commission within seven days of filing the request for a hearing that the requesting party chooses to first meet with the executive director and ask him or her to informally review the staff action. The executive director will conduct such informal review within thirty days of such request for informal review or within such additional period as is agreed to between the requesting party and the executive director. If the executive director then affirms staff action, or if the requesting party elects to forgo this informal review step, the matter will proceed to a formal hearing by an administrative law judge from the state office of administrative hearings. The administrative law judge will:

(a) Schedule and conduct an adjudicative proceeding under chapter 34.05 RCW; and

(b) Issue an initial decision of the commission in the matter.

The commission staff or the requesting party may then pursue review by the commission subject to the time limits and any other jurisdictional requirements of chapter 34.05 RCW and of this section.

(5) A petition for review of the initial decision must be filed with the commission within thirty days of mailing of the initial decision to the parties. Extensions of the time for filing petitions for review may be granted for good cause shown in the discretion of the chairperson of the commission on timely written request of a party. The petition for review shall set forth in detail the grounds for review, and the party

filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth therein. At the next succeeding regularly scheduled meeting of the commission at which review can practicably be conducted, the commission shall consider the whole record, or such portions of it as are cited by the parties. The commission shall afford the parties an opportunity to present written argument, and may, as a matter of discretion, allow oral argument. Thereafter, a final decision shall be entered within thirty days of the meeting, either finally disposing of the action or remanding the matter for further proceedings before the initial reviewer.

**WSR 96-08-012  
PERMANENT RULES  
STATE BOARD OF EDUCATION**

[Filed March 25, 1996, 3:54 p.m.]

Date of Adoption: March 22, 1996.

Purpose: To implement new rules as required by ESSB 5885 (chapter 311, Laws of 1995) to provide for the discipline of a principal or other certificated chief administrator who fails to assure compliance with RCW 28A.225.330.

Statutory Authority for Adoption: RCW 28A.410.010.

Other Authority: RCW 28A.225.330(3), chapter 311, Laws of 1995.

Adopted under notice filed as WSR 96-04-072 on February 7, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

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

March 25, 1996

Larry Davis

Executive Director

**NEW SECTION**

**WAC 180-87-093 Failure to assure the transfer of student record information or student records.** The failure of a principal or other certificated chief administrator of a public school building to make a good faith effort to assure compliance with RCW 28A.225.330 by establishing, distributing, and monitoring compliance with written procedures that are reasonably designed to implement the statute shall constitute an act of unprofessional conduct.



**WSR 96-08-013**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 25, 1996, 3:55 p.m.]

Date of Adoption: March 22, 1996.

Purpose: To provide for continuing education credit for those persons who participate in an internship with business, industry, or government.

Citation of Existing Rules Affected by this Order: Amending WAC 180-85-025.

Statutory Authority for Adoption: RCW 28A.410.010.

Other Authority: RCW 28A.415.025.

Adopted under notice filed as WSR 96-04-074 on February 7, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

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

March 25, 1996

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 94-01-104, filed 12/16/93, effective 1/16/94)

**WAC 180-85-025 Continuing education—Definition.**

As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit awarded by a regionally accredited institution of higher education, pursuant to WAC 180-78-010(6).

(2) All continuing education credit hours awarded by a vocational-technical institute pursuant to WAC 180-85-030(3) and 180-85-083 and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 180-83 WAC.

NEW SECTION

**WAC 180-85-032 Continuing education credit hour—Definition—Internships.** Notwithstanding the provisions of WAC 180-85-030(6), for each forty clock hours of participation in an approved internship with a business, industry, or government agency under chapter 180-

83 WAC, ten continuing education credit hours shall be granted.

**WSR 96-08-018**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3960—Filed March 26, 1996, 3:31 p.m.]

Date of Adoption: March 26, 1996.

Purpose: To allow for an MAA-facilitated on-line point-of-sale prospective drug use review and adjudication system. WAC 388-530-1950 is new and titled Point-of-sale (POS) system/prospective drug utilization review (Pro-DUR). Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 96-05-087 on February 21, 1996.

Changes Other than Editing from Proposed to Adopted Version: Removed "as stated in WAC 388-580-1900" in subsection (2), and deleted "as specified in WAC 388-530-1900" in subsection (6).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

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

March 26, 1996

Merry Kogut, Supervisor  
 Rules and Policies Assistance

**Chapter 388-530 WAC**  
**PHARMACY SERVICES**

NEW SECTION

**WAC 388-530-1950 Point-of-sale (POS) system/prospective drug utilization review (Pro-DUR).** (1) Pharmacy claims processed through the medical assistance administration (MAA) payment system shall be adjudicated by the MAA point-of-sale (POS) system. This includes claims received on-line, via paper or by modem, disk, or tape.

(2) MAA shall ensure claims processed through the POS system undergo a system-facilitated prospective drug utilization review (Pro-DUR) screening. The system-facilitated Pro-DUR screening shall be performed by the MAA POS computer system at the time a drug claim is

received and shall be intended as a complement to the Pro-DUR screening required of pharmacists.

(3) For the purposes of this section, the following definition applies: "MAA-approved national council for prescription data processing (NCPDP) codes" means those NCPDP codes appearing in the MAA prescription drug program billing instructions which MAA has approved for use in overriding MAA POS system alert messages.

(4) If the MAA POS/Pro-DUR system identifies a potential drug therapy problem during system-facilitated Pro-DUR screening, MAA may deny the claim with an alert message indicating the type of potential problem, including but not limited to:

- (a) Therapeutic duplication;
  - (b) Duration of therapy exceeds maximum;
  - (c) Serious drug-to-drug interaction;
  - (d) Overdosage;
  - (e) Ingredient duplication;
  - (f) Drug age conflict; or
  - (g) Refill too soon.
- (5) MAA may deny claims:
- (a) Which trigger an alert message in the POS system;

or

(b) For drugs for which the department has established specific utilization criteria to address MAA concerns over the drug's high cost, potential for clinical misuse, narrow therapeutic indication or safety:

- (i) For which prior authorization has not been received;

or

(ii) Which do not include an appropriate MAA-approved expedited prior authorization code or MAA-approved NCPDP code.

(6) If the MAA POS/Pro-DUR system identifies a potential drug therapy problem as described in subsection (4) of this section and the claim is denied for this reason, the dispensing pharmacist shall attempt to resolve the issue through professional utilization review. If upon further investigation a therapy problem is found not to exist, the pharmacist may dispense the drug product and:

(a) Request MAA authorization for payment as specified in WAC 388-530-1250, prior authorization; or

(b) Resubmit the claim using an applicable MAA-approved NCPDP override code as listed in the prescription drug program billing instructions.

(7) The department shall determine POS/Pro-DUR screening is not applicable to pharmacy claims included in the managed care capitated rate.

#### WSR 96-08-022

#### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed March 26, 1996, 3:48 p.m.]

Date of Adoption: March 22, 1996.

Purpose: Clarifies the maximum length of validity for limited certificates for educators.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-230 and 180-75-047.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 96-01-080 on December 18, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

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

March 26, 1996

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 89-22-010, filed 10/20/89, effective 11/20/89)

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

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

(2) Certificates issued October 1 or later in the calendar year, other than limited certificates issued pursuant to WAC 180-79-230, shall have the expiration date of the certificate calculated on the basis such certificate was issued on September 1 of the next calendar year regardless of the date of issuance.

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

**AMENDATORY SECTION** (Amending WSR 94-24-038, filed 12/2/94, effective 1/2/95)

**WAC 180-79-230 Limited certificates.** Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) Such certificates are issued upon application by the local school district or educational service district superintendent to persons:

(i) Who meet the age, good moral character, and personal fitness requirements of WAC 180-75-085 (1) and (2); and

(ii) Who are highly qualified and experienced in subject matter to be taught in the common or nonpublic schools; or

(iii) Who qualify to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(iv) Who are assigned instructional responsibility for intramural/interscholastic activities which are part of the district approved program; or

(v) Who possess a state of Washington license for a registered nurse: *Provided*, That the district will be responsible for orienting and preparing individuals for their assignment as described in (c)(ii) of this subsection; or

(vi) Who have completed a baccalaureate degree level school speech pathologist or audiologist certification preparation program, who were eligible for certification at the time of program completion and who have served in the role for three of the last seven years.

(b) The educational service district or local district superintendent will verify that the following criteria have been met when requesting the conditional certificate:

(i) No person with regular certification in the field is available as verified by the district or educational service district superintendent;

(ii) The district or educational service district superintendent will indicate the basis on which he/she has determined that the individual is competent for the assignment;

(iii) The individual is being certificated for a limited assignment and responsibility in a specified activity/field.

(c) When requesting the conditional certificate for persons who are highly qualified and experienced in fields of knowledge to be taught in the common or nonpublic schools, the educational service district superintendent or local district superintendent will verify that the following additional criteria will be met:

(i) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district mentor and will not be serving in a paraprofessional role which would not require certification;

(ii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iii) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district.

(d) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two year intervals thereafter upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate as approved by the employing school district.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired, or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates.

(b) The substitute certificate is valid for life:

(c) *Provided*, That if the district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under this subsection for use in a particular school district once the list of otherwise qualified substitutes has been exhausted. Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: *Provided*, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: *Provided further*, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: *Provided further*, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 180-75-089 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

### WSR 96-08-023

#### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed March 26, 1996, 3:50 p.m.]

Date of Adoption: March 22, 1996.

Purpose: Provides for a transition period for the implementation of changes to endorsement requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-086.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 96-04-047 on February 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

March 26, 1996

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

**WAC 180-79-086 Minimum preparation for endorsements for teachers.** Endorsements granted teachers shall comply with the following:

(1) Endorsements—with the exception of the broad subject area endorsements of English/language arts, music, science, and social studies, which shall require the satisfactory completion of a minimum of forty-five quarter hours (thirty semester hours) of course work—shall require the satisfactory completion of a minimum of twenty-four quarter hours (sixteen semester hours) of course work in the subject area in a regionally accredited institution of higher education or in a college or university with a professional preparation program approved by the state board of education pursuant to chapter 180-79 WAC.

(2) Reasonable flexibility shall be permitted in establishing equivalencies for specified subject area course work. The test for substitution of an equivalent course for a stated subject area course is a factual determination that the subject matter content of the equivalent course, or combination of courses, substantially complies with the generally recognized course content of the subject area course.

(3) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university and may not include student teaching credits.

(4) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the required minimum number of credit hours as defined in WAC 180-79-086.

(5) When existing requirements regarding the number of credit hours, the titles for endorsements, and/or the essential areas of study are revised by the state board of education for any endorsement area, the candidate may, until the first day of September following two calendar years from the effective date of the rule change, obtain the endorsement by completing either the previous or the revised requirements. Following the September first date established above, all candidates shall meet the revised requirements to obtain an endorsement.

**WSR 96-08-024**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed March 26, 1996, 3:51 p.m.]

Date of Adoption: March 22, 1996.

Purpose: Removes a requirement that the rule be reviewed by PEAC in June 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-311.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 96-04-048 on February 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

March 26, 1996

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 92-04-044, filed 1/31/92, effective 3/2/92)

**WAC 180-79-311 Specialty areas of study.** (1) Specialty areas of study in middle grades, gifted, and at-risk students shall be recognized by the state board of education on the basis of the following:

(a) Completion of twelve quarter hours (eight semester hours) of academic study from a regionally accredited college or university directly addressing knowledge and skills relevant to the respective specialty area as recommended by the respective college/university PEAB; and

(b) Recommendation of the individual by the college/university that has offered the specialty area of study.

(2) Specialty areas of study are not endorsements and shall have no bearing on assignment policies as outlined in chapter 180-18 WAC.

(3) The recognition of specialty areas of study shall in no way impact the requirements for obtaining or maintaining an initial or continuing certificate.

~~((4) The recognition of specialty areas of study shall be reviewed by PEAC with recommendations to the state board of education by June 30, 1995.))~~

**WSR 96-08-025**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed March 26, 1996, 3:53 p.m.]

**WSR 96-08-028**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed March 27, 1996, 2:04 p.m.]

Date of Adoption: March 22, 1996.

Purpose: Updates the existing rule and allows for future adaptation of the rule to the rapidly changing field.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79-334.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 96-04-049 on February 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

March 26, 1996

Larry Davis  
 Executive Director

Date of Adoption: March 14, 1996.

Purpose: To establish state-wide reporting of gunshot wounds by hospital emergency departments and coroners for purposes of monitoring, assessment, and development of firearm injury prevention strategies.

Statutory Authority for Adoption: RCW 43.70.545.

Adopted under notice filed as WSR 96-04-077 on February 7, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 1, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

March 27, 1996

Bruce Miyahara  
 Secretary

PERMANENT

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

**WAC 180-79-334 ((~~Computer science~~)) Instructional technology—Subject area endorsement.** In order to receive an endorsement in ((~~computer science~~)) instructional technology, the candidate shall have completed the minimum course work credit hours in the subject area of ((~~computer science~~)) instructional technology, including, but not limited to, credit hours in each of the following essential areas of study:

- (1) ((~~Computers~~)) Technology and society, i.e., ethical use.
- (2) Computer ((~~software~~)) networks and telecommunication system, e.g., Internet.
- (3) ((~~Data structures~~)).
- (4) Assembly language.
- (5) Structured programming in BASIC or Logo.
- (6) Structured programming in one of the high level languages: LISP, C, Pascal, PROLOG, FORTRAN, PL-1, Smalltalk, COBOL, Modula-2, FORTH, RPG.)) Instructional hardware usage and classroom applications.
- (4) Instructional software, including word processing, data base management systems, spreadsheets and use of multimedia tools, e.g., sound, video, hypertext, and graphics.
- (5) Development of student learning activities which integrate technology tools and telecommunications.

**NEW SECTION**

**WAC 246-100-218 Special condition—Gunshot wounds.** (1) Pursuant to RCW 43.70.545 (relating to acts of violence) the state department of health finds that gunshot trauma is a significant public health problem which warrants mandatory reporting for purposes of monitoring, assessment, and development of prevention strategies.

(2) Definitions. For the purposes of this section, the following words and phrases have the following meanings:

(a) "Gunshot wound" means any injury caused by the projectile of any type gun including, but not limited to, rifles, shotguns, handguns, and bb/pellet guns.

(b) "Reportable gunshot wound" means a gunshot wound which results in death or an injury severe enough to warrant medical attention at a hospital emergency department in Washington state.

(3) Responsibilities of hospitals. Hospitals shall report to the state department of health all gunshot wounds treated in their emergency departments, regardless of whether the patient is subsequently hospitalized or discharged. Reports shall be made on reporting forms furnished by the state department of health, and submitted within thirty days following the date of treatment.

(4) Responsibilities of medical examiners and coroners. Coroners and medical examiners shall report all gunshot

deaths which occur in their jurisdictions. Reports shall be made on forms furnished by the state department of health, and submitted within sixty days following the date of death.

(5) Information to be reported. Information items to be reported include the following, provided they are routinely collected and available at the time of report preparation:

- (a) Victim's name, gender, date of birth, race, and residence (city, state, zip code);
  - (b) Shooting date, time, and location;
  - (c) Type of gun used;
  - (d) Whether the shooting was done by the victim or another person;
  - (e) Whether the shooting was intentional or unintentional;
  - (f) Circumstance (e.g., argument, drive by shooting, other crime-related circumstance);
  - (g) Relationship between perpetrator and victim;
  - (h) Perpetrator's age, gender and race;
  - (i) Suspected drug or alcohol involvement;
  - (j) Anatomic location(s) of gunshot wound(s);
  - (k) Whether victim was released to home, admitted to hospital, transferred, or died.
- (6) Record security and disclosure. Reports of gunshot wounds shall be treated as confidential records consistent with the requirements of the Health Care Information Act (chapter 70.02 RCW) and WAC 246-100-091.

**WSR 96-08-042**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**

[Filed March 29, 1996, 4:17 p.m.]

Date of Adoption: March 29, 1996.

Purpose: Establishes rules for determining benefits, eligibility, enrollment processes and for administering the Washington State Public Employee Benefits Board (PEBB).

Citation of Existing Rules Affected by this Order: Repealing WAC 182-08-030, 182-08-040, 182-08-060, 182-08-110, 182-08-170, 182-08-195 and 182-08-300; and amending WAC 182-08-010, 182-08-020, 182-208-120, 182-08-160, 182-08-165, 182-08-180, 182-08-190, 182-08-200, 182-08-210, and 182-08-220.

Statutory Authority for Adoption: Chapter 41.05 RCW.

Adopted under notice filed as WSR 96-02-079 on January 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 1, repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 8, repealed 6.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 March 29, 1996  
 Elin Meyer  
 Rules Coordinator

**Chapter 182-08 WAC**  
**Procedures**

AMENDATORY SECTION (Amending Order 7228, filed 12/8/76)

**WAC 182-08-010 Declaration of purpose.** The general purpose of ~~((these rules))~~ this chapter is to establish ~~((for the state)) a ((system of employee benefits administration))~~ set of rules used by the ~~((state employees' insurance board, based on the uniform standards for health and life insurance for state employees and the higher education faculty and staff. All insurance related contract negotiations shall be made on the basis of the policies hereinafter specified.))~~ Public Employees Benefits Board (PEBB) for designing employee and retiree eligibility and insurance benefits and for administration of these insurance plans by the Washington State Health Care Authority (HCA).

NEW SECTION

**WAC 182-08-015 Definitions.** The following definitions apply throughout these rules unless the context clearly indicates other meaning:

(1) "Administrator" means the administrator of the HCA or designee.

(2) "Public Employees Benefits Board" (PEBB). Established under provisions of chapter 41.05 RCW. The PEBB is created within the HCA and the administrator of the HCA shall serve as the chair of the board.

(3) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their enrollment from one health plan to another, enroll in a medical plan if the enrollee had previously waived coverage or add dependents.

(4) "Enrollee" means a person who meets all eligibility requirements defined in WAC 182-12, who is enrolled in a PEBB plan, and for whom applicable premium payments have been made.

(5) "Subscriber" means the enrollee who has been designated by the HCA as the individual to whom the HCA and the health plan will issue all notices, information, requests and premium bills on behalf of all enrolled family members.

(6) "Effective date of enrollment" means the first date, as established by the PEBB on which an enrollee is entitled to receive covered services from the enrollee's respective health plan system.

AMENDATORY SECTION (Amending Order 7228, filed 12/8/76)

**WAC 182-08-020 Duties and responsibilities.** ~~((Chapter 41.05 RCW) The following shall be the duties and responsibilities of the state employees' insurance board (SEIB):~~

PERMANENT

~~(1) Prescribe rules for the conduct of its business and elect a chairman and vice chairman at its first meeting and annually thereafter.~~

~~(2) Study all matters connected with the providing of adequate health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any one of, or a combination of, the enumerated types of insurance and health care plans for state employees and their dependents.~~

~~(3) Design benefits, devise specifications, analyze carrier responses to advertisements for bids, determine the terms and conditions of employee participation and coverage, and decide on the award of contracts which shall be signed by the trustee on behalf of the board.~~

~~(4) Develop and provide employee health care benefit plans. At least one plan will provide major medical benefits as its primary feature, at least one plan will provide basic first-dollar benefits as its primary feature plus major medical, either or all of which may be provided through a contract or contracts with regularly constituted insurance carriers or health care service contractors.)~~

~~(1) The HCA's duties include, but are not limited to, the following:~~

~~(a) To promulgate and adopt rules consistent with RCW 41.05.021 and RCW 41.04.160;~~

~~(b) Administer insurance benefits as designed by the PEBB and authorized under RCW 41.05.065;~~

~~(c) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs;~~

~~(d) To analyze areas of public and private health care interaction;~~

~~(e) To provide information and technical administrative assistance to the PEBB;~~

~~(f) To review and approve or deny applications from counties, municipalities, eligible non-employees, and other political subdivisions and to set the premium contribution for approved groups;~~

~~(g) To establish a competitive insurance contract bidding and evaluation process;~~

~~(h) To provide benefit plans designed by the PEBB through contracts with insurance entities or self-insurance;~~

~~(i) To appoint a health care policy technical advisory committee; and~~

~~(j) To establish billing procedures and collect funds from subscriber.~~

~~(2) The following shall be the duties and responsibilities of the PEBB:~~

~~(a) To promulgate and adopt rules for the conduct of its business;~~

~~(b) To study all matters connected with the provision of health care coverage, life, insurance, liability insurance, accidental death and dismemberment insurance and disability income insurance on the best basis possible with relation to the welfare of the employees and the state. Liability insurance shall not be made available to dependents;~~

~~(c) To review and approve property and/or casualty insurance for state employees through payroll deduction. Any approved carriers must be financially sound, licensed in the state of Washington and have at least a B+ Best rating;~~

(d) To design and approve benefit plans and determine the terms and conditions of employee participation and coverage, including establishment of eligibility criteria;

(e) To authorize premium contributions for an employee and the employee's dependents.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-030 Scope and construction of terms.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-040 Definitions.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-060 Approval of health maintenance organization plans.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-110 Open enrollment

AMENDATORY SECTION (Amending WSR 86-16-061 (Resolution No. 86-3), filed 8/5/86)

**WAC 182-08-120 Employer contribution.** The ~~((board))~~ PEBB has utilized the employers' contribution to provide coverage for the basic life insurance benefit, a basic long term disability benefit, medical coverage, and dental coverage, and to establish a reserve for any remaining balance. There is no employer contribution available for any other insurance coverages.

AMENDATORY SECTION (Amending WSR 93-23-065, filed 11/16/93)

**WAC 182-08-160 Group coverage when not in pay status.** ~~((An employee who is temporarily not in pay status may retain state group coverages, except long term disability, by self-payment of premium during any authorized leave without pay, during a layoff because of a reduction in force, or while receiving time loss benefits under worker's compensation, subject to a maximum period of twenty-nine months. Provided, that with respect to medical and dental coverages, this twenty-nine month period shall be reduced by the number of months of self-pay allowed under COBRA and the number of employer paid months allowed under family and medical leave. Provided further, that part time faculty may self-pay their life, medical and dental coverages~~

PERMANENT



~~between periods of employer paid coverage for a maximum of eighteen months. Medical only or medical and dental coverage may be self paid but not dental only coverage. An eligible employee will retain up to twelve weeks of employer paid medical, dental, basic life and basic long term disability. With the exception of approved family leave, employees not in pay status are ineligible to receive credit for the employer premium contribution.)~~

Employees covered by a PEBB health plan have options for providing continued coverage for themselves and their dependents during temporary or permanent loss of eligibility. With the exception of approved family and medical leave, employees not in pay status for at least 8 hours per month are ineligible to receive the employer premium contribution:

(1) When an employee loses eligibility as an active employee, PEBB group coverage, except long-term disability, may be continued at the group premium rate by self-paying premiums for medical coverage only, or for medical and dental combined, or for dental only, and on life insurance for a maximum of 29 months. With respect to medical and dental coverage, the maximum time shall be reduced by the number of months of self-pay allowed under COBRA and the number of employer-paid months allowed under family and medical leave. Part-time faculty may self-pay for group coverage between periods of active employee eligibility for a maximum of 18 months. If an employee is temporarily not in pay status for any of the following reasons, he or she may continue PEBB group coverage by self-paying the premium:

(a) the employee is on authorized leave without pay,  
(b) the employee is laid off because of a reduction in force (RIF)

(c) the employee is receiving time-loss benefits under Workers' Compensation

(d) the employee is awaiting hearing for a dismissal action

(e) the employee is applying for disability retirement

(2) The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) gives enrollees the right to continue group coverage for a period of 18 to 36 months.

(3) The Family and Medical Leave Act of 1993 gives the enrollee the opportunity to extend eligibility with employer contribution toward premium for up to 12 weeks, see WAC 182-08-080.

(4) Enrollees have the right to convert to individual medical coverage when continuation of group medical coverage is no longer possible.

(5) The dependents of employees also have options for continuing coverage for themselves following loss of eligibility.

(6) Employees who revert to a previously held position and do not regain pay status during the last month in which their employer contribution is made may continue their PEBB-sponsored health and life coverage, by self-paying premium for up to 18 months (and in some cases up to 29 months).

(7) If a dependent(s) loses eligibility due to the death of the employee, the dependent(s) may continue coverage under a retiree plan provided the dependent(s) will immediately begin receiving a monthly benefit from any state of Washington-sponsored retirement system. The employee's spouse may continue coverage indefinitely; other dependents may

continue coverage until they lose eligibility under PEBB rules. Application for surviving dependent coverage must be made within 60 days from the death of the employee. If a dependent is not eligible for a monthly retirement income benefit, or a lump-sum payment because the monthly pension payment would be less than \$50, the dependent may be eligible for continued coverage under COBRA.

(8) An employee may retain long term disability coverage by self-payment of premium up to twenty-four months during an authorized leave without pay, but only if such leave is an approved educational leave.

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 WSR 89-05-013 (Resolution No. 89-1), filed 2/9/89)

**WAC 182-08-165 Other group coverage option.** The following shall apply to employees during any period of approved educational leave. In order to avoid duplication of group medical coverage, such employees who obtain coverage under another group medical plan may interrupt continuance of their ~~((SEBB))~~ PEBB self-pay medical/dental coverage for each full calendar month in which they maintain coverage under the other group medical plan, with the right to reinstate ~~((SEBB))~~ PEBB self-pay medical/dental coverage in the month following termination of the other group medical coverage. Provided, that the furnishing of evidence of such other group medical coverage may be required by the Washington state health care authority. Provided further, that the option to continue self-pay ~~((SEBB))~~ dental coverage shall be suspended for the same period that ~~((SEBB))~~ PEBB self-pay medical is suspended.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-170 Insurance status for a reverted employee.

AMENDATORY SECTION (Amending Order 01-77, filed 8/26/77)

**WAC 182-08-180 Reimbursement payment of miscalculated premiums.** Premiums miscalculated will be adjusted by returning the excess charged premium to the ~~((employee or retiree))~~ employer or subscriber. Errors producing an underpayment will be reimbursed by the ~~((employee or retiree))~~ employer or subscriber. ~~((The agency will communicate with the employee or retiree and develop a repayment term that will not create undue hardship on the employee or retiree.))~~ The HCA will develop a repayment plan that will not create undue hardship on the employer or subscriber.

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 WSR 93-23-065, filed 11/16/93)

**WAC 182-08-190 Employer contribution.** ~~((to the public employees health insurance account. An employer contribution in the amount established by the board shall be made to the public employees health insurance account for each eligible employee in pay status for eight or more hours during a calendar month or for each eligible employee on family and medical leave.))~~ Every department, division, or agency of state government, and such county, municipal or other political subdivisions as are covered under the PEBB plans, shall provide premium contributions to the HCA for insurance benefits for its employees and their dependents. State employer contributions shall be set by the HCA and are subject to the approval of the Governor. Employer contributions shall include an amount determined by the HCA to pay administrative costs to administer the plans for employees of these groups. Each eligible state employee in pay status for eight or more hours during a calendar month or for each eligible employee on family and medical leave shall be eligible for the employer contribution.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-195 Retroactive employer and employee contributions restricted.

#### NEW SECTION

**WAC 182-08-095 Waiver of coverage.** (1) State Employees: Employees eligible for PEBB health care coverage have the option of waiving medical coverage for themselves and any or all dependents if they are covered by another medical plan. In order to waive medical coverage, the employee must complete an enrollment form that identifies the individuals for whom coverage is being waived. If an employee waives medical coverage for him/herself, coverage is automatically waived for all eligible dependents. An employee may choose to enroll only him/herself, and waive medical coverage for any or all dependents.

Employees and dependents whose medical coverage is waived will remain enrolled in a PEBB dental plan. Employees will also remain enrolled in PEBB life and long term disability coverage.

If PEBB medical coverage is waived, an otherwise eligible person may not enroll in a PEBB plan until the next open enrollment period, or within 31 days of loss of other medical coverage. Proof of other medical coverage is required to demonstrate that: 1) coverage was continuous from the date PEBB coverage was waived; and 2) the period between loss of coverage and application for PEBB coverage is 31 days or less.

(2) K-12 Employees: Employees eligible for PEBB health care coverage have the option of waiving medical coverage for themselves and any or all dependents. In order to waive medical coverage, the employee must complete an enrollment form that identifies the individuals for whom coverage is being waived. If an employee waives medical

coverage for him/herself, coverage is automatically waived for all eligible dependents. An employee may choose to enroll only him/herself, and waive medical coverage for any or all dependents.

Employees and dependents whose medical coverage is waived will remain enrolled in a PEBB dental plan if the district/unit participates in the dental plan. Employees will also remain enrolled in life and long term disability coverage if the district/unit participates in those plans.

If PEBB medical coverage is waived, an otherwise eligible person may not enroll in a PEBB plan until the next school district renegotiation period, or upon approval of the participating school district and the HCA. Approval of the HCA will require proof of other medical coverage to demonstrate that: 1) coverage was continuous from the date PEBB coverage was waived; and 2) the period between loss of coverage and application for PEBB coverage is 31 days or less.

(3) Political Subdivision Employees: Political subdivision employees may not waive PEBB medical coverage for themselves, but may waive medical coverage for their dependents if the dependents are covered by another medical plan. In order to waive medical coverage for dependents, the employee must complete an enrollment form that identifies the individuals for whom coverage is being waived.

Dependents whose medical coverage is waived will remain enrolled in their PEBB dental plan.

If PEBB medical coverage is waived, an otherwise eligible dependent may not enroll in a PEBB medical plan until the next open enrollment period, or within 31 days of loss of other medical coverage. Proof of other medical coverage is required to demonstrate that: 1) coverage was continuous from the date PEBB coverage was waived; and 2) the period between loss of coverage and application for PEBB coverage is 31 days or less.

AMENDATORY SECTION (Amending Order 3-77, filed 11/17/77)

**WAC 182-08-200 Payment of the employer contribution for eligible employees changing agency employment.** When an eligible employee's employment ceases with an agency at any time prior to the end of the month for which ~~((employer))~~ a premium contribution is due and transfers to another agency, the losing agency is responsible for the payment of the ~~((employer))~~ contribution for that employee for that month. The receiving agency would not be liable for any employer contribution for that eligible employee until the month following the transfer.

AMENDATORY SECTION (Amending Order 3-77, filed 11/17/77)

**WAC 182-08-210 Termination of employer paid insurance benefit programs.** Coverage for a terminated employee, spouse and dependent children under the ~~((employer paid insurance benefit programs shall cease at 12:00 midnight, the last day the employee is in pay status.))~~ PEBB coverage medical, dental, and life insurance ceases at 12:00 midnight, the last day of the month in which the employee is in pay status. Long term disability ceases at 12:00 midnight the date your employment terminates.

AMENDATORY SECTION (Amending WSR 91-20-163, filed 10/2/91)

**WAC 182-08-220 Advertising or promotion of ~~((SEBB))~~ PEBB sponsored benefit plans.** In order to assure equal and unbiased representation of ~~((SEBB))~~ PEBB sponsored or approved benefit plans, any promotion of these plans shall comply with the following:

(1) All materials describing PEBB plan benefits are to be prepared by or approved by the ~~((health care authority))~~ HCA.

(2) Distribution or mailing of all plan benefit descriptions is to be performed by or under the direction of the ~~((health care authority))~~ HCA.

(3) All media announcements or advertising by a carrier which include any mention of the "~~((state employees benefits board))~~ Public Employees Benefits Board," "health care authority" or any reference to coverage for "state employees or retirees" or any group of employees covered by ~~((SEBB))~~ PEBB plans, must receive the advance written approval of the HCA.

Failure to comply with these requirements by a PEBB contracted plan or plan subcontractor may result in contract termination by the ~~((health care authority))~~ HCA and/or ~~((health care authority))~~ HCA refusal to consider continued or renewed contracting with the noncomplying party.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-08-300 Criteria for selection of insurance company for automobile and homeowners insurance.

**WSR 96-08-043**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**

[Filed March 29, 1996, 4:20 p.m.]

Date of Adoption: March 29, 1996.

Purpose: Establishes rules for determining benefits, eligibility, enrollment processes and for administering the Washington State Public Employee Benefits Board (PEBB).

Citation of Existing Rules Affected by this Order: Repealing WAC 182-12-122, 182-12-130, 182-12-151, 182-12-160 and 182-12-165; amending WAC 182-12-110, 182-12-111, 182-12-115, 182-12-132, 182-12-145, 182-12-200, 182-12-215 and 182-12-220; and new sections WAC 182-12-117 and 182-12-119.

Statutory Authority for Adoption: Chapter 41.05 RCW.

Adopted under notice filed as WSR 96-02-080 on January 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, amended 8, repealed 5.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

March 29, 1996

Elin Meyer

Rules Coordinator

**Chapter 182-12 WAC**  
**ELIGIBLE AND NONELIGIBLE EMPLOYEES**

AMENDATORY SECTION (Amending Order 5646, filed 2/9/76)

**WAC 182-12-110 Purpose.** The purpose of this chapter is to establish criteria of employee eligibility for ~~((all state employee insurance board))~~ and effective date of enrollment in the Public Employees Benefits Board (PEBB) approved plans.

AMENDATORY SECTION (Amending WSR 92-03-040, filed 1/10/92)

**WAC 182-12-111 Eligible entities and individuals.** ~~((The employees and retirees of eligible entities and their dependents must meet the individual eligibility requirements set forth in WAC 182-12-115 in order to participate in SEBB insurance plans. Only individuals who participated in SEBB insurance plans as an active employee and their dependents are eligible to participate in SEBB insurance plans upon disability or retirement.))~~ The following entities and individuals shall be eligible to participate in ~~((SEBB))~~ PEBB insurance plans subject to the terms and conditions set forth below:

(1) State agencies. Every department, division, or separate agency of state government, including ~~((the higher education personnel board))~~ all state higher education institutions, including the higher education coordinating board, and the state board for community and technical colleges is eligible and required to participate in all ((board)) PEBB approved plans ((provided)). Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

~~((Employees of vocational technical institutions who belong to collective bargaining units may participate in SEBB insurance plans only if the entire collective bargaining unit enrolls in the plans and such participation is consistent with section 83, chapter 238, Laws of 1991.))~~

Employees of technical colleges previously enrolled in a benefits trust may terminate PEBB coverage by January 1, 1996, or the expiration of the current collective bargaining agreements, whichever is later. Employees electing to terminate PEBB coverage have a one-time re-enrollment option after a five year wait. Employees of a bargaining unit may terminate only as an entire bargaining unit. All administrative or managerial employees may terminate only as an entire unit.

Technical colleges with employees enrolled in a benefits trust shall remit to the HCA a retiree remittance as specified in the omnibus appropriations act, for each full-time employee equivalent. The remittance may be pro-rated for employees receiving a pro-rated portion of benefits.

(2) Employees of employee organizations representing state civil service employees, at the option of each employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of such employee organization.

~~((2))~~ ~~((Counties, municipalities, and))~~ (3) Employees of a county, municipality or other political subdivision~~((s))~~ ~~((including K-12 school districts. Counties, municipalities, and political subdivisions, including K-12 school districts of the state))~~ of the state may participate in ~~((SEBB))~~ PEBB insurance programs provided:

(a) All eligible employees of the entity transfer to ~~((SEBB))~~ PEBB plan coverage as a unit. Bargaining units with other group coverage mandated by their collective bargaining agreement will be permitted to waive PEBB coverage as an entire unit, with the approval of the HCA.

(b) The legislative authority or the board of directors obligates itself to participate in all ~~((SEBB))~~ PEBB insurance plans. The PEBB medical and dental plans must be the only employer sponsored medical and dental plans available to all eligible employees.

(c) The legislative authority of the entity or the board of directors ~~((of the school district))~~ submits an application together with employee census data and, if available, prior claims experience of the entity to the HCA ~~((health care authority)).~~

(d) The legislative authority or the board of directors agrees to maintain its ~~((SEBB))~~ PEBB plan participation for a minimum of one full year, and then through the end of the plan year.

(e) The legislative authority or the board of directors shall provide the ~~((health care authority))~~ HCA written notice of its intent to terminate ~~((SEBB))~~ PEBB plan participation no later than thirty days prior to the effective date of termination. If a county, municipality, or political subdivision, ~~((including a K-12 school district))~~ or employees of employee organizations as defined in WAC 182-12-111(2) terminates coverage in ~~((SEBB))~~ PEBB insurance plans, retired and disabled employees who began participating after September 15, 1991, will no longer be eligible to participate in ~~((SEBB))~~ PEBB insurance plans beyond the mandatory retention requirements specified in WAC 182-12-215.

(f) The ~~((health care authority))~~ HCA administrator approves the entity's application.

(4) School districts and educational service districts. Bargaining units and nonrepresented employees of school districts and educational service districts of the state may participate in PEBB insurance programs provided:

(a) The PEBB plans must be the only medical and dental plans made available to the members of the bargaining unit through their employment by the school district or educational service district.

(b) All eligible employees of the bargaining unit transfer as a unit and all nonrepresented employees transfer as a unit.

(c) The terms and conditions for the payment of insurance premiums shall be set forth in the provisions of the

bargaining agreement and shall comply with the employer contribution requirements specified in RCW 28A.400.280. These provisions of the collective bargaining agreement, including eligibility, shall be subject to review and approval by the PEBB at the time of application for participation.

(d) The application to participate in the PEBB plans is subject to the approval of the HCA.

(e) The eligibility requirements for dependents of school district and educational service district employees shall be the same as the requirements for dependents of the state employees and retirees as defined in WAC 182-12-115(10).

(f) The bargaining unit or unit of nonrepresented employees must agree to maintain its PEBB plan participation for a minimum of one full year, and then through the end of the school year.

(5) Eligible non-employees: (a) Dislocated forest products workers enrolled in the employment and career orientation program pursuant to chapter 50.70 RCW shall be eligible for PEBB medical and dental plan coverage while enrolled in that program.

(b) School board members or students eligible to participate under RCW 28A.400.350.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending WSR 92-08-003, filed 3/18/92, effective 3/18/92)

WAC 182-12-115 ((Eligible employees, retirees, and dependents. The following definitions of eligible employees, retirees, and dependents of an eligible entity, as defined in WAC 182-12-111, shall apply for all SEBB approved plans except as otherwise stated in this chapter:)) Eligible employees. The following employees of state government, higher education, K-12 school districts, educational service districts, political subdivisions and employee organizations representing state civil service workers are eligible to apply for coverage by PEBB plans. For purposes of defining eligible employees of school districts, and educational service districts, the collective bargaining agreement will supersede all definitions provided under this rule if approved by the PEBB and/or the HCA.

(1) "Permanent employees." Those who ~~((are scheduled to))~~ work at least half-time per month and are expected to be employed for more than six months. ~~((Such employees shall be eligible effective with their first day of employment.))~~ Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of a month, coverage begins on the date of employment.

(2) "Nonpermanent employees." Those who ~~((are scheduled to))~~ work at least half-time and are expected to be employed for no more than six months. ~~((Such employees shall be eligible effective the first day of the seventh calendar month of employment.))~~ Coverage begins on the

first day of the seventh month following the date of employment.

(3) "Seasonal employees." Those who work at least half-time per month during a designated season for a minimum of three months but less than nine months per year and who have an understanding of continued employment ~~((with their agency))~~ season after season. ~~((These employees become eligible on the first day of such employment, however, they))~~ Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of a month, coverage begins on the date of employment. However, seasonal employees are not eligible for the employer contribution during the break between seasons of employment((-)) but may be eligible to continue coverage by self-paying premiums.

(4) "Career seasonal/instructional employees" Employees who work half-time or more on an instructional year (school year) or equivalent nine-month seasonal basis. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of the month, coverage begins on the date of employment. These employees are eligible to receive the employer contribution for insurance during the off-season following each period of seasonal employment.

~~((4))~~ (5) "Part-time faculty." Faculty who are employed on a quarter/semester to quarter/semester basis become eligible to apply for coverage beginning with the second consecutive quarter/semester of half-time or more employment at one or more state institutions of higher education~~((, provided that:))~~. Coverage begins on the first day of the month following the beginning of the second quarter/semester of half-time or more employment. If the first day of the second consecutive quarter/semester is the first working day of the month, coverage begins at the beginning of the second consecutive quarter/semester.

Employers of part-time faculty must:

(a) ~~((For determining eligibility,))~~ Consider spring and fall ~~((may be considered))~~ as consecutive quarters/semesters when determining eligibility; and

(b) Determine "~~(H)~~ half-time or more employment" ~~((will be determined))~~ based on each institution's definition of "full-time"; and

(c) At the beginning of each quarter/semester~~((, the employers of part-time faculty shall))~~ notify, in writing, all current and newly hired part-time faculty of their potential right to benefits under this section. The employee shall have the responsibility, each quarter, to notify the employers, in writing, of the employee's multiple employment. In no case will there be a requirement for retroactive coverage or employer contribution if a part-time faculty member fails to inform all of his/her employing institutions about employment at all institutions within the current quarter; and

(d) Where concurrent employment at more than one state higher education institution is used to determine total part-time faculty employment of half-time or more, the employing institutions will arrange to prorate the cost of the employer insurance contribution based on the employment at each institution. However, if the part-time faculty member would be eligible by virtue of employment at one institution, that institution will pay the entire cost of the employer contribution regardless of other higher education employ-

ment. In cases where the cost of the contribution is prorated between institutions, one institution will forward the entire contribution monthly to ~~((SEBB))~~ HCA; and

(e) Once enrolled, if a part-time faculty member does not work at least a total of half-time in one or more state institutions of higher education, eligibility for the employer contribution ceases.

~~((5))~~ (6) "Appointed and elected officials." Legislators are eligible to apply for coverage on the date their term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible to apply for coverage on the date their term begins or they take the oath of office, whichever occurs first. Coverage for legislators begins on the first day of the month following the date their term begins. If the term begins on the first working day of the month, coverage begins on the first day of their term. Coverage begins for all other elected and full-time appointed officials of the legislative and executive branches of state government on the first day of the month following the date their term begins, or the first day of the month following the date they take the oath of office, whichever occurs first. If the term begins, or oath of office is taken, on the first working day of the month, coverage begins on the date the term begins, or the oath of office is taken.

~~((6))~~ (7) "Judges." Justices of the supreme court and judges of the court of appeals and the superior courts become eligible to apply for coverage on the date they take the oath of office. Coverage begins on the first day of the month following the date their term begins, or the first day of the month following the date they take oath of office, whichever occurs first. If the term begins, or oath of office is taken, on the first working day of a month, coverage begins on the date the term begins, or the oath of office is taken.

~~((7))~~ "Retirees and disabled employees." Eligible employees who terminate state service after becoming vested in a Washington state sponsored retirement system are eligible for retiree medical, dental and life coverages provided the person:

(a) Immediately begins receiving a monthly retirement income benefit from such retirement system; or

(b) If not retiring under the public employees retirement system (PERS), would have been eligible for a monthly retirement income benefit because of age and years of service had the person been employed under the provisions of PERS I or PERS II for the same period of employment; or

(c) Must take a lump sum benefit because their monthly benefit would have been under fifty dollars.

~~Employees who are permanently and totally disabled and eligible for a deferred monthly retirement income benefit are likewise eligible, provided they apply for retiree coverage before their SEBB active employee coverage ends. Persons retiring who do not have waiver of premium coverage from any SEBB life insurance plan are eligible for retiree life insurance, subject to the same qualifications as for retiree medical coverage. Retirees and disabled employees are not eligible for an employer premium contribution. The Federal Civil Service Retirement System shall be considered a Washington state sponsored retirement system for Washington State University cooperative extension service employees~~

who hold a federal civil service appointment and who are covered under the SEBB program at the time of retirement or disability.

(8) "Eligible dependents." The following are eligible as dependents under the medical and dental plans:

(a) Lawful spouse except that as of November 1, 1991, a lawful spouse who works full time and who is eligible for coverage as a subscriber on a plan or plans offered by a K-12 school district and who has waived that coverage is not eligible for employer paid coverage as a dependent on a SEBB plan.

(b) Dependent children through age nineteen. As used in this section, "children" includes natural children, stepchildren, legally adopted children, and married children who qualify as dependents of the employee/retiree under the Internal Revenue Code or as specified in a court order or divorce decree, and foster children approved by the health care authority. To qualify for HCA approval, a foster child must:

(i) Be living with the subscriber in a parent-child relationship;

(ii) Be dependent upon the subscriber for financial support;

(iii) Not be eligible for coverage under Medicare, Medicaid, or similar government entitlement programs; and

(iv) Not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(c) Dependent children age twenty through age twenty-three who are dependent upon the employee/retiree for maintenance and support, and who are registered students in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the employee/retiree is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

(d) Dependent children of any age who are incapable of self support due to developmental disability or physical handicap, provided such condition occurs prior to age twenty or during the time the dependent was covered under an SEBB plan as a full-time student. Proof of such disability and dependency must be furnished prior to the dependent's attainment of age twenty or loss of eligibility for student coverage, and as periodically requested thereafter.

(e) "Dependent parents." Parents of the employee/retiree or their spouse who qualify as dependents under the Internal Revenue Code and who were covered as dependents under SEBB medical/dental plans prior to July 1, 1990, may continue SEBB coverage on a self-pay basis.

(9) Notwithstanding any of the foregoing, employees who are not mandatorily, by election, or otherwise covered by industrial insurance under Title 51 RCW shall not be considered "eligible employees" within the meaning of this section.))

## NEW SECTION

**WAC 182-12-117 Eligible retirees.** (1) "Retirees and disabled employees." Eligible employees who terminate state service after becoming vested in a Washington state sponsored retirement system are eligible for retiree medical, dental and life coverages provided the person:

(a) Elects Medicare Parts A and B if the retiree, or covered dependents of a retiree, retired after July 1, 1991 and is eligible for Medicare; and

(b) Immediately begins receiving a monthly retirement income benefit from such retirement system; or

(c) If not retiring under the public employees retirement system (PERS), would have been eligible for a monthly retirement income benefit because of age and years of service had the person been employed under the provisions of PERS I or PERS II for the same period of employment; or

(d) Is an elected official as defined under 182-12-115(6) who has voluntarily or involuntarily left a public office, whether or not they receive a benefit from a state retirement system; or

(e) Must have taken a lump sum retirement benefit payment because their monthly benefit would have been under fifty dollars.

Employees who are permanently and totally disabled and eligible for a deferred monthly retirement income benefit are likewise eligible, provided they apply for retiree coverage before their PEBB active employee coverage ends. Persons retiring who do not have waiver of premium coverage from any PEBB life insurance plan are eligible for retiree life insurance, subject to the same qualifications as for retiree medical coverage. With the exception of the Washington State Patrol, retirees and disabled employees are not eligible for an employer premium contribution. The Federal Civil Service Retirement System shall be considered a Washington state sponsored retirement system for Washington State University cooperative extension service employees who hold a federal civil service appointment and who are covered under the PEBB program at the time of retirement or disability.

(2) Retired and disabled school district and educational service district employees. The following persons are eligible to participate in PEBB medical and dental plans only, provided they meet the enrollment criteria stated below and if eligible for Medicare, be enrolled in Medicare Parts A and B:

(a) Persons receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993, and who enroll in PEBB plans not later than the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation begin to receive a retirement allowance under chapter 41.32 or 41.40 RCW. Such persons who retire on or after October 1, 1993, must elect PEBB coverage not later than the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995, or sixty days following retirement whichever is later;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW. Such persons must enroll in PEBB plans not later than the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995, or sixty days following retirement, whichever is later.

#### NEW SECTION

**WAC 182-12-119 Eligible dependents.** "Eligible dependents." The following are eligible as dependents under the PEBB eligibility rules:

- (1) Lawful spouse.
- (2) Dependent children through age nineteen. The term "children" includes the subscribers's natural children, stepchildren, legally adopted children, children for whom the subscriber has assumed a legal obligation for total or partial support of a child in anticipation of adoption of the child, or children specified in a court order or divorce decree. Married children who qualify as dependents of the subscriber under the Internal Revenue Code, and foster children approved by the HCA are included. To qualify for HCA approval, a foster child must:

- (a) Be living with the subscriber in a parent-child relationship;
- (b) Be dependent upon the subscriber for financial support;
- (c) Not be eligible for coverage under Medicare, Medicaid, or similar government entitlement programs; and
- (d) Not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(3) Dependent children age twenty through age twenty-three who are dependent upon the employee/retiree for maintenance and support, and who are registered students in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters or two semesters and for the quarter following graduation provided the employee/retiree is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

(4) Dependent children of any age who are incapable of self-support due to developmental or physical disability, provided such condition occurs prior to age twenty or during the time the dependent was covered under a PEBB plan as a full-time student. Proof of such disability and dependency must be furnished prior to the dependent's attainment of age twenty or loss of eligibility for student coverage, and as periodically requested thereafter.

(5) Dependent parents. Dependent parents covered under a PEBB medical plan before July 1, 1990, may continue enrollment on a self-pay basis as long as:

- (a) The parent maintains continuous coverage in a PEBB-sponsored medical plan;
- (b) The parent continues to qualify under the Internal Revenue Code as a dependent of an eligible subscriber;
- (c) The subscriber who claimed the parent as a dependent continues enrollment in a PEBB program; and

(d) The parent is not covered by any other group medical insurance. Dependent parents may be enrolled in a different PEBB plan than that selected by the eligible subscriber; however, dependent parents may not add additional family members to their coverage.

(6) Surviving dependents.

(a) The following surviving dependents may continue their medical and dental coverages on a self-pay basis:

(i) If a dependent loses eligibility under a PEBB plan due to the death of the employee or retiree, the dependent(s) may continue coverage under a retiree plan provided the dependent(s) will immediately begin receiving a monthly benefit from any state of Washington-sponsored retirement system (the Federal Civil Service Retirement System shall be considered a Washington sponsored retirement system for Washington State University cooperative extension service employees who held a federal civil service appointment and who were covered under the PEBB program at the time of death).

(ii) If a surviving dependent of a PEBB employee or retiree is not eligible for a monthly retirement income benefit, or lump-sum payment because the monthly pension payment would be less than \$50, the dependent may be eligible for continued coverage under COBRA.

(iii) Surviving spouses and/or eligible dependent children of a deceased school district or educational service district employee who were not enrolled in a PEBB plan at the time of death may continue coverage provided the employee died on or after October 1, 1993 and the dependent(s) immediately began receiving a retirement benefit allowance under chapter 41.32 or 41.40 RCW.

(b) Application for surviving dependent(s) coverage must be made in writing on the enrollment form approved by the health care authority within sixty days from the date of death of the employee or retiree. Coverage is retroactive to the date the employee or retiree coverage terminated subject to the payment of the premium. The employee's or retiree's spouse may continue coverage indefinitely; other dependents may continue coverage until they lose eligibility under PEBB rules.

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

**Reviser's note:** The 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.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-122      Surviving dependents eligibility.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-130      Retirees eligible for Medicare.

AMENDATORY SECTION (Amending WSR 80-05-016 (Order 2-80), filed 4/10/80)

**WAC 182-12-132 Retirees returning to state employment.** ~~((Retirees enrolled in the SEIB retiree medical and/or life program, who return to active employment in an otherwise noneligible position, shall be eligible to continue such coverage on a direct payment basis beginning on the date their eligibility for SEIB retiree coverage would otherwise terminate.))~~ If a retiree returns to work and is again eligible for employer contributions towards their PEBB or school district sponsored benefits the retiree may cancel their retirement deduction for health coverage as soon as eligibility is established and the retiree is enrolled as an active employee. The retiree must maintain retiree term life coverage during active employment in order to retain it at retirement. When the retiree again ceases active employment, the retiree must reenroll in a PEBB retiree plan within 60 days.

AMENDATORY SECTION (Amending Order 5646, filed 2/9/76)

**WAC 182-12-145 Insurance eligibility for higher education.** For the purpose of insurance eligibility ~~((and experience reporting))~~, the ~~((SEIB))~~ PEBB considers the higher education personnel board, the council for post secondary education, and the state board for community colleges to be higher education agencies.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-151 Dependent life insurance.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-160 Elected officials

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-12-165 State contribution for permanent employees appointed to instructional year or seasonal positions.

AMENDATORY SECTION (Amending Order 4-77, filed 11/17/77)

**WAC 182-12-200 Retirees may change enrollment in approved ~~((SEIB))~~ PEBB ~~((insurance))~~ health plans. A retiree, whose spouse is enrolled as an eligible employee in a PEBB or school district-sponsored health plan, ~~((has the right to))~~ may defer enrollment in PEBB retiree medical and dental plans and enroll in the spouse's~~(-)~~ ~~((SEIB))~~ PEBB or school district-sponsored health plan. If a retiree defers enrollment in a PEBB retiree medical plan, enrollment must also be deferred for dental coverage. The retiree and eligible**

dependents may subsequently enroll in a PEBB retiree medical, or medical and dental, plan(s) if the retiree was continuously enrolled under the spouse's PEBB or school district-sponsored health coverage from the date the retiree was initially eligible for retiree coverage:

(1) During any open enrollment period determined by the HCA; or

(2) Within 31 days of the date ~~((Should))~~ the spouse ceases to be enrolled in a PEBB or school district-sponsored health plan as an eligible employee ~~((the retiree may reenroll in the retiree plan, with the spouse as a dependent.))~~; or

(3) Within 31 days of the date of the retiree's loss of eligibility as a dependent under the spouse's PEBB or school district-sponsored health plan.

AMENDATORY SECTION (Amending WSR 91-11-010, filed 5/3/91)

**WAC 182-12-215 Continued ~~((SEBB))~~ PEBB medical/dental coverage under COBRA.** Enrollees and eligible dependents who become ineligible for ~~((SEBB))~~ PEBB medical/dental coverage and who qualify for continued coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), including any amendments hereinafter enacted, may continue their ~~((SEBB))~~ PEBB plan coverage by self-payment of plan premiums in accordance with COBRA statutes and regulations. ~~((Parents of an enrollee who qualify as dependents under the Internal Revenue Code and who were covered as dependents under ~~((SEBB))~~ medical/dental plans prior to July 1, 1990, shall be deemed "dependents" for purposes of COBRA coverage.))~~

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 86-16-061 (Resolution No. 86-3), filed 8/5/86)

**WAC 182-12-220 Eligibility during appeal of dismissal.** Employees awaiting hearing of a dismissal action before the personnel appeals board, higher education personnel board or court may continue their ~~((SEIB))~~ PEBB coverages by self-payment of premium on the same terms as an employee who is granted leave without pay. If the hearing board or court upholds the dismissal, coverages shall terminate at the end of the month in which the board or court's decision is made. If the hearing board or court sustains the employee in the appeal and directs ~~((the SEIB employer to))~~ reinstatement of employer paid coverages retroactively, the employer must forward to the ~~((SEIB))~~ HCA the full employer contribution for the period directed by the hearing board or court. ~~((SEIB))~~ PEBB will refund to the employee any premiums the employee paid for coverages provided by the employer contribution. All optional life and long term disability insurance which was in force at the time of dismissal shall be reinstated retroactively, provided the employee makes retroactive payment of premium for any such optional coverage which was not continued by self-payment during the appeal process. If the employee chooses not to pay the retroactive premium, evidence of insurability will be required to obtain such optional coverage.



**WSR 96-08-044**  
**PERMANENT RULES**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Filed March 29, 1996, 4:25 p.m.]

Date of Adoption: March 25, 1996.

Purpose: To conform to 1995 RCW changes, clarify existing policies, establish new policies, improve overall WAC organization, and eliminate unnecessary and repetitious text.

Citation of Existing Rules Affected by this Order: Repealing WAC 286-26-030, 286-27-030, 286-27-070, 286-27-080, 286-30-020, 286-35-020, 286-35-050 and 286-35-070; and amending WAC 286-04-010, 286-04-030, 286-04-060, 286-04-070, 286-04-080, 286-04-090, 286-13-010, 286-13-020, 286-13-030, 286-13-040, 286-13-060, 286-13-070, 286-13-080, 286-13-085, 286-13-100, 286-13-110, 286-13-115, 286-26-010, 286-26-020, 286-26-080, 286-26-100, 286-27-010, 286-27-040, 286-27-050, 286-30-010, 286-30-030, 286-35-030, 286-35-040, 286-35-060, 286-40-010, 286-40-020, and 286-40-030.

Statutory Authority for Adoption: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720(4).

Adopted under notice filed as WSR 96-04-054 on February 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 5, amended 32, repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, amended 32, repealed 8.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 5, amended 32, repealed 8.

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

March 28, 1996  
 Greg W. Lovelady  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-04-010 Definitions.** For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

~~("Advisory committees" mean committees of representatives of federal, state, and local governmental entities, public at large, user organizations and private enterprise, or any combination thereof, that provide technical expertise and consultation on request on matters of concern to the committee.)~~

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submis-

sion of an application soliciting a grant of funds from the committee. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the committee.

"Chair" means the chair of the committee. See RCW 43.99.110.

"Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.

"Development" means the construction of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the committee or that person's designee. See RCW 43.99.130.

"Local agencies" mean those public bodies eligible to apply for and receive funds from the committee as defined by RCW 43.99.020, except for purposes of chapter 286-26 WAC.

~~("Master list" means those grant projects approved, in turn, through committee and legislative processes, and subsequently returned to the committee for funding.)~~

"Nonhighway (~~road~~) and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the committee under chapter 46.09 RCW.

~~("Nonprofit organization" means any group registered as a nonprofit or not for profit organization with the Washington secretary of state and the United States Internal Revenue Service. The organization's articles of incorporation must contain provisions for the organization's structure, officers, legal address, and registered agent.)~~

~~("Participation")~~ Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the committee for dissemination to agencies and organizations that may wish to participate in the committee's grant program(s).

"Preliminary expense" means project costs incurred prior to committee approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the committee.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the committee and a sponsor.

~~("Retroactive costs" mean those project expenses incurred prior to execution of a project agreement.)~~

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-04-030 Goals.** The general goals of the committee are to:

(1) Provide funds and planning assistance for acquisition and development and use of outdoor recreation and habitat conservation resources to maximize protection of the natural quality of the environment;



(2) Provide funds and planning assistance for a system of public recreational facilities and opportunities for state residents and visitors;

(3) Aid organizations and local government, with funds and planning assistance, in providing the type of facilities and resources which, under their jurisdiction, will best serve ~~((the local))~~ their needs for outdoor recreation and habitat conservation;

(4) Encourage programs which promote outdoor education, skill development, participation opportunity and proper stewardship of recreation and natural resources. See also RCW 43.99.010.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-04-060** (~~((Participation))~~) **Manuals and waivers-guidance.** (1) The committee shall ~~((cause to be written for use by applicants, potential applicants, sponsors, and others, participation))~~ adopt manuals that describe its general administrative ~~((matters to be followed in order to conform to the))~~ policies ~~((of the committee))~~ for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.

(2) The manuals shall be considered and approved by the committee in an open public meeting. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.

(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the ~~((participation))~~ manuals. Determinations on petitions for waivers made by the director are subject to review by the committee at the request of the petitioner.

(4) Petitions for waivers of subjects dealing with committee policy, and those petitions that in the judgment of the director require committee review, shall be referred to the committee for deliberation. Such waivers may be granted after consideration by the committee at an open public meeting.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-04-070 Director's authority.** Consistent with RCW 43.99.025, and other applicable laws, the director is delegated the authority and responsibility to carry out policies of the committee. This includes, but is not limited to the authority to:

(1) Administer committee programs; employ, discipline, and terminate staff, consistent with applicable merit system and personnel rules;

~~((Approve master list projects of state agencies; (3)))~~ Administer all applicable rules, regulations and requirements established by the committee or reflected in the laws of the state;

~~((4))~~ (3) Approve certain cost increase or waiver requests.

AMENDATORY SECTION (Amending Order IAC 82-1, filed 12/8/82)

**WAC 286-04-080 Federal overlay and requirements.**

At times through the years, the ~~((interagency))~~ committee's grant~~((in-aid))~~ programs ~~((is))~~ have been closely interrelated with ~~((both the))~~ certain federal grant programs. For example, see WAC 286-40-010, Land and Water Conservation Fund ~~((and the Urban Park and Recreation Recovery Acts, each of which is administered by the United States Department of Interior)).~~ The result of this interrelationship is that there are many federal requirements imposed ~~((upon))~~ on the ~~((interagency))~~ committee and its applicants ~~((to the interagency committee;))~~ over which the ~~((interagency))~~ committee has no control.

Many of these requirements may be found in the Land and Water Conservation Fund Grants Manual (National Park Service) ~~((Grant in Aid Manual)).~~ In addition, most of the federal requirements are restated or clarified in the ~~((participation))~~ manuals.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-04-090 History of fund sources.** ~~((From time to time;))~~ (1) As of July 1, 1995, the "recreation resource account" included appropriations and funds, under RCW 43.99.040, in support of the committee's boating facilities and other programs. These funds are derived from:

(a) Unclaimed marine fuel tax refunds;

(b) Moneys made available to the state of Washington by the federal government for outdoor recreation; and

(c) Such other sources as may be provided.

(2) As of July 1, 1995, the "NOVA program account" included appropriations and funds, under RCW 46.09.110 and 46.09.170, in support of the committee's nonhighway and off-road vehicle activities program. These funds are derived from:

(a) Refunds from the motor vehicle fund for nonhighway and off-road purposes;

(b) Off-road vehicle permit fees; and

(c) Such other sources as may be provided.

(3) As of July 1, 1990, the "habitat conservation account" included appropriations and funds, under chapter 43.98A RCW, in support of the committee's Washington wildlife and recreation program. These funds are derived from:

(a) Sales of bonds approved in capital budget appropriations;

(b) Such other sources as may be provided.

(4) As of July 1, 1995, the "outdoor recreation account" included appropriations and funds, under chapter 43.98A RCW, in support of the committee's Washington wildlife and recreation program. These funds are derived from:

(a) Sales of bonds approved in capital budget appropriations;

(b) Such other sources as may be provided.

(5) Prior to July 1, 1995, the "outdoor recreation account" ~~((has))~~ included ~~((moneys))~~ appropriations and funds, in support of the committee's programs. Funds were derived from:

~~((1))~~ (a) Unclaimed marine fuel tax refunds under RCW 43.99.040;

~~((2)) (b) Sales of bonds under Referenda 11, 18, and 28, and ((recreational bond issue funds authorized by the state legislature under authority of Article VIII, Section 1, Constitution of the state of Washington (1971 House Joint Resolution 52, approved November 1972)) HJR 52;~~

~~((3) The) (c) State apportionments of the federal land and water conservation fund((s; and));~~

~~((4) From) (d) Moneys refunded from the motor vehicle fund under RCW 46.09.170 and funds received under RCW 46.09.110 for nonhighway and off-road vehicle purposes;~~

(e) Off-road vehicle permit fees;

(f) Sales of general obligation bonds for outdoor recreation purposes under RCW 43.98A.050; and

(g) Such other sources((, and for such specific purposes,) as ((the legislature has)) were provided ((or may provide)).

(6) As of July 1, 1990, the "firearms range account" includes appropriations and funds, under RCW 77.12.720, in support of the committee's firearms and archery range recreation programs. These funds are derived from:

(a) Concealed pistol license fees under RCW 9.41.070;

(b) Destruction of firearms programs under RCW 9.41.098; and

(c) Such other sources as may be provided.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-010 Scope of chapter.** This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the committee. Further rules are in chapter 286-26 WAC (Nonhighway and off-road vehicle program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (Firearms and archery range recreation program), chapter 286-35 WAC (Initiative 215 boating facilities program), and chapter 286-40 WAC (Land and water conservation fund program).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-020 Application form.** (1) All ~~((applications))~~ grant requests must be completed and submitted in the format prescribed by the committee unless otherwise allowed by the director.

(2) If the director determines that the applicant is eligible to apply for federal funds administered by the committee, the applicant must execute the forms necessary for that purpose.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-030 Application review.** (1) All applications for funding submitted to the committee will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the committee's staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.

(2) The committee shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the ~~((participation))~~ manuals.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-040 Applications ~~((and)), plans, and matching resources—Deadlines.~~** (1) Applications. To allow time for review, all applications must be submitted at least four calendar months prior to the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least ~~((thirty days))~~ one calendar month before this ~~((same))~~ meeting.

(2) Plans. For purposes of project evaluation, all nonhighway ~~((road))~~ and off-road vehicle program, park, recreation, or habitat plans required for participation in committee grant programs must be complete and on file with the committee at least ~~((ninety days))~~ three calendar months before the funding meeting at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to five years.

(3) Matches. To allow time for development of funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the committee at least one calendar month before the meeting at which the project is to be considered for funding.

(4) Waivers. Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may include:

(a) When the applicant started the application/planning process;

(b) What progress has been made;

(c) When final plan adoption will occur;

(d) The cause of the delay (procedural or content related, etc.);

(e) Impact on the committee's evaluation process;

(f) Equity to other applicants; and

(g) Such other information as may be relevant.

#### NEW SECTION

**WAC 286-13-045 Eligible matching resources.** (1) Applicant resources used to match committee funds may include: Cash, local impact/mitigation fees, certain federal funds, the value of privately owned donated real estate, equipment, equipment use, materials, labor, or any combination thereof.

(2) Local agencies may match with state funds so long as the state funds are not administered by the committee.

(3) Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.

(4) State agency projects may be assisted by one hundred percent funding from committee sources.

(5) The eligibility of federal funds to be used as a match is governed by federal requirements and thus may vary with individual program policies.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-060 Project agreement.** For every funded project, an agreement must be executed as provided in this section.

(1) The project agreement shall be prepared by the director subsequent to approval of the project by the committee at a public meeting. The director shall execute the agreement on behalf of the committee and tender the document to the applicant. On execution by the applicant, who through this action becomes the sponsor, the parties are bound by the agreement's terms. The applicant may not proceed with the project until the agreement has been executed and the project start date listed in the agreement has arrived, unless specific authorization pursuant to WAC ~~((286-13-080))~~ 286-13-085 (1)(a) has been given by the director.

(2) If the project is approved by the committee to receive a grant from federal funds, the director shall not execute an agreement or amendment with the applicant until federal funding has been authorized through execution of a concurrent project agreement with the ~~((Department of Interior or))~~ applicable federal agency.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-070 Disbursement of funds.** Except as otherwise provided herein, the director will authorize disbursement of project funds only on a reimbursable basis, after the sponsor has spent its own funds and has presented a billing showing satisfactory evidence of property rights and compliance with partial or all provisions of the project agreement.

(1) Reimbursement method. Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the ~~((participation))~~ manual in effect at the time reimbursement is requested.

(2) Reimbursement level. The amount of reimbursement may never exceed the cash spent on the project.

(3) Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.

(4) Exceptions.

(a) State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. ~~((Until such time as the committee may receive direct appropriation authority,))~~ Prior to the 1995-1997 biennium (July 1, 1995,) state agencies ~~((are))~~ were required to submit voucher forms with the supporting documentation specified in the ~~((participation))~~ manual in effect at the time of completion of project acquisition, relocation or development.

(b) Direct payment. Direct payment to escrow of the committee's share of the approved cost of real property may be made following committee approval of an acquisition project when the sponsor indicates a temporary lack of funds

to purchase the property. Prior to release of the committee's share of escrow funds, the sponsor must provide the director with a copy of a binding sale agreement between the sponsor and the seller and evidence of deposit of the sponsor's share (if any) into an escrow account.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-080 Committee funds intended to supplement.** State ~~((and))~~ grants through the committee ~~((is))~~ are intended to supplement the existing capacity of a sponsor; ~~((it is))~~ they are not intended to supplant programs, or to reimburse the cost of projects that would have been undertaken without state matching money. ~~((Therefore))~~ Furthermore, except as hereinafter provided, the committee will not approve the disbursement of funds for a project when otherwise reimbursable activities have been undertaken before a project agreement has been executed.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-085 Retroactive and increased costs.** See WAC 286-04-010 for definition of terms for the following section.

(1) Retroactive land acquisition costs.

~~((a))~~ The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that ~~((an emergency))~~ a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

~~((b)) A sponsor will not lose committee approved assistance if it acquires committee approved property prior to any federal funding action on the sponsor's application for assistance if:~~

~~((i)) In writing, the sponsor requests and receives the director's permission to purchase; and~~

~~((ii)) The federal agency has notified the director that the state assisted purchase will not jeopardize the proposed federal funding.))~~

(2) Retroactive development costs. The only retroactive development costs ~~((are not))~~ eligible for reimbursement ~~((-~~ However,)) consideration are preliminary expenses (e.g., engineering costs) ~~((contained in a development project may be eligible for reimbursement if specifically requested in the application)).~~

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the

sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's development project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-100 Nonconformance and repayment.**

Any sponsor expenditure of committee grant moneys deemed by the committee or director to conflict with applicable statutes, rules and related ~~((participation))~~ manuals must be repaid, upon written request by the director, to the appropriate state account. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-110 Income.** (1) Fees and charges. User or other types of fees may be charged in connection with land acquired or areas and facilities developed with committee grants if the fees and charges are commensurate with the value of services or opportunities furnished and are within the prevailing range of public fees and charges within the state for the particular activity involved. Unless precluded by state law, the revenue from such fees and charges may only be used to offset the expense of operation and maintenance of the facility funded in whole or in part by committee grants or for accrual of capital for similar acquisition and/or development.

(2) Other income. Income that accrues to an area described in a project agreement from sources other than the intended use, including income from land management practices, must derive from use which is consistent with, and complementary to, the intended use of the area as described in the project agreement.

(a) Gross nonintended income that accrues during the contracted reimbursement period established in the project agreement will be used to reduce the total cost of the project.

(b) Gross nonintended income that accrues subsequent to the ending reimbursement date identified in the project agreement must be used to offset operation and maintenance expenses of the facility funded in whole or in part by committee grants or for capital acquisition and/or development of a similar type unless precluded by state law.

(3) Commercial income. Commercial activity performed by a project sponsor on a committee assisted site or facility must be directly related to the recreational service provided. After paying any necessary costs associated with this activity, any net income must be used to assist in maintaining, renovating, operating, and/or developing the site as described in WAC 286-13-110 (1) and (2).

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-13-115 Discrimination, preferences.** ~~((Discrimination))~~ (1) Sponsors shall not discriminate against users of committee funded projects on the basis of race, creed, color, sex, religion, national origin, disability, marital status, or sexual orientation.

(2) Sponsors may express a preference for users of committee funded projects on the basis of residence, including preferential reservation ~~((or)),~~ membership ~~((systems and annual)),~~ and/or permit systems ~~((is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. Fee differences based on residence may not exceed twice that charged to residents)).~~ Differential fees for use by nonresidents may be charged but must not exceed twice the fee imposed on residents.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-26-010 Scope of chapter.** This chapter contains rules affecting the ~~((eligibility of agencies to share in committee administered))~~ nonhighway ~~((road))~~ and off-road vehicle ~~((funds))~~ activities grant program administered by the committee under chapter 46.09 RCW. Additional provisions are contained in ~~((chapter 46.09 RCW and))~~ "General grant assistance rules," chapter 286-13 WAC.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-26-020 Definitions.** For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

"Nonhighway road" (NHR) as provided in RCW 46.09.020.

"Nonhighway vehicle" as provided in RCW 46.09.020.

"NOVA" means the committee's nonhighway ~~((road))~~ and off-road vehicle activities program described in chapter 46.09 RCW, and NHR and ORV ~~((participation))~~ manuals for the planning, acquisition, development and management of recreation areas and trails.

"NOVA advisory committee" means the panel of NHR recreationists, ~~((including representatives of))~~ organized ORV recreational groups, and agency representatives chosen to advise the director in the development of the state-wide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the committee for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW. ~~((The NOVA advisory committee may also include representatives from various governmental entities or other interests as deemed appropriate by the director.))~~

"Off-road vehicle" (ORV) as provided in RCW 46.09.020.

"ORV trail" as provided in RCW 46.09.020, and including, competition sites for two, three, or four-wheel ORVs, and four-wheeled vehicles over forty inches width

which are equipped with four-wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses will be designed to include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for NOVA funds.

"ORV use area" as provided in RCW 46.09.020.

**AMENDATORY SECTION** (Amending WSR 94-24-044, filed 12/2/94, effective 1/2/95)

**WAC 286-26-080 Planning requirements.** ~~((For purposes of project evaluation, completed plans must be received by the director at least ninety days before the committee's meeting at which the project is to be considered for funding. A shorter period may be authorized by the director. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for up to a five-year period. To be complete)) Plans completed in accordance with WAC 286-13-040(2), at minimum ~~((the plan)),~~ must include:~~

- (1) A statement of the applicant's long-range goals and objectives;
- (2) A description of the planning area, or existing areas and facilities, or current conditions, as appropriate;
- (3) An analysis of need, that is, why actions are required;
- (4) A description of the extent to which the public has been involved in development of the plan;
- (5) A current capital improvement program of at least five years and/or a schedule which identifies those entities responsible for the actions needed to achieve the plan's goals and objectives;
- (6) Evidence that this plan has been approved by the applicant's governing body (e.g., ranger district, city/county department, or regional manager/supervisor, etc., as appropriate).

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-26-100 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee, ~~((by))~~ to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

- (2) The committee shall only approve such a conversion under conditions which assure that:
  - (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
  - (b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:
    - (i) Is of reasonably equivalent recreation utility and location;
    - (ii) Will be administered by the same political jurisdiction as the converted development;
    - (iii) Will satisfy need(s) identified in the sponsor's NOVA plan (see WAC 286-26-080); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

(3) A master agreement signed by the parties shall control the provision of funds granted by the committee for facility developments to any federal agency sponsor.

**NEW SECTION**

**WAC 286-26-110 Matching amounts and caps determined.** Each year the committee will establish sponsor matching share requirements and acquisition-development fund request limits. This will normally be done at a committee meeting six months before program funding consideration.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 286-26-030 Eligibility.

**AMENDATORY SECTION** (Amending WSR 91-17-010, filed 8/12/91, effective 9/12/91)

**WAC 286-27-010 Scope.** This chapter contains rules affecting the ~~((eligibility of local and state agencies to share outdoor recreation and habitat conservation account moneys))~~ Washington wildlife and recreation grant program administered by the committee under ~~((the authority of))~~ RCW 43.98A.060(1) and 43.98A.070(5). Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC. These moneys are available through the ~~((interagency))~~ committee ~~((for outdoor recreation))~~ for projects in state parks, local parks, trails, water access, critical habitat, natural areas and urban wildlife habitat categories.

~~((Grants in aid for such projects are intended to supplement and expand the existing capacity of state and local agencies.))~~

**AMENDATORY SECTION** (Amending WSR 91-17-010, filed 8/12/91, effective 9/12/91)

**WAC 286-27-040 Planning requirements, outdoor recreation account ~~((ORA))~~.** At minimum, outdoor recreation plans completed in accordance with WAC 286-13-040(2) must be approved by the applicant's governing body (e.g., city/county department, regional manager/supervisor, etc., as appropriate) and must include:

- (1) Local agencies. ~~((Before a project may be considered by the committee, local agency applicants must submit an outdoor recreation plan completed in accordance with committee guidelines. The plan must include:))~~
  - (a) ~~((An adopted comprehensive))~~ A plan for the agency's jurisdiction which includes park, recreation, trails, and open space elements;
  - (b) ~~((An adopted six-year))~~ A long-range plan for development of facilities (capital improvement program); and
  - (c) An inventory of public trails, open space, and outdoor recreation lands and facilities managed by the applicant agency.
- (2) State agencies. ~~((Before a project may be considered by the committee, state agency applicants must submit the following:))~~

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(2) State agencies. ~~((Before a project may be considered by the committee, state agency applicants must submit the following:))~~

(a) ~~((An adopted six year capital facilities or outdoor recreation plan which))~~ A capital improvement program, based on the office of financial management's prescribed planning period, that includes a statement of agency long-term acquisition, development and management goals, and

(b) An inventory of public trails, open space, and outdoor recreation lands and facilities managed by the applicant agency.

AMENDATORY SECTION (Amending WSR 91-17-010, filed 8/12/91, effective 9/12/91)

**WAC 286-27-050 Planning requirements, habitat conservation account ~~((HCA))~~.** At minimum, habitat conservation plans completed in accordance with WAC 286-13-040(2) must be approved by the applicant's governing body (e.g., city/county department, regional manager/supervisor, etc., as appropriate) and must include:

(1) Local agencies.

(a) ~~((After July 1, 1993: Before a project may be considered by the committee, local agency applicants must submit a habitat conservation plan completed in accordance with committee guidelines. The plan must include:~~

~~(i) An adopted comprehensive))~~ A plan for the agency's jurisdiction which includes natural areas, critical habitat and urban wildlife habitat elements,

~~((ii) An adopted six year))~~ (b) A long-range capital improvement program, and

~~((iii))~~ (c) An inventory of applicant managed lands with critical habitat, natural area and urban wildlife habitat values.

~~((b) Before July 1, 1993: Before a project may be considered by the committee, local agency applicants must submit the following habitat conservation plan element information:~~

~~(i) Certification of intent to complete the plan and~~

~~(ii) A plan preparation progress report.)~~

(2) State agencies.

(a) ~~((Before the committee may consider a project, state agency applicants must submit a habitat conservation plan completed in accordance with committee guidelines. The plan must include:~~

~~(i) An adopted six year capital facilities or conservation plan which))~~ A capital improvement program, based on the office of financial management's prescribed planning period, that includes a statement of agency long-term acquisition, development and management goals, and

~~((ii))~~ (b) An inventory of applicant managed lands with critical habitat, natural area, and urban wildlife habitat values.

#### NEW SECTION

**WAC 286-27-055 Acquisition projects—Deed of right, conversions, leases and easements.** For acquisition projects, sponsors must execute an instrument or instruments which contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least fifty years unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

#### NEW SECTION

**WAC 286-27-065 Development projects—Conversion to other uses.** (1) Without prior approval of the committee, a facility developed with money granted by the committee, to state, county, municipality or native American tribal government sponsors, shall not be converted to a use other than that for which funds were originally approved.

(2) The committee shall only approve such a conversion under conditions which assure that:

(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;

(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of sponsor. . ."), will serve as a replacement which:

(i) Is of reasonably equivalent recreation utility and location;

(ii) Will be administered by the same political jurisdiction as the converted development;

(iii) Will satisfy need(s) identified in the sponsor's outdoor recreation or habitat conservation plan (see WAC 286-27-040 and 286-27-050); and

(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.

#### NEW SECTION

**WAC 286-27-075 Matching amounts and caps determined.** Consistent with RCW 43.98A.060(4) and 43.98A.070(4), each year the committee will establish sponsor matching share requirements and acquisition-development fund request limits. This will normally be done at a committee meeting six months before program funding consideration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 286-27-030 Definitions.  
WAC 286-27-070 Participation manuals.  
WAC 286-27-080 Funded projects.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-30-010 Scope.** This chapter contains rules affecting the firearms and archery range (~~(account)~~) recreation grant program administered by the committee under RCW 77.12.720. Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-30-030 Acquisition projects—Deed of right, conversions, leases and easements.** For acquisition projects, sponsors must execute an instrument or instruments (~~(which)~~) that contain:

(1) For fee, less-than-fee, and easement acquisition projects:

(a) A legal description of the property acquired;  
(b) A conveyance to the state of Washington of the right to use the described real property for at least ten years from the date of the committee's final reimbursement for outdoor recreation purposes; and

(c) A restriction on conversion of use of the land for at least ten years from the date of the committee's final reimbursement, with the proviso that should use be discontinued or a noncommittee approved conversion occur, the sponsor shall pay back to the committee the entire grant amount. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not, within ten years, be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.

(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:

(a) Must be for at least ten years from the date of the committee's final reimbursement unless precluded by state law;

(b) May not be revocable at will;

(c) Must have a value supported through standard appraisal techniques;

(d) Must be paid for in lump sum at initiation;

(e) May not be converted during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee.

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 286-30-020 Eligibility.

**Chapter 286-35 WAC**  
**((INITIATIVE 215)) BOATING FACILITIES PRO-**  
**GRAM**

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-35-030 Planning requirements—Local agencies.** (~~For purposes of local agency project evaluation, completed plans must be received by the director at least ninety days before the committee's meeting at which the project is to be considered for funding. A shorter period may be authorized by the director. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for up to a five-year period. To be complete~~) Plans completed in accordance with WAC 286-13-040, at minimum ((the plan)), must include:

(1) A statement of the applicant's long-range goals and objectives;

(2) A description of the planning area, or existing areas and facilities, or current conditions, as appropriate;

(3) An analysis of need, that is, why actions are required;

(4) A description of the extent to which the public has been involved in development of the plan;

(5) A current capital improvement program of at least five years, and a schedule which identifies those entities responsible for the actions needed to achieve the plan's goals and objectives;

(6) Evidence that this plan has been approved by the applicant's governing body (e.g., city/county department, regional manager/supervisor, etc., as appropriate).

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-35-040 Planning requirements—State ((agency requirements)) agencies.** Before considering a state agency project for funding, that agency must submit to the committee a capital improvement program, based on the office of financial management's prescribed planning period. A (~~long-term~~) statement of applicant agency long-term outdoor recreation acquisition and development goals must be included.

AMENDATORY SECTION (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-35-060 Matching requirements and caps determined.** (~~(1) Local agencies.~~)

~~(a) The committee will not approve local agency projects where the applicant's share is less than twenty-five percent of the total project cost, with the remaining share not exceeding seventy-five percent, composed of state funds, federal funds, or state and federal funds, regardless of federal source. Local agencies must provide written assurance at least thirty days before the funding meeting at which~~



~~the project is to be considered for funding, that funds and/or resources are available for the required local share of the project. The director may authorize a period of less than thirty days.~~

~~(b) The local share may be state funds not administered by the committee, local impact/mitigation fees, local funds, certain federal funds, or the value of private donated property, equipment, equipment use, labor, or any combination thereof. Private donated real property or the value of that property must consist of real property (land and facilities) which would normally qualify for committee grant funding.~~

~~(2) State agencies:~~

~~(a) The committee may approve one hundred percent funding from unrefunded marine fuel tax receipts for projects proposed by state agencies.~~

~~(b) If federal matching money, regardless of federal source, is available, the state agency may be assisted by committee funds so as to achieve one hundred percent funding.) Each year the committee will establish sponsor matching share requirements and acquisition-development fund request limits. This will normally be done at a committee meeting six months before project funding consideration.~~

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 286-35-020 Eligibility.
- WAC 286-35-050 Apportionment of marine fuel tax receipts, state and local agencies.
- WAC 286-35-070 Projects eligible for funding.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-40-010 Scope.** This chapter contains rules affecting the federal land and water conservation fund program administered by the committee. These funds are administered pursuant to the Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 stat 897), and the *Land and Water Conservation Fund Grants Manual* (U.S. Department of the Interior, National Park Service). Under the terms of this program many federal requirements are imposed on both applicants and the committee over which the committee has no control. Most of these federal requirements are restated or clarified in the ~~((participation))~~ manuals. Additional provisions are contained in "General grant assistance rules," chapter 286-13 WAC.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-40-020 Funding and candidate selection.** Funding for projects approved under this chapter is from the recreation resource account. Candidate project(s) ~~((under this chapter))~~ are selected by the director, and approved by the committee, from among those submitted ~~((into the outdoor recreation account allotment))~~ to the Washington

wildlife and recreation program (chapter 286-27 WAC). Selection criteria includes:

- (1) Adherence to the outdoor recreation account planning requirements of WAC 286-27-040.
- (2) How well the project(s) has ranked in the evaluation;
- (3) How well the project(s) meets needs identified in the state-wide comprehensive outdoor recreation planning program and the general goals identified in WAC 286-04-030;
- (4) How well the projects meet the criteria in the Land and Water Conservation Fund Grants Manual;
- (5) An assessment of how quickly the project(s) will progress through planning and implementation stages.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-40-030 Matching requirements.** (1) Local agencies. ~~((a))~~ The committee ~~((will not))~~ shall only approve local agency projects ~~((where))~~ when the applicant's share is ~~((less than fifty percent of the total project cost, with the remaining share of up to, but not exceeding, fifty percent federal funds, or state and federal funds, regardless of federal source. Unless a shorter period is authorized, local agencies must provide written assurance at least thirty days before the funding meeting during which any project is to be considered for funding assistance, that funds and/or resources are available to provide the required local share of the project.~~

~~(b) The local share may be state funds not administered by the committee, local impact/mitigation fees, local funds, certain federal funds, or the value of private donated property, equipment, equipment use, labor, or any combination thereof. Private donated real property or the value of that property must consist of real property (land and facilities) which would normally qualify for committee grant funding))~~ at least equal to the committee amount awarded.

(2) State agencies. If federal matching money ~~((, regardless of federal source,))~~ is available, ~~((the))~~ state agency sponsors may be assisted by committee funds ~~((so as))~~ to ~~((achieve one hundred percent funding))~~ meet federal matching requirements.

**WSR 96-08-049**  
**PERMANENT RULES**  
**SECRETARY OF STATE**  
[Filed April 1, 1996, 2:15 p.m.]

Date of Adoption: March 29, 1996.

Purpose: To change the annual renewal date for charitable trusts and to define the jurisdiction of charitable trusts.

Citation of Existing Rules Affected by this Order: Amending WAC 434-120-300 and 434-120-335.

Statutory Authority for Adoption: RCW 11.110.070.

Adopted under notice filed as WSR 96-05-088 on February 21, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 434-120-300, clarifies who is subject to Washington jurisdiction under the Charitable Trust Act; and WAC 434-120-335, charitable trusts will renew their

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registration no later than the fifteenth day of the fifth month after the end of their fiscal year.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

April 1, 1996

Donald F. Whiting

Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

**WAC 434-120-300 Who shall register.** (1) Any trustee as defined in RCW 11.110.020 of a trust subject to Washington jurisdiction holding property in trust for a public charitable purpose and any corporation formed for the administration of a charitable trust or holding assets subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes shall register with the office of the secretary of state, corporations division.

(2) A trust is subject to Washington jurisdiction if:

(a) It is created pursuant to a trust instrument that specifies that it is subject to the jurisdiction of the state of Washington or that its terms are to be construed pursuant to the laws of the state of Washington;

(b) It is a testamentary trust, and the will was probated or recorded, or letters testamentary and of administration were granted in the state of Washington;

(c) The trust was created pursuant to order of a Washington court or by operation of Washington law;

(d) The trust was created by or pursuant to the articles of incorporation of a Washington corporation; or

(e) No state, territory, or nation may assert a superior claim of jurisdiction, and:

(i) The trust was created pursuant to an inter vivos agreement or document executed or recorded within the state of Washington but which does not expressly vest jurisdiction in another state, territory, or nation; or

(ii) The trust corpus consists predominantly of property located in or administered from Washington; or

(iii) A basis exists upon which to assert or concede jurisdiction in the state of Washington.

(3) Exempt from registration under the Trust Act are the following:

(a) Any trustee making distributions only to individuals or organizations expressly named in the governing instrument or mere titleholders, custodians, or depositaries of

property held for charitable purposes who have no powers or duties to administer such property;

(b) Governmental bodies such as the United States, any state, territory, or possession of the United States, the District of Columbia, Puerto Rico, or any of their agencies or governmental subdivisions;

(c) Religious bodies incorporated as tax exempt religious organizations, and subsidiary organizations under their auspices including but not limited to:

(i) Charitable agencies or organizations affiliated with and forming an integral part of the religious body, or operated, supervised, or controlled directly by the religious body; or

(ii) Any officer of a religious body holding property for religious purposes;

To be exempt under this act, a newly formed religious body, or subsidiary organizations (~~as described in subsection (2)(d))~~) must be able to show that it is seeking tax exempt status from the federal Internal Revenue Service. If a written declaration granting the tax exempt status is not received within two years of formation, the organization must register the trust immediately.

(d) Nonprofit educational institutions having a course of studies equivalent to that of a public school or college operated by a Washington state school district or by Washington state.

**AMENDATORY SECTION** (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

**WAC 434-120-335 When to file annual reports.** (1) Annual reports or other information required to be filed annually by WAC 434-120-315, shall be filed (~~at the same time as renewal or annual reports of corporation status or as charitable solicitation annual reports. If the trust is not registered under any of the corporation acts or the Charitable Solicitations Act, the annual report shall be filed by the last day of the same month of each year (the anniversary date) as the original charitable trust registration with the secretary of state~~) by no later than the fifteenth day of the fifth month after the end of its fiscal year.

(2) Annual reporting of trusts for several or mixed purposes, or in which the only property to be used for charitable purposes consists of a vested or contingent charitable remainder, shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose.

**WSR 96-08-058**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Order 96-06—Filed April 2, 1996, 3:38 p.m.]

Date of Adoption: March 29, 1996.

Purpose: Moves dates budgets must be completed by school districts and submitted to ESDs and general public from July 15 (2nd class districts) and July 20 (1st class districts) to July 10 for 1st and 2nd class districts.

Citation of Existing Rules Affected by this Order: Amending WAC 392-123-054.

Statutory Authority for Adoption: RCW 28A.505.040.

Adopted under notice filed as WSR 96-05-031 on February 14, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

March 29, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.

~~((July 15~~ Final date to have sufficient number of copies of budget to meet reasonable demands of public. Also, final date to submit the budget to the educational service district for review and comment.

July 20)) Final date to have sufficient copies of budget to meet reasonable demands of public. Also, final date to submit the budget to the educational service district for review and comment. The July 10 date may be delayed by the superintendent of public instruction if the state's operating budget is not finally approved by the legislature until after June 1st.

~~((July 25~~ Final date for educational service district to notify districts of problems noted in review.))

August 1 Final date for board directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: *Provided*, That the budget must be adopted no later than August 1st. Upon conclusion of the hearing the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.

August 3 Last date to forward the adopted budget to educational service district for review, alteration and approval.

**AMENDATORY SECTION** (Amending Order 93-12, filed 8/5/93, effective 9/5/93)

**WAC 392-123-054 Time schedule for budget.** The time schedule for preparation, adoption and filing of the annual budget is as follows:

Final Date For Action	First-Class Districts	Second-Class Districts
July 10	Final date for district to prepare annual budget. Upon completion of their budgets, every school district shall publish a notice stating that the district has completed the budget <del>((and))</del> , placed <del>((the same))</del> it on file in the school district administration office, that a copy thereof will be furnished to any person who <del>((will))</del> calls upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there	Same as first-class.

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<p><del>((August 10</del> Final date for educational service district to notify districts of problems noted in review.</p>	<p><del>Final date for educational service district to file adopted and reviewed budgets with superintendent of public instruction:))</del></p>
<p>August 31 Final date for board of directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: <i>Provided</i>, That the budget must be adopted no later than August 31st. Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.</p>	<p><del>((Last))</del> Final date for the budget review committee to fix and approve the amount of the appropriation from each fund of the budget. One copy of the approved budget will be retained by the educational service district and one copy will be <del>((returned to the school district))</del> retained by the superintendent of public instruction. No budget review committee shall knowingly approve any budget or appropriation that is in violation of state law or rules and regulations adopted by the superintendent of public instruction. Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local board of directors or a representative thereof and a representative of the superintendent of public instruction.</p>
<p>September 3 Final date for district to file the adopted budget with their educational service district.</p>	<p>Final date for the superintendent of public instruction to return a copy of the approved budget to the local school district.</p>
<p>September 10 Final date for educational service district to file the adopted budgets with the superintendent of public instruction.</p>	<p>Final date for the superintendent of public instruction to return a copy of the approved budget to the local school district.</p>

**WSR 96-08-069  
PERMANENT RULES  
DEPARTMENT OF HEALTH**  
[Filed April 3, 1996, 9:55 a.m.]

Date of Adoption: January 25, 1996.

Purpose: To delete fees no longer applicable and to raise fees for registered hypnotherapists to cover costs of the program.

Citation of Existing Rules Affected by this Order:  
Amending WAC 246-810-990.

Statutory Authority for Adoption: Chapter 18.19 RCW.  
Adopted under notice filed as WSR 96-01-033 on December 12, 1995.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
April 2, 1996  
Bruce A. Miyahara  
Secretary

AMENDATORY SECTION (Amending WSR 93-14-011, filed 6/24/93, effective 7/25/93)

**WAC 246-810-990 Fees.** The following fees shall be charged by the professional licensing services division of the department of health:

Title	Fee
<b>Registered counselor:</b>	
Application and registration	<del>(((\$))</del> <u>\$ 40.00</u>
<del>((Application assessment</del>	<del>2.00))</del>
Renewal	37.00
<del>((Renewal assessment</del>	<del>1.85))</del>
Late renewal penalty	37.00
Duplicate registration	15.00
Certification/verification	<del>(([50.00] [15.00]))</del> <u>15.00</u>
<b>Registered hypnotherapist:</b>	
Application and registration	<del>((85.00))</del> <u>95.00</u>
<del>((Application assessment</del>	<del>4.25))</del>
Renewal	<del>((35.00))</del> <u>130.00</u>
<del>((Renewal assessment</del>	<del>1.75))</del>
Late renewal penalty	<del>((35.00))</del> <u>65.00</u>
Duplicate registration	15.00
Certification/verification	15.00
<b>Certified marriage and family therapist:</b>	
Application	100.00
<del>((Application assessment</del>	<del>5.00))</del>
Initial certification	125.00
Written examination	250.00
Retake examination—Written	250.00
Renewal	200.00
<del>((Renewal assessment</del>	<del>10.75))</del>
Late renewal penalty	100.00
Duplicate certification	15.00
Certification/verification	15.00
Wall certificate	15.00

PERMANENT

Certified mental health counselor:

Application	(( <del>(\$)</del> ) 75.00)
<del>((Application assessment</del>	<del>3.75))</del>
Initial certification	60.00
<del>((Examination</del>	<del>90.00)</del>
<del>Retake examination</del>	<del>90.00))</del>
Renewal	65.00
<del>((Renewal assessment</del>	<del>3.25))</del>
Late renewal penalty	50.00
Duplicate certification	15.00
Certification/verification	15.00
Wall certificate	15.00

Certified social worker:

Application	50.00
<del>((Application assessment</del>	<del>2.50))</del>
Initial certification	50.00
<del>((Examination</del>	<del>115.00)</del>
<del>Retake examination</del>	<del>115.00))</del>
Renewal	65.00
<del>((Renewal assessment</del>	<del>3.25))</del>
Late renewal penalty	50.00
Duplicate certification	15.00
Certification/verification	15.00
Wall certificate	15.00

PERMANENT

**WSR 96-07-079**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3956—Filed March 19, 1996, 4:29 p.m., effective April 1, 1996]

Date of Adoption: March 19, 1996.

Purpose: Chapter 74.13 RCW directs the department to promulgate rules which establish minimum licensing requirements.

Citation of Existing Rules Affected by this Order: Amending chapter 388-73 WAC, Minimum licensing requirements for crisis residential centers.

Statutory Authority for Adoption: Chapter 74.15 RCW.

Other Authority: RCW 74.13.032.

Under 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) The intent of the Becca Bill (E2SSB 5439) in the 1995 session, which requires these secure facilities, was to prevent injury or trauma for these at-risk youth.

(b) Any delay in adoption of these rules past April 1, 1996, puts the department out-of-compliance with legislative intent in RCW 74.13.032.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 6, amended 9, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 6, amended 9, repealed 0.

Effective Date of Rule: April 1, 1996.

March 17, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-012 Definitions.** (1) Terms defined under chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "Capacity" means the maximum number of persons under care at a given moment in time.

(3) "Child," "youth," and "juvenile" means any unemancipated individual under the chronological age of eighteen years of age.

(4) "Developmentally disabled person" means an individual suffering from a mental and/or physical deficiency rendering the individual incapable of assuming responsibilities expected of the socially adequate person, including self-direction, self-support, and social participation.

(5) "Full-time care provider" or "full-time care facility" means a foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

~~(6) ("Home of community concern" means a non-traditional family home whose composition or culture is sufficiently diverse from the standards of the community at large so that a mishap or scrutiny of the license might raise concerns about the appropriateness of licensing and placement of children, and might subject the department to notoriety-~~

~~(7))~~ "Infant" means a child under one year of age.

~~((8))~~ (7) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

~~((9))~~ (8) "School-age child" means a child five years of age through twelve years of age enrolled in a kindergarten or elementary school.

~~((10))~~ (9) "Secure detention facility" and "juvenile detention facility" means a facility, primarily for the care of juvenile offenders, operated so as to ensure all entrances and exits from the facility are locked, barred, or otherwise controlled so as to prevent escapes.

~~((11))~~ (10) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure youth placed there will not run away: *Provided*, That such facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility or any part thereof, nor be otherwise controlled by the use of physical restraints except as provided in WAC 388-73-048.

~~((12))~~ (11) "Severely and multiply-handicapped child" is a child diagnosed as primarily dependent for most activities of daily living, except for persons requiring the services of skilled health care providers.

(12) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(13) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours from the parent's home, a crisis residential center, an out-of-home placement, or a court-ordered placement on two or more separate occasions; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or

(c)(i) Who is in need of necessary services, including food, shelter, health care, clothing, educational, or services designed to maintain or reunite the family;

(ii) Who lacks access, or has declined, to utilize these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.

(14) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent.

(15) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(16) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(17) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

AMENDATORY SECTION (Amending Order 3918, filed 11/8/95, effective 12/9/95)

**WAC 388-73-014 Persons and organizations subject to licensing.** Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility for children" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis;

(2) "Child-placing agency" means an agency placing children for temporary care, continued care, or for adoption;

(3) "Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and their infants after confinement. See WAC 388-73-702;

(4) "Day care facility" means an agency regularly providing care for children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care facilities:

(a) A "mini-day care program" means a day care facility for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the children are placed; or

(b) A "day treatment program" means an agency providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four-hour day for a group of persons under eighteen years of age and the persons are unable to adjust to full-time regular or special school programs or full-time family living because of:

(i) Disruptive behavior;

(ii) Family stress;

(iii) Learning disabilities; or

(iv) Other serious emotional or social handicaps.

(5) "Foster family home" means a person or persons regularly providing care on a twenty-four-hour basis to one or more, but not more than four, children, expectant mothers, or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or developmentally disabled person is placed;

(6) "Large foster family home" means a foster family home with at least two adult residents in the home providing care on a twenty-four-hour basis to five or six children or developmentally disabled persons;

(7) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecure or secure residential facility in the performance of duties specified and in the manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center;

(b) A group care facility functioning partially or exclusively as a crisis residential center;

(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department;

(d) "Secure crisis residential center" means a facility operating under department contract to provide temporary, protective care to children in a secure residential facility designed and operated to control ingress and egress.

(8) A "facility for severely and multiply-handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require skilled health care, physical therapy, or other forms of therapy;

(9) "Staffed residential home for children or expectant mothers" means a home providing twenty-four-hour care for less than seven children or expectant mothers. The home employs staff to care for children and may or may not be a family residence.

AMENDATORY SECTION (Amending Order 3418, filed 7/9/92, effective 8/9/92)

**WAC 388-73-01950 Fire standards.** All group care facilities, mini-day care centers, and maternity centers shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for the prevention of fire and for the protection of life and property against fire. The Washington state fire marshal's standards are ~~((found in chapter 212-55 WAC))~~ contained in the 1995 state building code as amended.

AMENDATORY SECTION (Amending Order 1933, filed 1/5/83)

**WAC 388-73-020 Certification of juvenile detention facility and exempt agency.** (1) An agency legally exempt from licensing may not be licensed. However, at the

agency's request, such agency may be certified by the department as meeting licensing and other pertinent requirements, if investigation proves such to be the case, to enable the agency to be eligible for the receipt of funds or for other legitimate purposes. In such cases, unless otherwise clearly evident from the text, requirements and procedures for licensing apply equally to certification.

(2) Juvenile detention facilities operated by juvenile courts, shall be certified in accord with the provision of RCW 74.13.034, and requirements promulgated pursuant thereto. Except as otherwise indicated by the text, the requirements for licensing group care facilities also apply to the certification of juvenile detention facilities.

(3) A secure crisis residential center operating within a juvenile detention facility shall be subject to secure crisis residential center requirements, unless otherwise indicated, under chapter 388-73 WAC.

AMENDATORY SECTION (Amending Order 2445, filed 12/2/86)

**WAC 388-73-048 Corporal punishment.** (1) Corporal punishment is prohibited.

(2) The use of such amounts of physical restraint as may be reasonable and necessary to:

- (a) Protect persons on the premises from physical injury,
- (b) Obtain possession of a weapon or other dangerous object,
- (c) Protect property from serious damage, shall not be construed to constitute corporal punishment.

(3) Mechanical restraints may not be used. These include but are not limited to: Handcuffs, belt restraints, and locked time-out rooms.

(4) Physical restraints which could be injurious are not to be used. These include but are not limited to: A large adult sitting on or straddling a small child, sleeper holds, arm twisting, hair holds, and throwing children and youths against walls, furniture, or other large immobile objects.

(5) The restrictions listed in subsections (3) and (4) of this section immediately preceding do not apply to juvenile detention facilities.

(6) Staff employed in group care facilities where it may be necessary to restrain children shall be trained in the use of appropriate restraining techniques.

(7) All licensees except secure crisis residential centers shall be subject to WAC 388-73-048. Secure crisis residential centers shall be subject to WAC 388-73-821.

AMENDATORY SECTION (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-054 Client records and information—All agencies.** (1) Agencies shall maintain records and information concerning persons in care in such a manner as to preserve their confidentiality. For American Indian children, see WAC 388-73-044. Records giving the following information on each person under care shall be maintained at the licensed facility. The agency's records shall contain, at a minimum, the following information:

- (a) Identifying information, including:
  - (i) Name;
  - (ii) Birthdate;

(iii) For full-time care providers, dates of admission, absences, and discharge; and

(iv) For day care providers, daily attendance.

(b) Identifies information for parents or other persons to be contacted in case of emergency:

- (i) Names;
- (ii) Addresses; and
- (iii) Telephone numbers, if any (home and business).

(c)(i) Dates and kinds of illnesses and accidents;

(ii) Medication and treatments prescribed;

(iii) Time given and by whom;

(iv) Except for crisis residential centers and certified juvenile detention facilities, dates and types of immunization; and

(v) Other pertinent information relating to the person's health.

(d) Written parental consent (or court order) for providing medical care and emergency surgery, except as such care is otherwise authorized by law;

(e) Names, addresses, and telephone numbers of persons authorized to take the person under care out of the facility;

(f) Authorization for acceptance of the person under care. Juvenile detention facilities and crisis residential centers shall record the time and date a placement is made, the names of the person and organization making the placement, and the reasons for the placement;

(g) In addition, for day care facilities a completed application signed by the parent, guardian, or responsible relative;

(h) For day care facilities, a written consent signed by the parent or parents for all transportation provided by the caregiver, trips, and swimming if the child will be participating in these activities;

(i) A copy of the report sent to the department licenser of all accidents, injuries, and illnesses requiring inpatient hospitalization occurring to the child while the child is present at the facility; and

(j) Immunization records as per WAC 388-73-140 (4) and (5).

(2) The agency's records of severely and multiply handicapped children shall also contain:

(a) Information obtained upon admission including identifying and social data, an inventory of personal belongings, medical history, and a report of a physical examination and diagnosis by a physician;

(b) Information about the child's daily care including all plans, treatments, medications, observations, teaching, examinations, physicians' orders, allergic responses, consent authorizations, releases, diagnostic reports, and revisions of assessments;

(c) A summary upon discharge including diagnoses, treatments, and prognosis by the person responsible for the total plan of care, instructions given to the person providing continuing care, and a record of any referrals directed toward continuity of care; and

(d) Appropriate information if the child has died including the time and date of death, apparent cause of death, appropriate notification of the physician and relevant others (including the coroner if necessary), and the disposition of the body and personal effects.

(3) Secure crisis residential centers shall maintain, at a minimum, hourly logs of client physical location. The facility shall:

(a) Have a policy on use and retention of client physical location logs which include, but are not limited to, staff briefings between shifts to verify client physical locations at each shift change and weekly inspections of any security devices; and

(b) Retain the logs for seven years.

(4) Secure crisis residential centers shall:

(a) Maintain a department-approved log of all incidents requiring physical restraint of a child; and

(b) Maintain a written report of each incident as specified in WAC 388-73-821.

(5) Secure crisis residential centers shall prepare a written summary upon discharge which includes, but is not limited to:

(a) Identification of community based referrals;

(b) Any assessment information on the family and child;

(c) Family reconciliation attempts;

(d) Contacts with families and professionals;

(e) Recommendations for all family members;

(f) Medical and health related issues; and

(g) Any other concerns such as legal issues and school problems.

(6) Secure crisis residential centers shall send the written summary to the department within seven days of the child's discharge and retain a written summary copy in the child's case record at the secure crisis residential center.

AMENDATORY SECTION (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-606 Required positions.** An agency, except secure crisis residential centers, shall provide staff in accordance with the following requirements:

(1) A director responsible for the general management and administration of the agency's program. This person shall:

(a) Be twenty-one years of age or older;

(b) Possess ability to understand the role of the agency in meeting the needs of children;

(c) Work with representatives of appropriate agencies;

(d) Have a bachelor's degree in a social science or closely allied field; or

(e) Have had a minimum of two years' experience:

(i) Working in a group care facility; or

(ii) As a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff at least twenty-one years of age.

In addition, in crisis residential centers, no less than fifty percent of the child care staff shall have completed at least two years of college and one year of working with children in a group setting. Experience may be substituted for education on a year-for-year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience. The remaining child care staff shall have at least a high school diploma (or equivalent) and one year of

successful experience as a foster family parent for three or more children or working with children in a group setting. Two years of college may be substituted for the required experience.

(a) Except for crisis residential centers, facilities for severely and multiply-handicapped children, and juvenile detention facilities, during the waking hours of the children there shall be at least one child care staff member on duty for every eight children or major fraction (five or more) of such number of children on the premises.

For juvenile detention facilities, there shall be a minimum of one child care staff on duty for every ten children in care during the waking hours of the children.

The director and support and maintenance staff may temporarily serve as child care staff when not involved in other duties if appropriately trained and involved in ongoing training, provided the required number of child care staff is maintained.

(b) Except for crisis residential centers, whenever more than eight children are on the premises at least two adults (including at least one child care staff) shall be on duty. During nighttime hours, "on duty" staff may include staff sleeping in the group care facility and available to the children. During sleeping hours, there shall be at least one adult in proximity to the children.

(c) When only one child care staff is on duty, there shall be a second person on call.

(3) The agency shall have relief staff to enable all staff to have the equivalent of two days off a week.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

**WAC 388-73-800 Crisis residential centers.** The rules in WAC 388-73-800 through ~~((388-73-820))~~ 388-73-825 apply exclusively to crisis residential centers and, unless otherwise indicated, apply to secure crisis residential centers operating within a juvenile detention facility. The crisis residential center may, in addition to being licensed as such, also be licensed as a family foster home or as a group care facility and may house juveniles assigned for regular foster family care or group care as well as juveniles receiving temporary protective care.

NEW SECTION

**WAC 388-73-803 Crisis residential center—Admission.** (1) The administrator shall immediately attempt to notify the parent of a child's admission. Within the first twenty-four hours after admission of a child to a secure crisis residential center, the facility administrator shall assess whether the child should remain in a secure crisis residential center or be transferred to a semi-secure crisis residential center. The administrator shall ensure the determination and decision making process is documented in writing in the child's file, and is based on the following criteria:

(a) Need for continued assessment, protection, and intervention of the child in a secure facility;

(b) The likelihood the child will remain at a semi-secure facility until the child's parents can take the child home or a child in need of services or at-risk youth petition can be filed; and



(c) In making the determination for subsection (1)(a) and (b) of this section, the administrator shall take into account the:

- (i) Child's age and maturity;
- (ii) The child's physical, mental, and emotional condition upon arrival at the center;
- (iii) The circumstances that led to the child's placement at the facility;
- (iv) Whether the child's behavior endangers the health, safety, or welfare of the child or any other person;
- (v) The child's history of running away; and
- (vi) The child's willingness to cooperate in conducting the assessment.

(2) The administrator shall immediately attempt to notify the parent of a child's admission. Within the first twenty-four hours after admission of a child to a semi-secure crisis residential center, the facility administrator shall assess whether the child is likely to leave the semi-secure crisis residential center. The administrator shall ensure the determination and decision making process is documented in writing in the child's case record, and is based on the following criteria:

(a) Need for continued assessment, protection, and intervention of the child in a secure facility;

(b) The likelihood the child will remain at a semi-secure facility until:

- (i) The child's parents can take the child home; or
- (ii) A child in need of services or at-risk youth petition can be filed; and

(c) In making the determination for subsection (2)(a) and (b) of this section, the administrator shall take into account the:

- (i) Child's age and maturity;
- (ii) The child's physical, mental, and emotional condition upon arrival at the center;
- (iii) The circumstances that led to the child's placement at the facility;
- (iv) Whether the child's behavior endangers the health, safety, or welfare of the child or any other person;
- (v) The child's history of running away; and
- (vi) The child's willingness to cooperate in conducting the assessment.

(3) If the crisis residential center administrator determines the child is unlikely to remain in a semi-secure facility, the administrator shall keep the child in the secure facility for a minimum of twenty-four hours, unless released to the parent, or no more than five full days. If the child is in a semi-secure facility, has been determined likely to run away, and space is available in a secure facility within a reasonable distance, the child shall be transferred to the secure facility.

(4) If space is not available in the secure crisis residential center, the administrator of the secure facility may transfer another child to a semi-secure facility who:

- (a) Has been in the secure facility for at least seventy-two hours; and
- (b) Is determined likely to remain at a semi-secure facility.

(5) A child shall not be subject to the provisions in subsections (1), (2), (3) and (4) of this section if the child is:

- (a) Returned to the home of the parent; or

(b) Placed in a semi-secure crisis residential center because of a temporary out-of-home placement order; or

(c) Placed by court order in an out-of-home placement;

or

(d) Subject to an at-risk youth petition.

(6) As part of admission to a secure crisis residential center, staff shall:

(a) Give an orientation to a child which includes, but is not limited to:

- (i) the physical facility;
- (ii) A department-approved policy for the control of contraband, to include but not be limited to, guns and other weapons, alcohol, tobacco, and drugs within the facility; and
- (iii) A department-approved policy on client visitation which includes access by the child's attorney.

(b) Include written documentation of this orientation in each child's file.

(7) The secure crisis residential center, by the next school day, shall:

(a) Attempt to notify the child's school district of the child's placement; and

(b) Assess the child for any educational needs as a part of the treatment plan referenced in WAC 388-73-823(1).

(8) The administrator shall coordinate and document all placement change activity by:

(a) Notifying the department of a child's proposed transfer from a semi-secure to a secure crisis residential center, or proposed transfer from a secure to a semi-secure crisis residential center, to:

(i) Obtain the department's concurrence with the transfer decision; and

(ii) Communicate to the department, the child's placement location.

(b) Communicating with the semi-secure crisis residential center prior to accepting a child from a semi-secure placement, and before transferring a child to a semi-secure placement, to:

(i) Assure mutual agreement with the transfer decision; and

(ii) Ascertain if space for the child is available to support the transfer.

(c) Documenting in writing in the child's file all communication episodes pertaining to the transfer of a child under care.

(9) On admission, a secure crisis residential center administrator or their designee shall ensure a child is assessed to identify any emergent or chronic health needs that require immediate attention during the child's stay in the crisis residential center.

(10) The secure crisis residential center administrator shall establish and maintain written:

(a) Transfer procedures for the transfer of children to semi-secure crisis residential centers; and

(b) Protocols/agreements with the semi-secure crisis residential center administrator to structure child transfers.

#### NEW SECTION

**WAC 388-73-805 Crisis residential center administrator requirements—Multidisciplinary teams.** (1) At the time of admission, the crisis residential center administrator

shall advise the parent and the child of the right to request a multidisciplinary team be convened.

(2) The administrator may convene a multidisciplinary team if the parent or child makes the request.

(3) The administrator shall convene a multidisciplinary team:

(a) If the administrator has reasonable cause to believe that:

(i) A child is a "child in need of services" under RCW 13.32A.030; and

(ii) The parent is unavailable or unwilling to continue efforts to maintain the family structure.

(b) To assist the administrator in contacting the child's parents. If the administrator is unable to contact the child's parents within five days, the administrator shall:

(i) Contact the department and request the case be reviewed for a dependency filing under chapter 13.34 RCW or "child in need of services" filing under chapter 13.32A RCW; and

(ii) Document this contact in the child's case record.

(4) The administrator shall contact the designated department employee in the administrator's region who shall provide a list of the agencies that have agreed to participate in the multidisciplinary team.

(5) The administrator shall seek participation from local mental health and chemical dependency treatment providers, as appropriate.

(6) The administrator shall:

(a) Advise the child's parent(s) of the formation of a multidisciplinary team if the parent(s) did not make the initial request to form a team;

(b) Advise the parent of the parent's right to select additional members or disband the team twenty-four hours after receiving notice of a multidisciplinary team formation; and

(c) Assist in obtaining the prompt participation of additional persons the parent or child requests for the multidisciplinary team.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-815 Group crisis residential centers—Staffing.** (1) For regional crisis residential centers, the agency shall have a minimum of:

(a) One child care staff on duty for every two children in care during the waking hours of the children; and

(b) Three such staff for every eight children during the sleeping hours.

(2) For other group crisis residential centers:

(a) During the waking hours, the facility shall provide a minimum of one child care staff for every six children in temporary protective care without duties related to the children in full-time care;

(b) During the sleeping hours, the facility shall provide one such staff member for every eight such children;

(c) In group crisis residential centers caring for both children in long-term care and children in temporary care, if the two classes of children are combined into one group, the staff ratio applicable to the children in temporary care shall prevail.

(3) For both types of crisis residential centers, the facility shall provide at least one awake staff and a second available on the premises.

(4) For crisis residential centers, except secure crisis residential centers, WAC 388-73-606 shall apply. In addition:

(a) No less than fifty percent of the facility's child care staff shall have completed at least two years of college and one year of working with children in a group setting. A child care staff person's child care experience may be substituted for education on a year-for-year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience; and

(b) The remaining child care staff shall have at least a high school diploma or equivalent and one year of successful experience as a foster family parent for three or more children or when working with children in a group setting. Two years of college may be substituted for the required experience.

(5) For secure crisis residential centers, the licensee shall:

(a) At a minimum, have one child care staff on duty for every three children during the waking and sleeping hours of the children. The licensee shall maintain a maximum average of three child care staff on duty for every eight children during the waking and sleeping hours of the children; and

(b) During sleeping hours, provide a minimum of at least one awake staff on duty.

(6) A secure crisis residential center shall provide the following required staff:

(a) A director responsible for the general management and administration of the agency's program. This person shall:

(i) Be at least twenty-one years of age or older;

(ii) Possess the ability to understand the agency role in meeting the children's needs;

(iii) Work cooperatively and effectively with representatives of appropriate agencies; and

(iv) Have one of the following:

(A) A master's degree from an accredited college or university in a social science or closely allied field and have a minimum of two years' experience, without disciplinary action, in the supervision and management of a residential care program for adolescents; or

(B) A bachelor's degree from an accredited college or university in a social science or closely allied field and have a minimum of five years' experience, without disciplinary action, in a residential care program for adolescents. A minimum of two of the five years' experience shall be in the supervision and management of a residential care program for adolescents.

(b) Counselor/child care staff whose primary duties are the care, supervision, and guidance of children. This person shall:

(i) Be at least twenty-one years of age or older; and

(ii) Have a bachelor's degree from an accredited college or university in a social science or closely allied field; or

(iii) Have an associate's degree from an accredited school, college or university or two full years of college and one year of experience, without disciplinary action, in a residential care program for adolescents.

(c) The agency shall provide relief staff to enable all staff to have the equivalent of two days off during each week.

#### NEW SECTION

**WAC 388-73-821 Behavior management—Secure crisis residential centers.** (1) The secure crisis residential center shall maintain in writing and implement behavior management policies and procedures. Licensee behavior management practices shall:

- (a) Support the child's appropriate social behavior, self-control, and the rights of others;
- (b) Foster dignity and self-respect for the child; and
- (c) Reflect the ages and developmental levels of children in care.

(2) The secure crisis residential center shall use proactive, positive behavior support techniques to manage potential child behavior problems. The licensee's behavior management techniques shall include, but not be limited to:

- (a) Organization of the physical environment and staffing patterns to reduce factors leading to behavior incidents;
- (b) Intervention before behavior becomes disruptive, in the least invasive and least restrictive manner available;
- (c) Emphasis on verbal de-escalation to calm the upset child; and
- (d) Redirection strategies to present the child with alternative resolution choices.

(3) When an immediate crisis exists that requires the use of physical force, all proactive, nonphysical means must have been exhausted, and with the authorization of the center administrator or designee, the licensee may permit trained staff to use limited physical restraint, as a last resort behavior management technique, for the following emergency purposes to:

- (a) Stabilize or secure a child who is an immediate danger of physical, bodily harm to oneself, or to another person;
- (b) Protect a person from physical injury;
- (c) Obtain possession of a weapon or other dangerous object; or
- (d) Protect property from serious damage when the potential for damage may create a serious safety hazard to the occupants or jeopardize operation of the facility.

(4) The licensee shall:

- (a) Ensure the child's physical restraint uses the least force necessary to stop the child's behavior;
- (b) Stop the child's physical restraint when the immediate threat of physical bodily harm is resolved;
- (c) Develop written physical restraint policies and procedures when the behavior management practices include use of physical restraint;
- (d) Ensure the written physical restraint policies and procedures shall include, but are not limited to:
  - (i) Who can authorize the use of physical restraint; and
  - (ii) Under what circumstances the policies and procedures are used, including time limitations, re-evaluation procedures, and supervisory monitoring.
- (e) Submit the physical restraint policies and procedures in writing to the department for prior approval before the policies and procedures are implemented.

(5) The licensee's physical restraint practices shall not include a technique that inflicts pain or causes bodily harm, including, but not limited to:

- (a) Restricting body movement by placing pressure on joints, chest, heart, or vital organs;
  - (b) Using a sleeper or hair hold;
  - (c) Twisting a limb or the head;
  - (d) Throwing a child against a wall, furniture, or another large, immobile object;
  - (e) Chemical restraints, except prescribed medication, including but not limited to, pepper spray; and
  - (f) Mechanical restraints, including, but not limited to, handcuffs, a belt, cord, rope, cloth, or leather restraints, and a locked time-out room or area.
- (6) The licensee shall prevent and prohibit the use of corporal punishment, including, but not limited to biting, hitting, jerking, kicking, shaking, slapping, spanking, or striking the child, and other means of inflicting pain or causing bodily harm.

(7) After use of physical restraint, the licensee shall:

- (a) Comfort the child and reassure the child of one's well-being;
- (b) Explain to the child why physical restraint was used and discuss the incident with the child to help the child learn from the experience; and
- (c) Review the incident with the staff who used physical restraint to ensure the decision to use physical restraint and its application were appropriate.

(8) The licensee shall keep and maintain written documentation of each incident involving the use of physical restraint in a department-approved log and incident report. The licensee shall ensure this documentation includes, but is not limited to:

- (a) What the behavior and immediate crisis was that required a child's physical restraint;
- (b) What method of physical restraint was used;
- (c) What less restrictive means were taken first to avoid physical restraint of a child;
- (d) Rationale for the response chosen;
- (e) A description of the situation, documentation of each injury of both staff and clients, in writing and with a photograph, and documentation of a medical examination of each injury as a result of the child's physical restraint; and
- (f) A copy of the incident report, detailing the incident and including information listed in (a) through (e) above, is sent to the department of social and health services within twenty-four hours of the incident.

#### NEW SECTION

**WAC 388-73-822 Secure crisis residential centers—Staff training.** (1) A secure crisis residential center shall ensure all staff, prior to working in a secure crisis residential center, complete a minimum of sixteen hours of pre-service job orientation to include, but is not limited to:

- (a) Presentation of the agency's standard operation procedures manual, describing all policies and procedures specific to the secure crisis residential center;
- (b) Client management techniques;
- (c) Crisis intervention techniques; and
- (d) Family intervention techniques.

(2) A secure crisis residential center shall ensure all staff complete a minimum of twenty-four hours of on-going education and in-service training annually, which shall include, but is not limited to:

(a) Verbal de-escalation, positive behavior support, and physical response/restraint training as approved by the department;

- (b) Client behavior management;
- (c) Substance abuse;
- (d) Suicide assessment and intervention;
- (e) Crisis intervention techniques;
- (f) Family intervention techniques;
- (g) Cultural diversity;
- (h) Mental health issues and interventions;
- (i) Mediation skills;
- (j) Conflict management/problem solving skills;
- (k) Physical and sexual abuse; and
- (l) Emergency procedures.

(3) A secure crisis residential center shall ensure all staff complete the following training once every two years and the licensee shall conform to WAC 388-73-134 and WAC 388-73-143:

- (a) First aid;
- (b) CPR;
- (c) HIV/blood borne pathogens.

(4) A secure crisis residential center shall provide to staff and volunteers individual supervision and training.

(5) The administrator shall ensure completion of training is documented in writing in each staff's personnel file.

#### NEW SECTION

**WAC 388-73-823 Secure crisis residential centers—Program requirements.** Secure crisis residential centers shall provide, at a minimum, intervention services which include the following and are documented, in writing, in the child's case record:

- (1) Assessment of the family unit sufficient to develop a treatment plan;
- (2) Family counseling focused on communication skills development and problem solving;
- (3) Individual and/or group counseling; and
- (4) Referral identification and assistance in transitioning the family to community-based services.

#### NEW SECTION

**WAC 388-73-825 Secure crisis residential center—Physical facility.** (1) A level-one facility shall:

- (a) Be a free-standing facility, separate unit, or separate building within a campus with windows and exterior doors which prevent egress;
- (b) Ensure no child is maintained in a locked room which isolates the youth from the general population and/or staff;

(c) When locking doors and windows prevent egress, meet or exceed the 1995 state building code as amended for group I, division three facilities; and

(d) Maintain a recreation area, within the secured facility or secured on the property of the facility, which can accommodate children's vigorous physical activity and utilization of large muscle groups. A fence used to secure the recreation area shall meet or exceed the specifications of

the nonscalable fence referenced in the level two facility below.

(2) A level-two facility shall:

(a) Prevent unauthorized ingress and egress with a nonscalable fence around the perimeter of the facility property;

(b) Not prevent egress by locking facility doors or windows; and

(c) Design the nonscalable fence to not cause injury such as, but not limited to:

- (i) Electrification,
- (ii) Razor wire, or
- (iii) Concertina wire.

(d) Design the nonscalable fence to allow all occupants to maintain a minimum distance of fifty feet from all portions of the physical facility in case of fire. This area of refuge shall provide at least three square feet per occupant;

(e) Ensure no child is maintained in a locked room which isolates the youth from the general population and/or staff; and

(f) Maintain a recreation area, within the perimeter of the nonscalable fence, which can accommodate children's vigorous physical activity and utilization of large muscle groups.

(3) A level-three facility shall:

(a) Be a free-standing facility, separate unit, or separate building within a campus with exterior doors which have special egress-control devices as cited in the 1995 state building code, as amended, section 1004.5;

(b) Meet or exceed the 1995 state building code for group I, division two facilities with section 1004.5 special-egress control devices; and

(c) Maintain a recreation area, within the secured facility or secured on the property of the facility, which can accommodate children's vigorous physical activity and utilization of large muscle groups. A fence used to secure the recreation area shall meet or exceed the specifications of the nonscalable fence referenced in the level two facility above.

(4) The licensee shall not allow children placed in a semi-secure facility to enter a secure area of the facility. The department shall not require the provider to collocate semi-secure and secure facilities within the same facility.

(5) The department shall prohibit a jail or juvenile detention center from operating as a secure crisis residential facility except when:

(a) The secretary of the department of social and health services, in consultation with applicable local legislative bodies, may make a written finding that location of a secure crisis residential center on the same grounds as another secure juvenile structure is the only practical location available; and

(b) The physical facility is modified, if necessary, and operated so that sight and sound contact cannot be made between a resident of the secure crisis residential center and a person held in the detention facility. Staff assigned to the secure crisis residential center children shall not be simultaneously assigned to the juvenile detention center residents on the same shift.

(6) A facility, licensed by the department of health, shall meet the construction and fire life safety standards for psychiatric hospital security rooms when establishing secure residential treatment or secure crisis residential centers

within a physical structure licensed or certified by the department of health.

**WSR 96-08-002**  
**EMERGENCY RULES**  
**OFFICE OF MARINE SAFETY**

[Filed March 21, 1996, 11:40 a.m.]

Date of Adoption: March 21, 1996.

Purpose: To establish standards of financial responsibility for small tank barges operating in Washington waters.

Statutory Authority for Adoption: RCW 88.40.020

(2)(b).

Under 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 Office of Marine Safety (OMS) finds it necessary to adopt this emergency rule to allow tank vessel owners or operators to continue operations without violating state law. Under chapter 88.40 RCW, tank vessel owners or operators must be able to demonstrate financial responsibility of \$500 million. Small companies, particularly owners and operators of small tank barges, find it economically infeasible to meet this obligation. The legislature recognized this potential difficulty by authorizing OMS to adopt rules establishing lower levels of financial responsibility for these companies.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No, emergency rules are exempt under RCW 45.05.310(4) [34.05.310(4)] and 19.85.025(2).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

March 21, 1996  
 Barbara Herman  
 Director

**Emergency Rule:**  
**Financial Responsibility for Small Tank Barges**

NEW SECTION

**WAC 317-50-999 Financial responsibility for small tank barges.** (1) Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this section:

(a) "Financial responsibility" means the demonstrated capability to meet state and federal financial liability requirements for the actual costs for removal of oil spills, for natural resource damages, and necessary expenses.

(c) "Small tank barge" means a tank barge three hundred gross tons or less.

(b) "Tank barge" means a tank vessel without a means of self-propulsion or a self-propelled tank vessel less than forty meters (one hundred and thirty feet) in overall length.

(2)(a) An owner or operator of a small tank barge covered by an oil spill prevention plan submitted under chapter 317-21 WAC shall demonstrate financial responsibility the greater of \$1,200 per gross ton or \$2 million.

(b) An owner or operator of a small tank barge covered by an oil spill prevention plan that the office has disapproved shall demonstrate financial responsibility in the amount of five hundred million dollars (\$500,000,000). The office shall inform the owner or operator in writing signed by the administrator when a plan is disapproved.

(3) Evidence of financial responsibility for a small tank barge may be one or combination of the following:

(a) A current and valid certificate of enrollment in a Protection and Indemnity Mutual Association.

(b) A current and valid Master Certificate of Financial Responsibility issued by the US Coast Guard under 33 CFR Part 138 for a fleet of which the small tank barge is a part.

(c) Evidence of insurance from an insurance provider that is a member of the Water Quality Insurance Syndicate which includes at a minimum:

(i) The term of the policy;

(ii) The amount of deductible or similar retention of liability; and

(iii) A description of the coverage limits in relation to a vessel oil spill.

(d) A written opinion, based on Generally Accepted Accounting Principles in the United States (GAAP), signed by an independent certified public accountant licensed to practice in the United States that the vessel owner or operator meets one of the following tests for self-insurance:

(i) Test 1: The owner or operator has (A) a ratio of total liabilities to net worth less than 1.5; or (B) a ratio of cash flow minus \$20 million to total liabilities greater than 0.1; and (C) worldwide owners equity minus intangible assets (i.e. "tangible net worth") equal to at least \$20 million plus two times the amount of self-insurance to be established; and (D) assets in the United States amounting to at least 90 percent of total assets or at least two times the amount of self-insurance to be established.

(ii) Test 2: A current rating of the owner's or operator's most recent bond issuance of AAA, AA, A, or BBB as rated by Standard and Poors, or Aaa, Aa, A or Baa as rated by Moody's, or commercial paper rating of A1, A2 or the equivalent; and (A) worldwide owners equity minus intangible assets (i.e. "tangible net worth") equal to at least \$20 million plus two times the amount of self-insurance to be established; and (B) assets in the United States amounting to

at least 90 percent of total assets or at least two times the amount of self-insurance to be established.

(4) A small tank barge owner or operator may request in writing that the office consider evidence of financial responsibility other than the evidence described under subsection (3) of this section. The office will approve the evidence if the owner or operator demonstrates the financial ability to meet state and federal financial liability for the actual costs for removal of oil spills, for natural resource damages, and necessary expenses.

**WSR 96-08-020**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3959, #100318—Filed March 26, 1996, 3:33 p.m., effective April 1, 1996]

Date of Adoption: March 26, 1996.

Purpose: Implement change in federal poverty levels (FPL) effective April 1, 1996.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 Institutional—Available resources and 388-513-1380 Institutional—Participation.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Title XIX State Agency Letter 95-44.

Under 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.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 1, 1996.

March 26, 1996  
Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3832, filed 2/8/95, effective 3/11/95)

**WAC 388-513-1350 Institutional—Available resources.** (1) Resources are defined under chapter 388-511 WAC for an SSI-related client and under WAC 388-22-030 for an AFDC-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-513-1310, 388-

513-1330, 388-513-1340, and 388-513-1360. Transfers of resources are evaluated under WAC 388-513-1365.

(3) The department shall determine ownership of resources following Washington state community property principles for a person:

(a) Whose most recent period of institutionalization began on or before September 30, 1989; and

(b) Who remains continuously institutionalized.

(4) For purposes of Medicaid eligibility, the department shall consider resources are:

(a) Community resources when jointly held in the:

(i) Names of both the institutionalized and community spouse; or

(ii) Name of the institutionalized spouse only.

(b) The separate property of the community spouse when:

(i) Held in the separate name of the community spouse; or

(ii) Transferred between spouses as described under WAC 388-513-1370(6).

(5) The department shall:

(a) Divide by two, the total value of the community resources the spouses own; and

(b) Assign one-half of the total value of the community resources to each spouse.

(6) The department shall not consider a person continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive home-based or community-based waived services.

(7) For the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institutionalization starts on or after October 1, 1989, the department shall:

(a) Exclude resources as described under WAC 388-511-1160; except, the department shall exempt one vehicle without regard to use or value when the institutionalized person has a community spouse;

(b) Consider available to the community spouse, resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) ~~((Seventy-four))~~ Seventy-six thousand ~~((eight))~~ seven hundred ~~((twenty))~~ forty dollars effective January 1, ~~((1995))~~ 1996;

(ii) An amount established by a fair hearing under chapter 388-08 WAC when the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) Ensure resources available to the community spouse are in the name of the community spouse or transferred to the community spouse or to another person for the sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) As soon as practicable thereafter, taking into account such time as may be necessary to obtain a court order for the support of the community spouse.

(d) Consider resources greater than such resources described under subsection (7)(b) of this section available to the institutional spouse.

(8) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse:

(i) The month after the institutionalized spouse is determined eligible for institutional benefits; and

(ii) While the institutionalized spouse remains in a continuous period of institutionalization.

(b) Available to the institutionalized spouse when the institutionalized spouse:

(i) Acquires resources which, when added to resources held by the institutionalized spouse, exceed the one-person resource maximum, if the most recent period of institutionalization began on or after October 1, 1989; or

(ii) Has a break of thirty days or more in a period of institutionalization.

**AMENDATORY SECTION** (Amending Order 3848, filed 5/10/95, effective 6/10/95)

**WAC 388-513-1380 Institutional—Participation.** (1)

In reducing payment to the institution, the department shall consider the institutionalized client's:

(a) Income under WAC 388-513-1330 (3)(a), (b), (c), and (d); and

(b) Resources under WAC 388-513-1350, 388-513-1360, and 388-513-1365.

(2) In reducing payment to the institution, the department shall consider the eligible institutionalized client's excess resources available to meet the cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under subsection (2) of this section to reduce income under subsection (4) of this section.

(4) The department shall deduct the following amounts, in the following order, from the institutionalized client's total income, including amounts disregarded in determining eligibility:

(a) Specified personal needs allowance as follows:

(i) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;

(ii) Ninety dollars for a single veteran receiving an improved veteran's pension; or

(iii) Forty-one dollars and sixty-two cents for all other clients in medical institutions.

(b) Federal, state, or local income taxes:

(i) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client;

(ii) Not covered by withholding, but are owed or have been paid by the client; and

(iii) Does not exceed the one-person medically needy income level less the client's personal needs allowance.

(c) Wages not to exceed the one-person medically needy income level (MNIL) less the client's personal needs allowance for a client who:

(i) Is SSI-related; and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, the department shall:

(A) Not allow a deduction for employment expenses; and

(B) Apply the client's wages not deducted under this subsection to the client's cost of care.

(d) ~~((An amount an SSI or AFDC client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance))~~ The total amounts deducted under subsection (4)(a), (b), and (c) of this section shall not exceed the one-person MNIL.

(e) A monthly needs allowance for the community spouse not to exceed, effective January 1, 1996, one thousand ~~((eight))~~ nine hundred ~~((seventy-one))~~ nineteen dollars, unless specified in subsection (6) of this section. The department shall ensure the monthly needs allowance is:

(i) An amount added to the community spouse's gross income to provide a total community spouse's income of one thousand two hundred ~~((fifty-eight))~~ ninety-five dollars; ~~((and))~~

(ii) Excess shelter expenses as specified under subsection (5) of this section; and

(iii) Allowed only to the extent income of the institutionalized spouse is made available to the community spouse.

(f) An amount for the maintenance needs of each dependent family member residing with the community spouse:

(i) Equal to one-third of the amount one thousand two hundred ~~((fifty-four))~~ ninety-five dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) "Family member" means a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(g) When an institutional client does not have a community spouse, an amount for the maintenance needs of family members residing in the client's home equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents.

(h) Amounts for incurred medical expenses not subject to third-party payment which are the current liability of the client including, but not limited to:

(i) Health insurance premiums, coinsurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(i) Maintenance of the home of a single person or couple:

(i) Up to one hundred ~~((eighty-dollars))~~ percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period; and

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social service staff ~~((shall))~~ documents initial need for the income exemption and reviews the person's circumstances after ninety days.

(5) For the purposes of this section, the department shall:

(a) Determine shelter expenses to be the actual required maintenance expenses for the community spouse's principal residence for:

- (i) Rent;
- (ii) Mortgage;
- (iii) Taxes and insurance;
- (iv) Any maintenance care for a condominium or cooperative; and
- (v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Consider the standard shelter allocation to be three hundred ~~((seventy-seven))~~ eighty-nine dollars, effective April 1, ~~((1995))~~ 1996.

(c) Consider as "excess shelter expenses" an amount equal to the actual expenses under subsection (5)(a) of this section less the standard shelter allocation under subsection (5)(b) of this section.

(6) The department shall determine the amount the institutional spouse allocates to the community spouse may only be greater than the amount in subsection (4)~~((d))~~(e)(i) of this section when:

(a) A court enters an order against the institutionalized client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) The client shall use the income remaining after allocations specified in subsection (4) of this section toward payment of the client's cost of care at the department rate.

(8) SSI-related clients.

(a) SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to former living arrangements.

(b) The department shall not consider the SSI payment when computing the client's participation amount.

(9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the client's participation amount.

**WSR 96-08-021**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3958, #100357—Filed March 26, 1996, 3:35 p.m., effective April 1, 1996]

Date of Adoption: March 26, 1996.

Purpose: Implement federal poverty level (FPL) increases effective April 1, 1996.

Citation of Existing Rules Affected by this Order: Amending WAC 388-508-0805, 388-509-0920, 388-509-0960, 388-517-1720, 388-517-1740, and 388-517-1760.

Statutory Authority for Adoption: RCW 74.08.090.

Under 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: See Purpose above.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 6, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 6, repealed 0.

Effective Date of Rule: April 1, 1996.

March 26, 1996  
 Merry Kogut, Supervisor  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3848, filed 5/10/95, effective 6/10/95)

**WAC 388-508-0805 Pregnant woman—Income standards.** (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy when the pregnant woman meets the income requirements of this section.

(2) The department shall ensure total family income will not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the current FPL is:

Family Size	Monthly Income
(a) One	( <del>(\$1,152)</del> ) <u>\$1,194</u>
(b) Two	( <del>(\$1,547)</del> ) <u>\$1,598</u>
(c) Three	( <del>(\$1,941)</del> ) <u>\$2,002</u>
(d) Four	( <del>(\$2,336)</del> ) <u>\$2,405</u>
(e) Five	( <del>(\$2,731)</del> ) <u>\$2,809</u>
(f) Six	( <del>(\$3,125)</del> ) <u>\$3,213</u>
(g) Seven	( <del>(\$3,520)</del> ) <u>\$3,617</u>
(h) Eight	( <del>(\$3,915)</del> ) <u>\$4,021</u>
(i) <u>Nine</u>	<u>\$4,425</u>
(j) <u>Ten</u>	<u>\$4,829</u>

(i) For family units with nine members or more, add (~~(\$395)~~) \$404 to the monthly income for each additional member.

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**AMENDATORY SECTION** (Amending Order 3848A, filed 5/11/95, effective 6/11/95)

**WAC 388-509-0920 Children's health program.** (1)

The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

(a) The child is not eligible for a federally-funded Medicaid program; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

(a) Following AFDC methodology; and

(b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

(a) Citizenship;

(b) Social Security number; or

(c) Resources limits.

(4) The department shall find that one hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	\$(( <del>623</del> )) <u>645</u>
(b) Two	\$(( <del>836</del> )) <u>864</u>
(c) Three	\$(( <del>1,050</del> )) <u>1,082</u>
(d) Four	\$(( <del>1,263</del> )) <u>1,300</u>
(e) Five	\$(( <del>1,476</del> )) <u>1,519</u>
(f) Six	\$(( <del>1,690</del> )) <u>1,737</u>
(g) Seven	\$(( <del>1,903</del> )) <u>1,955</u>
(h) Eight	\$(( <del>2,116</del> )) <u>2,174</u>
<u>(i) Nine</u>	<u>\$2,392</u>
<u>(j) Ten</u>	<u>\$2,610</u>

(i) For family units with more than eight members, add ~~(\$214)~~ \$219 to the monthly income for each additional member.

**AMENDATORY SECTION** (Amending Order 3848A, filed 5/11/95, effective 6/11/95)

**WAC 388-509-0960 Children's income standards.** (1)

The department shall determine a child meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed two hundred percent of the federal poverty level (FPL). The department shall find that two hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	\$(( <del>1,245</del> )) <u>1,290</u>
(b) Two	\$(( <del>1,672</del> )) <u>1,727</u>
(c) Three	\$(( <del>2,099</del> )) <u>2,164</u>
(d) Four	\$(( <del>2,525</del> )) <u>2,600</u>
(e) Five	\$(( <del>2,952</del> )) <u>3,037</u>
(f) Six	\$(( <del>3,379</del> )) <u>3,474</u>
(g) Seven	\$(( <del>3,805</del> )) <u>3,910</u>
(h) Eight	\$(( <del>4,232</del> )) <u>4,347</u>

(i) Nine

\$4,784

(i) Ten

\$5,220

(i) For family units with more than eight members, add ~~(\$427)~~ \$437 to the monthly income for each additional member.

(2) For a child determined eligible under WAC 388-509-0910, the department shall not consider a change in family income during the certification period.

**AMENDATORY SECTION** (Amending Order 3848A, filed 5/11/95, effective 6/11/95)

**WAC 388-517-1720 Qualified Medicare beneficiaries—Income and resources.** (1) The department shall provide Medicare cost sharing for a qualified medical beneficiary (QMB) client having:

(a) A total countable income, as determined under chapter 388-511 WAC, except as specified in subsection (2) of this section, not exceeding one hundred percent of the current federal poverty level (FPL). One hundred percent of the current FPL is:

Family Size	Monthly
(i) One	\$(( <del>623</del> )) <u>645</u>
(ii) Two	\$(( <del>836</del> )) <u>864</u>

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's Social Security cost-of-living increase until April 1 of each year.

**AMENDATORY SECTION** (Amending Order 3917, filed 11/8/95, effective 12/9/95)

**WAC 388-517-1740 Special low-income Medicare beneficiaries (SLMB)—Income and resources.** (1) The department shall provide Medicare cost sharing for a SLMB client having:

(a) A total countable income, as determined under chapter 388-511 WAC, over one hundred percent of the current federal poverty level (FPL), but not exceeding one hundred twenty percent of the FPL. One hundred twenty percent of the current FPL is:

Family Size	Monthly
(i) One	\$ (( <del>747</del> )) <u>774</u>
(ii) Two	\$(( <del>1,003</del> )) <u>1,036</u>

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's social security cost-of-living increase until April 1 of each year.

**AMENDATORY SECTION** (Amending Order 3848A, filed 5/11/95, effective 6/11/95)

**WAC 388-517-1760 Qualified disabled working individuals (QDWI) income and resources.** The department shall pay premiums for Medicare Part A for a person having:

(1) A total countable family income, as determined under chapter 388-511 WAC, not exceeding two hundred

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percent of the current FPL. Two hundred percent of the current FPL is:

Family Size	Monthly
(a) One	\$ <del>(1,245)</del> <u>1,290</u>
(b) Two	\$ <del>(1,672)</del> <u>1,727</u>

(2) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

**WSR 96-08-036**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3961—Filed March 28, 1996, 4:45 p.m., effective April 1, 1996]

Date of Adoption: March 28, 1996.

Purpose: Implement change in federal poverty levels (FPL) effective April 1, 1996.

Citation of Existing Rules Affected by this Order: Amending WAC 388-507-0710 AFDC-related medical income standards.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: State Agency Letter 95-44.

Under 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: State Agency Letter 95-44. See Purpose above.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: April 1, 1996.

March 28, 1996

Philip A. Wozniak

for Merry A. Kogut, Supervisor  
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3832, filed 2/8/95, effective 3/11/95)

**WAC 388-507-0710 AFDC-related medical income standards.** (1) The department shall determine income standards for AFDC-related clients as described under WAC 388-505-0590 (2) and (4).

(2) Effective January 1, ~~(1995)~~ 1996, the department shall set the medically needy income level (MNIL) at:

(a) One person	\$ <del>(486)</del> <u>496</u>
(b) Two persons	\$ 592
(c) Three persons	\$ 667
(d) Four persons	\$ 742
(e) Five persons	\$ 858
(f) Six persons	\$ 975
(g) Seven persons	\$1,125
(h) Eight persons	\$1,242
(i) Nine persons	\$1,358
(j) Ten persons and above	\$1,483

**WSR 96-08-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 96-04—Filed March 29, 1996, 1:45 p.m.]

Date of Adoption: March 29, 1996.

Purpose: To limit the number of grass field acres burned statewide in order to minimize health effects caused by smoke.

Grass Seed Field Burning Emergency Rule

Administrative Procedure Act (RCW 34.05.325)  
 Requirements

CONCISE EXPLANATORY STATEMENT

Background: Commercially valuable grasses are grown in various parts of Washington, primarily in Spokane County, for seed production. Grass seed is generally harvested in July and August. After harvest, grass fields have traditionally been burned. Burning clears the field of straw. This kind of open burning produces large amounts of smoke. This smoke contains high levels of small particulate matter and gases that are harmful to human health. The burning season is short, generally lasting only three weeks to a month in late August and September, and, in most cases, efforts are made to direct smoke from field burning away from local population centers. Smoke management however, does not reduce emissions. Instead it seeks to minimize impacts by burning during favorable meteorological conditions. Despite these efforts, the impacts of smoke from field burning have been a continual problem, particularly in the area around Spokane. An intense debate regarding the health impacts and economic benefits of field burning has been going on for several years.

Recent Developments: Until very recently there has been no consensus regarding the health effects of field burning. Proponents have argued that field burning is a relatively minor source of particulate matter, and therefore, is not the cause of significant health effects. Opponents of field burning argue just the opposite. They contend that even with the short burning season, the smoke from field burning is a very significant cause of respiratory problems, increased suffering by asthma and other respiratory disease sufferers, and even, in some cases, mortality. Until recently, the medical community has been silent on this issue.

That changed this year when the medical community issued several statements that concluded that field burning

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smoke, and the associated fine particulate matter, does cause significant negative health impacts, especially in Spokane and its vicinity. More specifically, the following statements and findings have been made:

- Washington Thoracic Society: Position Paper February 1996  
"There is ample scientific evidence to implicate particulate matter such as products from grass field burning as a cause of increased morbidity in the community of asthma and chronic respiratory diseases.

Agricultural burning appears to be a major cause of particulate matter pollution . . . . Consequently the Washington Thoracic Society urges the promulgation of effective regulation of this activity to a level commensurate with public health as soon as possible."

- Spokane County Medical Society: Press Release January 31, 1996

"The scientific literature adequately documents the connection between excessive amounts of many kinds of small particulate matter (PM<sub>10</sub>) and the incidence of respiratory disease particularly in children and those who have previously existing lung disease. These results can be directly related to inhalation of particulate matter we experience in Spokane County from sources such as grass burning . . . .

Although grass seed field burning is not the only source of particulate matter, it is one which can be significantly modified and constitute a major difference in the quality of our air . . . ."

- American Lung Association: Press Release March 18, 1996

"In the view of Spokane chest physician, Dr. Alan Whitehouse, the frequency of nonsmoking related lung ailments in the Spokane area has risen dramatically in the past two decades and is particularly high during the grass burning season in late summer."

- American Lung Association: Facts About the Health Impacts of Grass Seed Field Burning

"Research studies conducted within the last five years document a robust association between particulate matter air pollution and premature morbidity and mortality. Rates of illness and death rise in direct proportion to rising particulate levels. (6)"

(6) "Summary of Colloquium on Particulate Air Pollution and Human Mortality and Morbidity; Irvine, California, 24 and 25 January, 1994. Dr. David Bates, *Inhalation Toxicology*, 7(1): ix-xiii, 1995

These statements and findings make clear that field burning associated with grass seed production is currently causing significant negative health effects.

Legal Framework: Chapter 70.94 RCW is Washington State's Clean Air Act. RCW 70.94.656 applies to field burning associated with grass seed production. It provides in part: "It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed."

The statute also authorizes the state to conduct detailed studies to identify alternatives to field burning. RCW 70.94.656 (1) and (2). When ecology identifies reasonably available and practical alternatives, field burning will no longer be allowed. RCW 70.94.656(3).

The legislature has also provided ecology and local air pollution control authorities with express authority to limit field burning while the aforementioned studies and alternatives are being pursued. RCW 70.94.656(4) provides as follows: Until approved alternates become available, the department or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

This is the basis of the rule promulgated today.

Necessity of the Rule: It is now beyond reasonable dispute that field burning causes significant negative health effects on the citizens of this state. The medical community strongly supports this finding and is speaking out on the matter. Therefore, ecology is today promulgating an emergency rule that limits field burning by grass growers. For 1996, the rule limits such growers to burning two thirds or 66.6% of the acreage they burned in 1995. Ecology plans to commence a formal rule-making process proposing additional acreage reduction in subsequent years.

Ecology has determined that the acreage limitations imposed by this rule are necessary to "effectively control emissions" from field burning. The health impacts of field burning have been discussed above, and are the primary reason this rule is being promulgated. However, it is important to point out that the limitations being imposed treat grass seed field burning in a manner consistent with limitations previously imposed on other sources of air pollution including other types of open burning.

To date, grass seed field burning has been regulated through smoke management rather than through emission reductions. Other significant sources of air pollution have been required to make permanent decreases in their level of emissions.

- For example, the legislature has required a 20% reduction by 1994 and a 50% reduction by 2000 of emissions from slash burning associated with timber harvesting.
- Today's motor vehicle emission limits are 96% lower than precontrolled models.
- Recent regulatory orders issued to Kaiser Aluminum and Chemical Corporations Trentwood Works in Spokane require a 53% reduction in the facility's potential particulate emissions.

Conclusion: This rule balances the interests of grass seed producers and the other citizens of the state. The rule will result in significant reductions in smoke produced by field burning, and will reduce the annual health impacts caused by this activity.

Ecology will immediately follow this emergency rule with a permanent rule that will be promulgated using the usual public process. In this process, all interested parties will have an opportunity to fully explain and advocate their position. Ecology will propose further reductions in grass seed field burning acreage in 1997 and identify practical and reasonably available alternatives to burning. Where practical alternatives to burning are identified by ecology, field

burning will stop in three years. The rule also attempts to protect an important agricultural industry by phasing in the acreage reductions over a three year period.

#### EMERGENCY RULES AND AMENDMENTS

The agency has determined that immediate amendment of chapter 173-430 WAC is necessary for the preservation of public health and 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. This determination has been made based on the following findings:

#### Findings

1. Grass burning, which involves a fairly uncontrolled and incomplete combustion process, produces substantial amounts of smoke. Research demonstrates that incomplete combustion processes produce high proportions of fine particulate.

2. Extensive research nationally, and in Washington, has documented adverse health effects from fine particulate pollution. The smaller and most damaging of these fine particulate come from incomplete combustion processes.

3. Fine particulate causes severe health impacts to sensitive populations, including individuals with chronic respiratory diseases, such as emphysema and asthma. These health impacts result in missed work or school, medical or emergency treatment, and death.

4. In the last year, the medical community in Spokane has sent numerous letters to the Department of Ecology documenting their observations of the effects of smoke from grass burning on their patients. Effects were observed in patients with and without chronic respiratory problems.

5. In spite of previous efforts to reduce the grass smoke problem using smoke management techniques, serious incidents of heavy smoke in populated areas have persisted.

6. Requiring additional reductions from the grass seed industry is consistent with requirements imposed on other industries and segments of society.

7. The department has authority from RCW 70.94.-656(4) to "limit the number of acres (of grass burning) on a pro-rata basis... in order to effectively control emissions from this source."

8. The department has committed and will continue to commit resources to the identification of practical and reasonably available alternatives to grass seed field burning.

9. Although agricultural burning is allowed when it is reasonably necessary to carry out the enterprise (WAC 173-430-040(1)), the substantial amounts of smoke generated from grass burning over a short season in confined geographical areas makes it virtually impossible to adequately prevent the smoke from impacting roads, homes, population centers, and other public areas (WAC 173-430-070 (1)(d)).

10. It is not possible for ecology to permanently amend its rule in conformance with the normal Administrative Procedure Act requirements in order to reduce the number of acres burned this year. Therefore adoption of an emergency rule is necessary.

Citation of Existing Rules Affected by this Order: Amending chapter 173-430 WAC, Agricultural burning.

Statutory Authority for Adoption: Chapter 70.94 RCW, Washington Clean Air Act.

Under 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: Recently, scientific literature has documented the connection between excessive amounts of small particulate matter and respiratory problems. Results of medical research and statements from the Spokane Medical Society and the American Lung Association link grass field smoke with negative effects on public health. County permits for grass field burning are issued as early as June. As it is not possible for the Department of Ecology to permanently amend this rule under the provisions of the Administrative Procedure Act in time to reduce the number of acres burned this year, the department decided to adopt an emergency rule requiring a 1/3 reduction of grass field acres burned this year. Adoption of a permanent rule will follow.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

March 29, 1996

Mary Riveland

Director

**AMENDATORY SECTION** (Amending WSR 95-03-083, filed 1/17/95)

**WAC 173-430-040 Agricultural burning requirements.** (1) Agricultural burning is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show it is reasonably necessary when it meets the criteria of the best management practices and no practical alternative is reasonably available.

(2) All agricultural burning requires a permit.

(a) To qualify for an agricultural burning permit the farmer must be an agricultural operation or government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

(b) A farmer must fill out the information requested on a permit application (or the permit) and return it to the permitting authority.

(i) The permitting authority may require the farmer to fill out an application prior to issuing a permit.

(ii) The application must describe the reason for burning and include at least the following information: Name and

address of the person or corporation responsible for the burn, the specific location (county; legal description: Range, section, township, block and unit number), the crop type, the type or size of the burn, directions to the burn, specific reason for the burn, the target date for burning, and any additional information required by the permitting authority. Each permitting authority may require additional information on the application.

(iii) All applications must comply with other state or local regulations.

(c) The permitting authority must evaluate the application, if there is one, and approve the permit prior to burning.

(d) Local air agencies (and the department where no local air agency exists) may issue permits for appropriate agricultural burning activities in nonattainment and urban growth areas.

(3) All agricultural burning permits require a fee. After January 1, 1995, the fee is the greater of:

(a) A minimum fee of twenty-five dollars per year per farm based on burning up to ten acres or equivalent which will be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund and the remainder will be kept by the permitting authority to cover the costs of administering and enforcing this regulation; or

(b) A variable fee based on the acreage or equivalent of agricultural burning which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and up to one dollar and twenty-five cents per acre for local permit program administration.

(i) Local permitting program administration. One portion of the fee shall cover the permitting authority's costs of administering and enforcing the program. The permitting authority may set the fee as an amount per farm per year, a set amount per fire, or a set rate no greater than one dollar and twenty-five cents per acre burned. The permitting authority must establish this portion of the fee by an appropriate, public process such as a local rule, ordinance, or resolution. In areas of the state where the department is the permitting authority this portion of the fee shall be one dollar and twenty-five cents per acre burned.

(ii) Ecology administration. Another portion of the fee shall be twenty-five cents per acre burned and cover the state-wide administrative, education, and oversight costs of the department. The amount (if any) by which the annual total, of this portion of the fee, exceeds the annual state-wide administrative, education, and oversight costs shall be deposited in the agricultural burning research fund of the air pollution control account.

(iii) Research fund. A final portion, the agricultural burning applied research portion, of the fee shall be no greater than one dollar per acre burned. The amount assessed may be less than one dollar per acre burned as periodically determined by the Ag task force based on applied research needs, regional needs and the research fund budget. The research portion of the fee assessed shall be fifty cents per acre burned starting in calendar year 1995. The Ag task force may also establish discounted assessment rates based on the use of best management practices.

(c) A farmer must pay the fee prior to receiving a permit. Refunds are allowed for portions not burned

provided the adjusted fee after subtracting refunds is no less than twenty-five dollars.

(d) The agricultural burning practices and research task force may set acreage equivalents, for nonfield type agricultural burning practices, based on the amount of emissions relative to typical field burning emissions. Any acreage equivalents, established by rule, shall be used in determining fees. For agricultural burning conducted by irrigation or drainage districts, each mile of ditch (including banks) burned is calculated on an equivalent acreage basis.

(4) All agricultural burning permits must be conditioned to minimize air pollution.

(a) A farmer must comply with the conditions on the agricultural burning permit.

~~(b) For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro rata basis, or as provided by RCW 70.94.656.~~

(e) Permits must be condition to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

(c) Additional requirements for burning of field and turf grasses grown for seed. Without regard to any previous burn permit history, in 1996, each farmer shall be limited to burning the greater of:

(i) Two thirds of the number of acres a farmer burned under a valid permit issued in 1995; or

(ii) Two thirds of the acreage in production as of the effective date of this rule amendment. "In production" means grass seed planted and growing, and is subject to verification by the department or the local air authority.

(5) Other laws. A farmer must obtain any local permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

**WSR 96-08-045**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-23—Filed March 29, 1996, 4:26 p.m., effective April 1, 1996, 12:01 a.m.]

Date of Adoption: March 28, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-321, 220-57-175, 220-57-290, 220-57-310, 220-57-315, 220-57-319, 220-57-505, and 220-57-515.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 spring chinook salmon are available for a recreational fishery in these tributaries of the Columbia River.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 8, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 1, 1996, 12:01 a.m.

March 28, 1996

Judith Freeman

Deputy

for Robert Turner

Director

#### NEW SECTION

**WAC 220-57-17500D Cowlitz River.** Notwithstanding the provisions of WAC 220-57-175:

(1) Effective April 1, 1996 until further notice, it is unlawful to take, fish for or possess salmon in those waters of the Cowlitz river downstream from the Barrier Dam to the I-5 Bridge.

(2) Effective April 1, 1996 until further notice special daily limit of one salmon greater than 12 inches in length in those waters of the Cowlitz river downstream from the I-5 Bridge to the mouth.

#### NEW SECTION

**WAC 220-57-29000S Icicle River.** Notwithstanding the provisions of WAC 220-57-290, effective May 8 through June 30, 1996, open to salmon angling with a daily bag limit of one salmon greater than 12 inches in length in those waters of the Icicle river downstream from a point 400 feet below Leavenworth National Fish Hatchery to fishing boundary markers at the mouth of the Icicle river. Night closure and non-buoyant lure restriction May 8 through June 30, 1996.

#### NEW SECTION

**WAC 220-57-31000S Kalama River.** Notwithstanding the provisions of WAC 220-57-310:

(1) Effective April 1, 1996 until further notice it is unlawful to take, fish for or possess salmon in those waters

of the Kalama river downstream from the deadline below the Kalama Falls Hatchery to the Modrow Bridge.

(2) Effective April 1, 1996 until further notice special daily limit of one salmon greater than 12 inches in length in those waters of the Kalama river downstream from the Modrow Bridge to the mouth.

#### NEW SECTION

**WAC 220-57-31500B Klickitat River.** Notwithstanding the provisions of WAC 220-57-315, effective April 1 through May 31, 1996, open to salmon angling on Wednesdays and Saturdays only, a daily bag of one salmon greater than 12 inches in length in those waters of the Klickitat river downstream from the Fisher Hill Bridge to the mouth. Night closure and non-buoyant lure restriction April 1 through May 31, 1996.

#### NEW SECTION

**WAC 220-57-31900K Lewis River.** Notwithstanding the provisions of WAC 220-57-319:

(1) Effective April 1, 1996 until further notice it is unlawful to take, fish for or possess salmon in those waters of the Lewis river downstream from Merwin Dam to the utility lines just upstream from the top of Eagle Island.

(2) Effective April 1, 1996 until further notice special daily limit of one salmon greater than 12 inches in length in those waters of the Lewis river downstream of the utility lines at the top of Eagle Island to the mouth.

#### NEW SECTION

**WAC 220-57-32100A Little White Salmon River (Drano Lake)** Notwithstanding the provisions of WAC 220-57-505 and WAC 220-56-105, effective April 1 through May 15, 1996, open to salmon angling with a daily bag limit of one salmon greater than 12 inches in length in those waters of the Little White Salmon river downstream and across from the Federal Salmon Hatchery and upstream of the Highway 14 Bridge. Night closure and non-buoyant lure restriction for salmon from April 1 through May 15, 1996.

#### NEW SECTION

**WAC 220-57-50500Y White Salmon River.** Notwithstanding the provisions of WAC 220-57-505, it shall be unlawful to take, fish for or possess salmon from those waters of the White Salmon River except as follows:

(1) April 1, 1996 until further notice daily limit of one salmon greater than 12 inches from those waters from the mouth upstream to the powerhouse below the Condit Dam.

(2) April 1 through June 15, 1996, daily limit of one salmon greater than 12 inches from those waters from the powerhouse upstream to 400 feet below the Condit Dam.

#### NEW SECTION

**WAC 220-57-51500L Wind River.** Notwithstanding the provisions of WAC 220-57-515 and WAC 220-56-105, effective April 1 through June 15, 1996, open to salmon angling with a daily bag limit of one salmon greater than 12 inches in length in those waters of the Wind River from markers 400 feet below Shipperd Falls to markers at the

river mouth boundary. Night closure and non-buoyant lure restriction April 1 through May 31, 1996.

**WSR 96-08-046**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fisheries)

[Order 96-24—Filed March 29, 1996, 4:29 p.m., effective April 1, 1996, 12:01 a.m.]

Date of Adoption: March 27, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000J and 220-56-38000D; and amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 75.08.080.

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

Reasons for this Finding: These rules are necessary to conserve the resource and to provide maximum recreational harvest opportunity. These regulations implement proposed permanent regulations until May 1, 1996, when permanent regulations become effective.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 1, 1996, 12:01 a.m.

March 27, 1996  
 Edward P. Manary  
 for Robert Turner  
 Director

NEW SECTION

**WAC 220-56-35000K Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective 12:01 a.m. April 1, 1996 until further notice, it is unlawful to harvest or possess clams, cockles or mussels taken for personal use from the following tidelands during the times shown:

- (1) Eagle Creek - Closed April 16, 1996 until further notice.
- (2) Kayak Point County Park - Closed until further notice.

(3) Kitsap Memorial State Park - Closed April 1 through May 31, 1996.

(4) Kopachuck State Park - Open - April 1 through May 15, 1996.

(5) Long Point (on the south side of Whidbey Island starting at the west end at Lovejoy Point at the city limit of Coupeville and extending east to Reeder Road on Rodena Beach). Closed - April 16, 1996 until further notice

(6) Picnic Point County Park - Closed until further notice.

(7) Point Whitney Tidelands (excluding the lagoon). Closed April 1, 1996 until further notice.

(8) Purdy Spit County Park (the southern shore of the spit, from the boat ramp to the bridge). Closed April 1, 1996 until further notice.

(9) Quilcene Bay - The tidelands on the west side of the bay described by a sign at the access site and identified by boundary markers - Open April 1, 1996 until further notice daily from official sunrise to official sunset only.

(10) Saltwater State Park - Closed until further notice.

NEW SECTION

**WAC 220-56-38000E Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380, effective 12:01 a.m. April 1, 1996 it is unlawful to harvest or possess oysters taken for personal use from the following tidelands:

(1) Brown Point (DNR 57B) - Open April 1 through May 15, 1996.

(2) Kitsap Memorial State Park - Closed April 1 through May 31, 1996.

(3) Quilcene Bay - The tidelands on the west side of the bay described by a sign at the access site and identified by boundary markers - Open April 1, 1996 until further notice daily from official sunrise to official sunset only.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. March 31, 1996:

- |                   |   |
|-------------------|---|
| WAC 220-56-35000J | Clams other than razor clams—Areas and seasons. |
| WAC 220-56-38000D | Oysters—Areas and seasons.                      |

**WSR 96-08-063**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fisheries)

[Order 96-25—Filed April 2, 1996, 4:25 p.m.]

Date of Adoption: March 29, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-240 and 220-56-285.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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

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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 harvest rate for recreational sturgeon needs to be slowed to maintain recreational opportunity. Closures downstream from McNary and Dalles dams reflect the achieving of the allowable harvest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

March 29, 1996

Judith Freeman

Deputy

for Robert Turner

Director

#### NEW SECTION

**WAC 220-56-24000B Sturgeon—Limits.** Notwithstanding the provisions of WAC 220-56-240 effective 12:01 a.m. April 1, 1996 until further notice in those waters of the Columbia River and tributaries downstream from Bonneville Dam, and all other waters of the state, one fish not less than 42 inches nor more than 66 inches in length.

#### NEW SECTION

**WAC 220-56-28500H Sturgeon—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-285:

(1) Effective April 1, 1996 until further notice it is unlawful to retain sturgeon from the Columbia River and its tributaries upstream from Bonneville Dam to the Dalles Dam.

(2) Effective May 1, 1996 until further notice it is unlawful to retain sturgeon from the Columbia River and its tributaries upstream from the Dalles Dam to McNary Dam.

**WSR 96-08-064  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

(Fisheries)

[Order 96-26—Filed April 2, 1996, 4:27 p.m.]

Date of Adoption: April 1, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-057 [220-32-05700S]; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 1, 1996

Judith Freeman

Deputy

for Robert Turner

Director

#### NEW SECTION

**WAC 220-32-05700S Columbia River sturgeon seasons above Bonneville.** (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon using set line gear effective Noon April 1, 1996 through Noon May 15, 1996.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(d) To deliver to a wholesale dealer or fish buyer sturgeon that have been dressed (not in the round).



(3) During the season specified in section 1, it shall be unlawful to use set line gear:

- (a) With more than 100 hooks per set line;
- (b) With hooks less than the minimum size of 9/0;
- (c) With treble hooks; or
- (d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective Noon May 15, 1996:

WAC 220-32-05700S Columbia River sturgeon seasons above Bonneville. (96-26)

**WSR 96-08-072  
EMERGENCY RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**  
[Filed April 3, 1996, 10:20 a.m.]

Date of Adoption: April 3, 1996.

Purpose: To lower the permissible exposure limit of asbestos.

Citation of Existing Rules Affected by this Order: Amending WAC 296-62-07705.

Statutory Authority for Adoption: Chapter 49.17 RCW.

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

Reasons for this Finding: In its effort to further reduce the significant risk of asbestos exposure, the Occupational Safety and Health Administration (OSHA) lowered the permissible exposure limit (PEL) of asbestos in the federal asbestos final rule published in Federal Register Volume 59, Number 153, dated August 10, 1994. 29 CFR Parts 1910, et al.

The complexity of the federal final rule revision to the asbestos standard has significantly delayed adoption of the federal asbestos rules. The department is required to adopt standards identical to or at least as effective as the federal regulations to comply with chapter 49.17 RCW, Washington Industrial Safety and Health Act (WISHA), and to meet its obligations to OSHA as a "state plan" stated under Section 18(b) of the Occupational Safety and Health Act. 29 U.S.C. 667(b).

In response to the department's request for an extension for adoption of the federal final rules, OSHA, in letter dated March 6, 1996, granted extension on the overall adoption of the asbestos rules conditional to an emergency adoption of the lowered permissible exposure limit of asbestos.

Therefore, to meet the department's obligations to the asbestos PEL and to provide interim protection for workers and the public, the department is adopting the emergency amended rule to lower the permissible exposure limit of asbestos to the federal level.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 3, 1996  
Dorette M. Markham  
for Mark O. Brown  
Director

**AMENDATORY SECTION** (Amending Order 89-03, filed 5/15/89, effective 6/30/89)

**WAC 296-62-07705 Permissible exposure limits (PEL).** (1) Time weighted average (TWA): The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of ~~((0.2))~~ 0.1 fiber per cubic centimeter ~~((0.2))~~ 0.1 f/cc) of air as an eight-hour time-weighted average (TWA) as determined by the method prescribed in WAC 296-62-07735, Appendix A, or by an equivalent method recognized by the department.

(2) Excursion limit. The employer shall ensure that no employee is exposed to an airborne concentration of asbestos in excess of 1.0 fiber per cubic centimeter of air (1 f/cc) as averaged over a sampling period of ~~((fifteen))~~ thirty minutes.

EMERGENCY



**OFFICE OF THE CODE REVISER**  
**Quarterly Rule Making Report**  
**Covering Registers 96-01 through 96-06**

Type of Activity	New	Amended	Repealed
<b>AGRICULTURE, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	6	0
Number of Rules Proposed for Permanent Adoption	35	5	14
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	3	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	5	0	3
Number of Sections Adopted on the Agency's own Initiative	0	5	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	8	3
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>ATTORNEY GENERAL'S OFFICE</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	21	4
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	10	42	8
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	6	12	14
Number of Sections Adopted on the Agency's own Initiative	10	42	8
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>BELLEVUE COMMUNITY COLLEGE</b>			
Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	0	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	1	0	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	1	1
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>BUILDING CODE COUNCIL</b>			
Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	11	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**CENTRAL WASHINGTON UNIVERSITY**

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	0	0
Number of Rules Adopted as Emergency Rules	6	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	12	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	6	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**CRIMINAL JUSTICE TRAINING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	1	0

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Type of Activity	New	Amended	Repealed
<b>ECOLOGY, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	10	1
Number of Rules Proposed for Permanent Adoption	0	8	0
Number of Rules Withdrawn	35	0	9
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	1
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	10	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	7	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	3	0
Number of Sections Adopted using Other Alternative Rule Making	1	21	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>EDUCATION, STATE BOARD OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	0	0
Number of Rules Proposed for Permanent Adoption	2	5	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	10	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	7	0	0
Number of Sections Adopted on the Agency's own Initiative	10	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	17	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>EMPLOYMENT SECURITY DEPARTMENT</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	2	0
<b>EXECUTIVE ETHICS BOARD</b>			
Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	32	37	3
Number of Rules Proposed for Permanent Adoption	14	2	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	14	13	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	17	12	0
Number of Sections Adopted on the Agency's own Initiative	14	11	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	30	25	3
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FINANCIAL MANAGEMENT, OFFICE OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	5	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FISH AND WILDLIFE, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	30	20
Number of Rules Adopted as Emergency Rules	29	0	30
Number of Rules Proposed for Permanent Adoption	4	17	3
Number of Sections Adopted at Request of a Nongovernmental Entity	1	4	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	2	0	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	1	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	50	8	41
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**FOREST PRACTICES BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	2	9	0
Number of Rules Withdrawn	7	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	9	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**GAMBLING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Rules Proposed for Permanent Adoption	8	25	0
Number of Rules Withdrawn	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**GENERAL ADMINISTRATION, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	5	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	5	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HEALTH CARE AUTHORITY**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	7	0
Number of Rules Proposed for Permanent Adoption	4	18	12
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	10	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	10	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HEALTH, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	62	27	100
Number of Rules Adopted as Emergency Rules	0	1	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	3	9	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	54	45	101
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	8	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	10	18	1
Number of Sections Adopted on the Agency's own Initiative	54	33	100
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	63	25	100
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HIGHER EDUCATION COORDINATING BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**HORSE RACING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	54	0	36

**HUMAN RIGHTS COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	5	28	2

**INSURANCE COMMISSIONER'S OFFICE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	0	0
Number of Rules Proposed for Permanent Adoption	1	19	2
Number of Rules Withdrawn	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**JUDICIAL CONDUCT, COMMISSION ON**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	11	1	0

MISCELLANEOUS



Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	26	0	22

**LABOR AND INDUSTRIES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	11	0
Number of Rules Proposed for Permanent Adoption	42	282	13
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	8	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	9	0
Number of Sections Adopted on the Agency's own Initiative	0	4	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LAKE WASHINGTON TECHNICAL COLLEGE**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	0	0

**LIBRARY, WASHINGTON STATE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	22
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	22
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LICENSING, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	16	0
Number of Rules Proposed for Permanent Adoption	0	4	1
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	16	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	4	0	0
Number of Sections Adopted on the Agency's own Initiative	0	16	0
Number of Sections Adopted using Negotiated Rule Making	0	4	0
Number of Sections Adopted using Other Alternative Rule Making	5	12	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LIQUOR CONTROL BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	16	8	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	16	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	7	0
Number of Sections Adopted on the Agency's own Initiative	16	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**LOTTERY COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	1	0
Number of Rules Proposed for Permanent Adoption	7	0	0
Number of Rules Withdrawn	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	4	0	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**MARINE SAFETY, OFFICE OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	15	0
Number of Rules Proposed for Permanent Adoption	17	0	16
Number of Sections Adopted at Request of a Nongovernmental Entity	0	6	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	13	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	7	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**NATURAL RESOURCES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	5	33	8

**PARKS AND RECREATION COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	13	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	20	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	20	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**PERSONNEL RESOURCES BOARD/PERSONNEL, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	14	0
Number of Rules Proposed for Permanent Adoption	6	15	1
Number of Rules Withdrawn	0	5	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	4	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	2	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	28	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	28	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**POLLUTION LIABILITY INSURANCE AGENCY**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	2	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	26	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	26	2	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
<b>PUBLIC DISCLOSURE COMMISSION</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	2	15	0
Number of Rules Proposed for Permanent Adoption	3	3	2
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	2	0
Number of Sections Adopted on the Agency's own Initiative	2	17	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>PUBLIC EMPLOYMENT RELATIONS COMMISSION</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Proposed for Permanent Adoption	5	75	14
<b>PUBLIC INSTRUCTION, SUPERINTENDENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	2	40	0
Number of Rules Proposed for Permanent Adoption	0	35	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	2	39	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	2	40	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>RETIREMENT SYSTEMS, DEPARTMENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	1	3	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	11	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	10	10	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
<b>REVENUE, DEPARTMENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	3	15	10
Number of Rules Proposed for Permanent Adoption	1	1	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	16	10
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	1	0
Number of Sections Adopted on the Agency's own Initiative	3	21	10
Number of Sections Adopted using Negotiated Rule Making	3	21	10
Number of Sections Adopted using Other Alternative Rule Making	0	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**SECRETARY OF STATE, OFFICE OF THE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	64	3
Number of Rules Adopted as Emergency Rules	0	32	3
Number of Rules Proposed for Permanent Adoption	0	8	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	36	4
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	60	12
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	2	128	12
Number of Sections Adopted on the Agency's own Initiative	2	128	12
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	128	12
Number of Sections Adopted using Pilot Rule Making	0	0	0

**SKAGIT VALLEY COLLEGE**

Type of Activity	New	Amended	Repealed
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	0	4
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	6	13	0
Number of Rules Adopted as Emergency Rules	1	9	0
Number of Rules Proposed for Permanent Adoption	102	47	77
Number of Sections Adopted at Request of a Nongovernmental Entity	0	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	17	14	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	7	37	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	2	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	15	34	3

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	8	55	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**TRANSPORTATION IMPROVEMENT BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	3	0
Number of Sections Adopted on the Agency's own Initiative	0	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**TRANSPORTATION, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	29	4	0
Number of Rules Withdrawn	25	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	29	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	29	3	0
Number of Sections Adopted using Negotiated Rule Making	29	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	5	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

**UTILITIES AND TRANSPORTATION COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	9	0
Number of Rules Proposed for Permanent Adoption	0	1	0

**WESTERN WASHINGTON UNIVERSITY**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	29	6	19
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	3	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	3	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	3	3	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISCELLANEOUS

Type of Activity	New	Amended	Repealed
<b>TOTALS FOR THE QUARTER:</b>			
Number of Permanent Rules Adopted	218	376	183
Number of Rules Adopted as Emergency Rules	49	59	33
Number of Rules Proposed for Permanent Adoption	347	643	223
Number of Rules Withdrawn	69	8	11
Number of Sections Adopted at Request of a Nongovernmental Entity	2	57	5
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	165	297	144
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	17	46	1
Number of Sections Adopted in Order to Comply with Federal Statute	0	5	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	98	249	30
Number of Sections Adopted on the Agency's own Initiative	232	416	205
Number of Sections Adopted using Negotiated Rule Making	43	33	10
Number of Sections Adopted using Other Alternative Rule Making	176	385	122
Number of Sections Adopted using Pilot Rule Making	0	0	0

**WSR 96-08-003**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
 (Beef Commission)  
 [Memorandum—March 20, 1996]

April 16, 1996\* American Federation of Teachers Dinner  
 Tuesday 6:30 p.m., Culinary Connections,  
 Brier Hall 105, Main Campus

\*The EdCC board of trustees will not take any action at these events.

There has been a change in the meeting schedule of the Washington State Beef Commission. We have rescheduled the April 25 budget meeting for May 23. Here is the new 1996 meeting schedule for the Washington State Beef Commission:

March 7-8 (Thursday-Friday)	Strategic Planning	Seattle
May 23 (Thursday)	Budget Meeting	Ellensburg
June 20 (Thursday)	Annual Meeting	Ellensburg
October 31-November 2 (Thursday-Saturday)	Regular Meeting (WCA/WCW Convention)	Kennewick
December (TBD)	Regular Meeting (WCF Annual Convention)	Pasco

**WSR 96-08-009**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—March 21, 1996]

**BOARD OF TRUSTEES**  
**SPECIAL MEETING NOTICE**

The Edmonds Community College board of trustees will attend the following functions:

March 25, 1996* Monday	Connections New Student Orientation VIP Social 4-5 p.m. in Triton Union Building 202, Main Campus
April 4, 1996* Thursday	Thank You Celebration for Carl Opgaard 3-5 p.m. in Triton Union Building 202, Main Campus
April 8, 1996*	Campus Wide Welcome for Jack Oharah 3-4 p.m. in Triton Union Building 202, Main Campus
April 16, 1996 Tuesday	Special EdCC Board of Trustee Meeting 4:30 p.m., Sno-King Building Boardroom 103 6600 196th S.W., Lynnwood

**WSR 96-08-010**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**  
 (Community Economic Revitalization Board)  
 [Memorandum—March 21, 1996]

The May 16, 1996, regular CERB meeting will be held at the Holiday Inn in Yakima, Washington, instead of the regular location at Sea-Tac Airport. The meeting will begin at 8:00 a.m. and conclude at approximately 11:30 a.m.

Any questions regarding the CERB meetings should be referred to:

CERB Administrator  
 Community Economic Revitalization Board  
 c/o Department of Community, Trade and  
 Economic Development  
 2001 6th Avenue, Suite 2700  
 Seattle, WA 98121  
 (206) 464-6282

**WSR 96-08-011**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 96-04]

**IMPLEMENTING THE AMERICANS WITH DISABILITIES ACT**  
**AND SUPERSEDING EXECUTIVE ORDER 93-03**

**WHEREAS**, Washington has a strong history of protecting the rights of people with disabilities through such laws and

MISCELLANEOUS

regulations as the Washington State Law Against Discrimination and the Barrier Free Design Standards; and

**WHEREAS**, the Americans with Disabilities Act strengthens and clarifies the rights of the over half a million Washingtonians with disabilities by further opening the doors of opportunity and inclusion; and

**WHEREAS**, the Americans with Disabilities Act requires that all services, programs, and activities, when viewed in their entirety, be readily accessible to and usable by people with disabilities, whether such services and programs are directly provided by state agencies or through purchase agreements or other contracts; and

**WHEREAS**, Washington will not be meeting its most basic responsibility until all Washingtonians can equally participate in and enjoy the benefits of state services and programs;

**NOW, THEREFORE**, I, Mike Lowry, Governor of the State of Washington, by virtue of the power invested in me, do hereby order and direct as follows:

1. No state agency, board, or commission under the executive branch shall discriminate against an individual on the basis of disability. Individuals with disabilities, whether state employees, applicants, clients of state services, or members of the general public, shall be treated with respect and dignity and provided meaningful access to state services, programs, activities, and employment opportunities.
2. Each executive branch agency, board and commission shall appoint an ADA coordinator to execute a self-evaluation and transition plan and oversee implementation of the ADA.
3. Executive branch agencies, boards and commissions shall ensure that public meetings, hearings, and conferences are held in locations free of mobility barriers, and that sign language interpreters, assistive devices, and information in alternate forms (Braille, large print, or audio tapes) shall be provided upon request.
4. In communicating with employees, applicants, clients of services, or the general public, all state agencies, boards and commissions shall ensure that Teletypewriters (TTYs), sign language interpreters, assistive devices, and information in alternate formats shall be provided upon request.
5. Each executive branch agency, board and commission shall review its use of information technology, including computers, video conferencing, kiosks, telephone information systems, etc. and identify barriers that employees or members of the public with disabilities experience in utilizing these systems. Agencies shall consult with persons with disabilities in identifying barriers and developing solutions to such barriers. As agencies develop, design, or redesign new technology systems, the agency director shall assure that the agency has taken reasonable steps to eliminate barriers that current users with disabilities face in utilizing these systems. The agency shall develop a plan to eliminate additional barriers should the need arise in the future. The Office of Financial Management, the Department of

Information Services, and the Information Services Board and other appropriate agencies shall assist agencies to identify solutions through technical assistance and consultation.

6. The director of the Department of General Administration shall ensure that all newly-constructed buildings or those undergoing major renovation in excess of \$5 million over which the director has authority comply fully with the state barrier free code. The director shall convene a panel representing persons with disabilities, the state Building Code Council, and the Governor's Committee on Disability Issues and Employment to review architectural design development plans for said projects prior to final approval. The panel shall provide barrier-free access review for plans submitted by the Department of Transportation, natural resource agencies, and institutions of higher education.
7. The Governor's ADA coordinator shall establish a task force to assist state agencies to meet the objectives of this executive order. The task force shall develop consistent policies on the provision of reasonable accommodation and sign language interpreters, the location of TTYs and Braille printers, and other policies that affect all state agencies. The task force shall be comprised of state employees and citizens with expertise in particular ADA issues and shall be convened by the Governor's ADA coordinator as needed.
8. This executive order supersedes Executive Order 93-03, which is hereby rescinded.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 22nd day of March, A.D., nineteen hundred and ninety-six.

Mike Lowry

Governor of Washington

**BY THE GOVERNOR:**

Ralph Munro

Secretary of State

**WSR 96-08-014**

**NOTICE OF PUBLIC MEETINGS  
TRANSPORTATION COMMISSION**

[Memorandum—March 21, 1996]

The April 1996 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, April 17, and at 9:00 a.m. on Thursday, April 18, 1996, at the Bellingham City Hall, 210 Lottie Street, Bellingham, WA. A six-year plan and budget workshop will be held on Tuesday, April 23, at 9:00 a.m. in the Phoenix Rooms C and D, Radisson Hotel, 17001 Pacific Highway South, SeaTac, WA.

The May 1996 Washington State Transportation Commission meetings will be held at 9:00 a.m. on Wednesday, May 15,



and 9:00 a.m. on Thursday, May 16, 1996, at the Transportation Building, Room 1D2, Olympia, Washington.

**WSR 96-08-047**  
**NOTICE OF PUBLIC MEETINGS**  
**EAST REGION EMERGENCY MEDICAL SERVICES AND TRAUMA COUNCIL**

[Memorandum—March 25, 1996]

In compliance with the Open Public Meetings Act please consider this document as notification of scheduled meetings for the East Region EMS and Trauma Care Council, which meets regularly on the second Wednesday of each month at Deaconess Health and Education Center, West 800 Fifth Avenue, Spokane, WA, at 1:00-3:30 p.m. Listed below is the meeting schedule for 1996:

- January 10, 1996
- February 14, 1996
- March 13, 1996
- April 10, 1996
- May 8, 1996
- June 12, 1996
- July 10, 1996
- August 14, 1996
- September 11, 1996
- October 9, 1996
- November 13, 1996
- December 11, 1996

**WSR 96-08-048**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF NATURAL RESOURCES**

(Board of Natural Resources)  
 [Memorandum—March 29, 1996]

**Schedule of Public Hearings for  
 DNR's Draft Habitat Conservation Plan and  
 Draft Environmental Impact Statement**

DATE	CITY	LOCATION	TIME
Monday, April 15	Vancouver	Evergreen School District Evergreen Room 13501 N.E. 28th Street Vancouver, WA	6:00 p.m. - 9:00 p.m.
Tuesday, April 16	Spokane	Spokane Falls Community College Student Union Building 17 3410 Fort George Wright Drive Spokane, WA	6:00 p.m. - 9:00 p.m.
Thursday, April 18	Seattle	Port of Seattle Commission Chambers 2711 Alaskan Way, Pier 69 Seattle, WA	6:00 p.m. - 9:00 p.m.
Tuesday, April 30	Port Angeles	Vern Burton Community Center 308 East 4th Port Angeles, WA	6:00 p.m. - 9:00 p.m.
Monday, May 6	Olympia	Senate Hearing Room 4 John Cherberg Building - 1st Floor Capitol Campus Olympia, Washington	4:00 p.m. - 7:00 p.m.

**WSR 96-08-051**  
**NOTICE OF PUBLIC MEETINGS**  
**HUMAN RIGHTS COMMISSION**

[Memorandum—March 29, 1996]

In September, the commission will meet in Vancouver rather than in Spokane. The dates, September 26 and 27, remain the same.

In October the commission will meet in Spokane rather than in Vancouver. The dates have also changed from October 24 and 25 to October 17 and 18.

**1996 SCHEDULE OF COMMISSION MEETINGS (REVISED)**

DATE(S)	LOCATION
January 25-26	Tacoma
February 15-16	Olympia
March 14-15	Silverdale
April 18-19	Walla Walla
May 16-17	Seattle (public hearing)
June 27-28	Yakima
July 25-26	Bellingham (planning session)
August 23	Olympia (conference call)
September 26-27	Vancouver
October 17-18	Spokane*
November 15	Olympia (conference call)
December 20	Olympia (conference call)

\*NWCAMH conference scheduled for October 18-20.

**WSR 96-08-052**  
**RULES COORDINATOR**  
**STATE INVESTMENT BOARD**

[Filed April 2, 1996, 9:23 a.m.]

This letter is to inform you that Marilyn Bowman, who was appointed as the rules coordinator for this agency, has left the State Investment Board to take a position in another agency. Therefore, please direct any rule issues to me, Helen Small, Deputy Director for Operations, until further notice.

Helen Small  
 Deputy Director  
 for Operations

**WSR 96-08-053**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF NATURAL RESOURCES**  
 (Natural Heritage Advisory Council)

[Memorandum—April 1, 1996]

**NOTICE OF MEETING FOR THE  
 NATURAL HERITAGE ADVISORY COUNCIL  
 1996**

The Natural Heritage Advisory Council will meet on the following date: June 6, 1996, 9:30 a.m. to 5:00 p.m. at Washington State University, Tri-Cities Campus, Room W244, 100 Sprout Road, Richland, WA 99352-1643.

MISCELLANEOUS

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact Department of Natural Resources, Washington Natural Heritage Program, Forest Resources Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

**WSR 96-08-054****ATTORNEY GENERAL OPINION**

[Filed April 2, 1996, 10:20 a.m.]

**NOTICE OF REQUEST FOR  
ATTORNEY GENERAL'S OPINION****WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on the request listed in this volume of the register, you should notify the Attorney General's Office of your interest by April 24, 1996. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by April 24, 1996, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on an opinion requested pursuant to Senate Concurrent Resolution 8435 on questions relating to the authority, rights, and responsibilities among agencies and institutions with respect to state trust lands under existing laws. The due date by which comments must be received is May 10, 1996.

**WSR 96-08-070****NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—April 3, 1996]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, April 18, 1996, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

**WSR 96-08-075  
NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF  
NATURAL RESOURCES  
(Forest Practices Board)  
[Memorandum—April 3, 1996]**

The Forest Practices Board is rescheduling its May 8, 1996, regular quarterly meeting required by WAC 222-08-040.

The board will hold its meeting in the Columbia River Gorge area as follows:

May 21, 1996, a field trip will be held enroute to Stevenson, Washington. At 3 p.m., the board will hold a workshop on scenic issues at Skamania Lodge, 1131 Skamania Lodge Way, Stevenson, WA.

May 22, 1996, the regular quarterly board meeting will be held at Skamania Lodge, followed by a retreat/workshop to set their future work plan.

May 23, 1996, the retreat/workshop will continue from 8 a.m. to noon at the Skamania County Rock Creek Recreation Center.

For more information, contact the Forest Practices Board secretary at the Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, FAX (360) 902-1784.

**WSR 96-08-080  
PUGET SOUND WATER  
QUALITY AUTHORITY  
[Filed April 3, 1996, 11:20 a.m.]****NOTICE OF PROPOSED PLAN  
AMENDMENT AND PUBLIC HEARING  
PUGET SOUND WATER QUALITY AUTHORITY**

Title of Proposal: Amendments to the 1994 Puget Sound water quality management plan to incorporate provisions of ESHB 2875 (1996 c 138).

Purpose: Incorporate key provisions of the Puget Sound Water Quality Protection Act, ESHB 2875, chapter 138, Laws of 1996, into the Puget Sound plan.

Statutory Authority for Adoption: Chapter 90.70 RCW.

Statute Being Implemented: Chapter 90.70 RCW and Section 320 of the federal Clean Water Act, as amended by P.L. 100-4, the Water Quality Act of 1987, 33 U.S.C. 1330.

State Environmental Policy Act Compliance: The Puget Sound Water Quality Authority will file a declaration of nonsignificance on this proposal. Public comment on the declaration is being accepted concurrently.

Summary: The Puget Sound Water Quality Protection Act establishes the Puget Sound action team and the Puget Sound Council which will take over most of the functions of the Puget Sound Water Quality Authority on July 1, 1996. The act establishes new procedures for developing a biennial work plan and budget and reporting progress in implementing that work plan. It directs the Puget Sound action team to develop performance measures and to revise chapter 400-12 WAC to direct counties to develop a prioritized list of watershed improvement projects. The proposed amendments to the 1994 Puget Sound water quality management plan

include (1) a new paragraph directing readers to consider references to the Puget Sound Water Quality Authority to be references to the Puget Sound action team, (2) a rewritten element EM-8 which replaces the existing element with the work plan, budget, reporting, and performance measures required by ESHB 2875, and (3) amendments to elements WP-2.1 and WP-4 directing the action team to amend chapter 400-12 WAC and calling on counties to develop a prioritized list of watershed improvement projects. The Puget Sound Water Quality Authority encourages all interested parties to review the full proposal. To obtain a copy, contact the authority (see below).

Name of Agency Person Responsible for Drafting and Implementation: John Dohrmann, Director of Planning and Compliance, Puget Sound Water Quality Authority, 300 Desmond Drive, Lacey, WA. Mailing Address: P.O. Box 40900, Olympia, WA 98504-0900. Phone (206) 407-7300 or 1-800-54-SOUND, FAX (206) 407-7333.

Name of Proponent: Puget Sound Water Quality Authority, a state agency.

Public Hearing: A public hearing on the proposal will be held on May 8, 1996, at 1:30 p.m., in Room 1S-16 at the Ecology Building, 300 Desmond Drive, Lacey, WA. If you plan to attend the hearing, please call the authority offices before the hearing to check on any last minute changes in the hearing date, place, or time.

Submit Written Comments to: John Dohrmann, at the address listed above. Comments must be received by 5:00 p.m., May 13, 1996.

Date of Intended Adoption: The authority proposes to adopt the amendment on May 15, 1996.

April 3, 1996  
Nancy McKay  
Executive Director



**Table of WAC Sections Affected**

**KEY TO TABLE**

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.

**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

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 identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
4-25-530	PREP	96-05-081	16-316-327	AMD-P	96-07-087	50-20-100	AMD	96-04-013
4-25-722	PREP	96-05-082	16-319-041	AMD-P	96-03-065	50-20-100	DECOD	96-04-013
4-25-750	PREP	96-05-083	16-400-040	AMD-P	96-05-071	50-20-110	AMD	96-04-013
4-25-810	PREP	96-05-084	16-400-100	AMD-P	96-05-071	50-20-110	DECOD	96-04-013
16-06-010	REP-P	96-06-082	16-400-210	AMD-P	96-05-071	50-20-120	AMD	96-04-013
16-06-020	REP-P	96-06-082	16-529-150	AMD	96-03-151	50-20-120	DECOD	96-04-013
16-06-030	REP-P	96-06-082	16-532-010	AMD-P	96-05-086	50-20-130	AMD	96-04-013
16-06-040	REP-P	96-06-082	16-532-040	PREP	96-02-082	50-20-130	DECOD	96-04-013
16-06-050	REP-P	96-06-082	16-532-0402	NEW-P	96-05-086	50-20-140	AMD	96-04-013
16-06-060	REP-P	96-06-082	16-532-0404	NEW-P	96-05-086	50-20-140	DECOD	96-04-013
16-06-070	REP-P	96-06-082	16-532-0406	NEW-P	96-05-086	50-20-150	AMD	96-04-013
16-06-080	REP-P	96-06-082	16-532-0408	NEW-P	96-05-086	50-20-150	DECOD	96-04-013
16-06-090	REP-P	96-06-082	16-532-0410	NEW-P	96-05-086	50-20-160	AMD	96-04-013
16-06-100	REP-P	96-06-082	16-532-0412	NEW-P	96-05-086	50-20-160	DECOD	96-04-013
16-06-110	REP-P	96-06-082	16-532-0414	NEW-P	96-05-086	50-20-170	REP	96-04-013
16-06-120	REP-P	96-06-082	16-540-040	AMD	96-03-150	50-20-180	DECOD	96-04-013
16-06-130	REP-P	96-06-082	16-560-06001	AMD	96-07-054	50-20-190	AMD	96-04-013
16-06-140	REP-P	96-06-082	16-750	AMD-C	96-03-093	50-20-190	DECOD	96-04-013
16-06-150	NEW-P	96-06-082	16-750-005	AMD	96-06-030	50-20-200	REP	96-04-013
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16-06-235	NEW-P	96-06-082	44-10-140	AMD	96-03-155	50-30-050	AMD	96-03-059
16-156	PREP	96-08-074	44-10-150	AMD	96-03-155	50-30-050	DECOD	96-03-059
16-168-010	NEW-P	96-05-027	44-10-160	AMD	96-03-155	50-30-060	AMD	96-03-059
16-168-020	NEW-P	96-05-027	44-10-165	REP	96-03-155	50-30-060	DECOD	96-03-059
16-168-030	NEW-P	96-05-027	44-10-170	AMD	96-03-155	50-30-065	NEW	96-03-059
16-168-040	NEW-P	96-05-027	44-10-180	AMD	96-03-155	50-30-065	DECOD	96-03-059
16-168-050	NEW-P	96-05-027	44-10-200	AMD	96-03-155	50-30-068	NEW	96-03-059
16-168-060	NEW-P	96-05-027	44-10-210	AMD	96-03-155	50-30-068	DECOD	96-03-059
16-168-070	NEW-P	96-05-027	44-10-220	REP	96-03-155	50-30-070	AMD	96-03-059
16-168-080	NEW-P	96-05-027	44-10-221	NEW	96-03-155	50-30-070	DECOD	96-03-059
16-168-090	NEW-P	96-05-027	44-10-222	NEW	96-03-155	50-30-075	NEW	96-03-059
16-168-100	NEW-P	96-05-027	44-10-223	NEW	96-03-155	50-30-075	DECOD	96-03-059
16-300-010	AMD	96-04-058	44-10-230	REP	96-03-155	50-30-080	AMD	96-03-059
16-316	PREP	96-07-085	44-10-300	AMD	96-03-155	50-30-080	DECOD	96-03-059
16-316	PREP	96-07-086	44-10-310	AMD	96-03-155	50-30-085	NEW	96-03-059
16-316-280	AMD-P	96-07-087	44-10-320	REP	96-03-155	50-30-085	DECOD	96-03-059

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
50-30-090	AMD	96-03-059	132N-276-100	AMD-P	96-07-029	162-38-040	AMD-P	96-06-087
50-30-090	DECOD	96-03-059	132N-276-110	AMD-P	96-07-029	162-38-050	AMD-P	96-06-087
50-30-095	NEW	96-03-059	132N-276-120	AMD-P	96-07-029	162-38-060	AMD-P	96-06-087
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50-30-100	DECOD	96-03-059	132N-276-150	AMD-P	96-07-029	162-38-090	AMD-P	96-06-087
50-30-110	REP	96-03-059	137-08	PREP	96-07-099	162-38-100	AMD-P	96-06-087
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50-60-020	DECOD	96-04-028	162-04	PREP	96-02-081	173-224-050	AMD	96-03-041
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50-60-040	DECOD	96-04-028	162-08-062	AMD-P	96-06-087	173-303-515	REP-W	96-05-020
50-60-042	DECOD	96-04-028	162-08-071	AMD-P	96-06-087	173-330-010	REP-W	96-05-020
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50-60-090	DECOD	96-04-028	162-12-100	AMD-P	96-08-055	173-354-008	NEW-W	96-05-020
50-60-09005	DECOD	96-04-028	162-12-110	REP-P	96-08-055	173-354-010	NEW-W	96-05-020
50-60-09010	DECOD	96-04-028	162-12-120	AMD-P	96-08-055	173-354-020	NEW-W	96-05-020
50-60-09015	DECOD	96-04-028	162-12-130	AMD-P	96-08-055	173-354-050	NEW-W	96-05-020
50-60-09020	DECOD	96-04-028	162-12-135	AMD-P	96-08-055	173-354-070	NEW-W	96-05-020
50-60-100	DECOD	96-04-028	162-12-140	AMD-P	96-08-055	173-354-090	NEW-W	96-05-020
50-60-110	DECOD	96-04-028	162-12-150	AMD-P	96-08-055	173-354-100	NEW-W	96-05-020
50-60-120	DECOD	96-04-028	162-12-160	AMD-P	96-08-055	173-354-150	NEW-W	96-05-020
50-60-125	DECOD	96-04-028	162-12-170	AMD-P	96-08-055	173-354-200	NEW-W	96-05-020
50-60-130	DECOD	96-04-028	162-12-180	AMD-P	96-08-055	173-354-230	NEW-W	96-05-020
50-60-140	DECOD	96-04-028	162-22	AMD-P	96-08-055	173-354-300	NEW-W	96-05-020
50-60-145	DECOD	96-04-028	162-22-010	AMD-P	96-08-055	173-354-320	NEW-W	96-05-020
50-60-150	DECOD	96-04-028	162-22-020	AMD-P	96-08-055	173-354-340	NEW-W	96-05-020
50-60-160	DECOD	96-04-028	162-22-030	REP-P	96-08-055	173-354-360	NEW-W	96-05-020
50-60-165	DECOD	96-04-028	162-22-040	REP-P	96-08-055	173-354-380	NEW-W	96-05-020
50-60-170	DECOD	96-04-028	162-22-050	AMD-P	96-08-055	173-354-400	NEW-W	96-05-020
50-60-190	DECOD	96-04-028	162-22-060	AMD-P	96-08-055	173-354-440	NEW-W	96-05-020
50-60-200	DECOD	96-04-028	162-22-070	AMD-P	96-08-055	173-354-460	NEW-W	96-05-020
50-60-210	DECOD	96-04-028	162-22-080	AMD-P	96-08-055	173-354-500	NEW-W	96-05-020
55-01-010	AMD-E	96-03-104	162-22-090	AMD-P	96-08-055	173-354-515	NEW-W	96-05-020
55-01-020	AMD-E	96-03-104	162-22-100	NEW-P	96-08-055	173-354-525	NEW-W	96-05-020
55-01-030	AMD-E	96-03-104	162-30	AMD-P	96-08-055	173-354-535	NEW-W	96-05-020
55-01-040	AMD-E	96-03-104	162-30-010	AMD-P	96-08-055	173-354-545	NEW-W	96-05-020
55-01-050	AMD-E	96-03-104	162-30-020	AMD-P	96-08-055	173-354-555	NEW-W	96-05-020
55-01-060	AMD-E	96-03-104	162-30-030	NEW-P	96-08-055	173-354-600	NEW-W	96-05-020
55-01-070	AMD-E	96-03-104	162-30-035	NEW-P	96-08-055	173-354-620	NEW-W	96-05-020
67-35-910	AMD-P	96-08-026	162-30-040	NEW-P	96-08-055	173-354-640	NEW-W	96-05-020
82-05-010	NEW	96-03-048	162-30-050	NEW-P	96-08-055	173-354-660	NEW-W	96-05-020
82-05-020	NEW	96-03-048	162-30-060	NEW-P	96-08-055	173-354-670	NEW-W	96-05-020
82-05-030	NEW	96-03-048	162-30-070	NEW-P	96-08-055	173-354-680	NEW-W	96-05-020
82-05-040	NEW	96-03-048	162-30-080	NEW-P	96-08-055	173-354-700	NEW-W	96-05-020
82-05-050	NEW	96-03-048	162-30-090	NEW-P	96-08-055	173-354-720	NEW-W	96-05-020
131-28-026	AMD	96-03-049	162-30-100	NEW-P	96-08-055	173-354-800	NEW-W	96-05-020
132N-276	PREP	96-03-101	162-36	PREP	96-02-081	173-354-900	NEW-W	96-05-020
132N-276-005	AMD-P	96-07-029	162-36-001	NEW-P	96-06-087	173-354-990	NEW-W	96-05-020
132N-276-010	AMD-P	96-07-029	162-36-005	NEW-P	96-06-087	173-400-030	AMD-P	96-06-036
132N-276-020	AMD-P	96-07-029	162-36-006	NEW-P	96-06-087	173-400-045	AMD-P	96-06-036
132N-276-030	AMD-P	96-07-029	162-36-010	AMD-P	96-06-087	173-400-070	AMD-P	96-06-036
132N-276-040	AMD-P	96-07-029	162-36-020	AMD-P	96-06-087	173-400-075	AMD-P	96-06-036
132N-276-050	AMD-P	96-07-029	162-38	PREP	96-02-081	173-400-105	AMD-P	96-06-036
132N-276-060	AMD-P	96-07-029	162-38-010	AMD-P	96-06-087	173-400-115	AMD-P	96-06-036
132N-276-070	AMD-P	96-07-029	162-38-020	REP-P	96-06-087	173-400-116	AMD-P	96-06-036
132N-276-080	AMD-P	96-07-029	162-38-030	REP-P	96-06-087	173-400-141	AMD-P	96-06-036
132N-276-090	AMD-P	96-07-029	162-38-035	AMD-P	96-06-087	173-430-040	AMD-E	96-08-041

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174-120	PREP	96-03-138	182-08-170	REP	96-08-042	208-08-030	NEW-P	96-06-085
174-120-010	REP-P	96-08-066	182-08-180	AMD-P	96-02-079	208-08-040	NEW-P	96-06-085
174-120-015	NEW-P	96-08-066	182-08-180	AMD	96-08-042	208-08-050	NEW-P	96-06-085
174-120-025	NEW-P	96-08-066	182-08-190	AMD-P	96-02-079	208-08-060	NEW-P	96-06-085
174-120-030	REP-P	96-08-066	182-08-190	AMD	96-08-042	208-08-070	NEW-P	96-06-085
174-120-035	NEW-P	96-08-066	182-08-195	REP-P	96-02-079	208-08-080	NEW-P	96-06-085
174-120-040	REP-P	96-08-066	182-08-195	REP	96-08-042	208-08-090	NEW-P	96-06-085
174-120-045	NEW-P	96-08-066	182-08-200	AMD-P	96-02-079	208-08-100	NEW-P	96-06-085
174-120-050	REP-P	96-08-066	182-08-200	AMD	96-08-042	208-08-110	NEW-P	96-06-085
174-120-055	NEW-P	96-08-066	182-08-210	AMD-P	96-02-079	208-08-120	NEW-P	96-06-085
174-120-060	REP-P	96-08-066	182-08-210	AMD	96-08-042	208-08-130	NEW-P	96-06-085
174-120-065	NEW-P	96-08-066	182-08-220	AMD-P	96-02-079	208-08-140	NEW-P	96-06-085
174-120-070	REP-P	96-08-066	182-08-220	AMD	96-08-042	208-418	AMD-P	96-08-076
174-120-075	NEW-P	96-08-066	182-08-300	REP-P	96-02-079	208-418-020	RECOD	96-06-011
174-120-080	REP-P	96-08-066	182-08-300	REP	96-08-042	208-418-020	AMD-P	96-08-076
174-120-085	NEW-P	96-08-066	182-12-110	AMD-P	96-02-080	208-418-030	RECOD	96-06-011
174-120-090	REP-P	96-08-066	182-12-110	AMD	96-08-043	208-418-030	REP-P	96-08-076
180-16-238	PREP	96-04-070	182-12-111	AMD-P	96-02-080	208-418-040	RECOD	96-06-011
180-16-238	NEW-P	96-07-046	182-12-111	AMD	96-08-043	208-418-040	AMD-P	96-08-076
180-20	PREP	96-08-060	182-12-115	AMD-P	96-02-080	208-418-045	RECOD	96-06-011
180-40-240	AMD-P	96-08-061	182-12-115	AMD	96-08-043	208-418-045	AMD-P	96-08-076
180-40-255	AMD-P	96-08-061	182-12-117	NEW-P	96-02-080	208-418-050	RECOD	96-06-011
180-40-310	AMD-P	96-08-061	182-12-117	NEW	96-08-043	208-418-050	AMD-P	96-08-076
180-40-315	AMD-P	96-08-061	182-12-119	NEW-P	96-02-080	208-418-060	RECOD	96-06-011
180-40-317	NEW-P	96-08-061	182-12-119	NEW	96-08-043	208-418-060	AMD-P	96-08-076
180-40-320	AMD-P	96-08-061	182-12-122	REP-P	96-02-080	208-418-070	RECOD	96-06-011
180-51-050	AMD-P	96-04-071	182-12-122	REP	96-08-043	208-418-070	AMD-P	96-08-076
180-75-047	AMD	96-08-022	182-12-130	REP-P	96-02-080	208-418-080	RECOD	96-06-011
180-78-160	PREP	96-07-102	182-12-130	REP	96-08-043	208-418-080	REP-P	96-08-076
180-79-086	AMD-P	96-04-047	182-12-132	AMD-P	96-02-080	208-436-010	RECOD	96-06-011
180-79-086	AMD	96-08-023	182-12-132	AMD	96-08-043	208-436-020	RECOD	96-06-011
180-79-230	AMD	96-08-022	182-12-145	AMD-P	96-02-080	208-436-030	RECOD	96-06-011
180-79-311	AMD-P	96-04-048	182-12-145	AMD	96-08-043	208-436-040	RECOD	96-06-011
180-79-311	AMD	96-08-024	182-12-151	REP-P	96-02-080	208-436-050	RECOD	96-06-011
180-79-334	AMD-P	96-04-049	182-12-151	REP	96-08-043	208-436-060	RECOD	96-06-011
180-79-334	AMD	96-08-025	182-12-160	REP-P	96-02-080	208-436-070	RECOD	96-06-011
180-83-010	NEW	96-04-073	182-12-160	REP	96-08-043	208-436-080	RECOD	96-06-011
180-83-020	NEW	96-04-073	182-12-165	REP-P	96-02-080	208-436-090	RECOD	96-06-011
180-83-030	NEW	96-04-073	182-12-165	REP	96-08-043	208-440-010	RECOD	96-06-011
180-83-040	NEW	96-04-073	182-12-200	AMD-P	96-02-080	208-440-020	RECOD	96-06-011
180-83-050	NEW	96-04-073	182-12-200	AMD	96-08-043	208-440-030	RECOD	96-06-011
180-83-060	NEW	96-04-073	182-12-215	AMD-P	96-02-080	208-440-040	RECOD	96-06-011
180-83-070	NEW	96-04-073	182-12-215	AMD	96-08-043	208-440-050	RECOD	96-06-011
180-85-025	AMD-P	96-04-074	182-12-220	AMD-P	96-02-080	208-444-010	RECOD	96-06-011
180-85-025	AMD	96-08-013	182-12-220	AMD	96-08-043	208-464-010	RECOD	96-06-011
180-85-032	NEW-P	96-04-074	184-10-140	NEW-C	96-03-033	208-464-020	RECOD	96-06-011
180-85-032	NEW	96-08-013	192-12-300	PREP	96-03-158	208-464-030	RECOD	96-06-011
180-86	PREP	96-06-038	192-12-305	PREP	96-03-158	208-464-040	RECOD	96-06-011
180-87-093	NEW-P	96-04-072	192-16-002	AMD-P	96-04-065	208-464-050	RECOD	96-06-011
180-87-093	NEW	96-08-012	192-16-024	NEW-P	96-04-065	208-464-060	RECOD	96-06-011
182-08-010	AMD-P	96-02-079	192-16-051	AMD-P	96-04-065	208-464-070	RECOD	96-06-011
182-08-010	AMD	96-08-042	192-16-052	NEW-P	96-04-065	208-464-080	RECOD	96-06-011
182-08-015	NEW-P	96-02-079	192-28-105	PREP	96-03-159	208-464-090	RECOD	96-06-011
182-08-015	NEW	96-08-042	192-28-120	PREP	96-03-159	208-472-010	RECOD	96-06-011
182-08-020	AMD-P	96-02-079	192-36-010	NEW-P	96-08-062	208-472-012	RECOD	96-06-011
182-08-020	AMD	96-08-042	192-36-015	NEW-P	96-08-062	208-472-015	RECOD	96-06-011
182-08-030	REP-P	96-02-079	192-36-020	NEW-P	96-08-062	208-472-020	RECOD	96-06-011
182-08-030	REP	96-08-042	192-36-025	NEW-P	96-08-062	208-472-025	RECOD	96-06-011
182-08-040	REP-P	96-02-079	196-16-005	REP-P	96-07-052	208-472-041	RECOD	96-06-011
182-08-040	REP	96-08-042	196-16-007	AMD-P	96-07-052	208-472-045	RECOD	96-06-011
182-08-060	REP-P	96-02-079	196-16-010	AMD-P	96-07-052	208-472-050	RECOD	96-06-011
182-08-060	REP	96-08-042	196-16-020	AMD-P	96-07-052	208-472-060	RECOD	96-06-011
182-08-090	NEW-P	96-02-079	196-16-031	AMD-P	96-07-052	208-472-065	RECOD	96-06-011
182-08-095	NEW	96-08-042	196-20-010	AMD-P	96-07-052	208-472-070	RECOD	96-06-011
182-08-110	REP-P	96-02-079	196-20-020	AMD-P	96-07-052	208-472-075	RECOD	96-06-011
182-08-110	REP	96-08-042	196-20-030	AMD-P	96-07-052	208-472-080	RECOD	96-06-011
182-08-120	AMD-P	96-02-079	196-21-010	NEW-P	96-07-052	208-480-010	RECOD	96-06-011
182-08-120	AMD	96-08-042	196-21-020	NEW-P	96-07-052	208-480-020	RECOD	96-06-011
182-08-160	AMD-P	96-02-079	196-21-030	NEW-P	96-07-052	208-480-030	RECOD	96-06-011
182-08-160	AMD	96-08-042	196-24-058	NEW-P	96-07-037	208-480-040	RECOD	96-06-011
182-08-165	AMD-P	96-02-079	204-56	PREP	96-06-060	208-480-050	RECOD	96-06-011
182-08-165	AMD	96-08-042	208-08-010	NEW-P	96-06-085	208-480-060	RECOD	96-06-011

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208-620-010	NEW	96-04-013	208-660-150	RECOD	96-04-028	220-55-110	AMD	96-05-004
208-620-020	NEW	96-04-013	208-660-160	RECOD	96-04-028	220-56-100	AMD-C	96-05-005
208-620-030	NEW	96-04-013	208-660-165	RECOD	96-04-028	220-56-105	AMD-C	96-05-005
208-620-040	NEW	96-04-013	208-660-170	RECOD	96-04-028	220-56-124	AMD-C	96-05-005
208-620-050	NEW	96-04-013	208-660-190	RECOD	96-04-028	220-56-190	AMD-C	96-05-005
208-620-060	NEW	96-04-013	208-660-200	RECOD	96-04-028	220-56-191	AMD-C	96-05-005
208-620-070	NEW	96-04-013	208-660-210	RECOD	96-04-028	220-56-195	AMD-C	96-05-005
208-620-080	NEW	96-04-013	208-680A	PREP	96-06-084	220-56-205	AMD-C	96-05-005
208-620-090	NEW	96-04-013	208-680A-010	RECOD	96-05-018	220-56-235	AMD	96-05-004
208-620-100	RECOD	96-04-013	208-680A-020	RECOD	96-05-018	220-56-240	AMD	96-05-004
208-620-110	RECOD	96-04-013	208-680A-030	RECOD	96-05-018	220-56-24000B	NEW-E	96-08-063
208-620-120	RECOD	96-04-013	208-680A-040	RECOD	96-05-018	220-56-28500G	NEW-E	96-06-052
208-620-130	RECOD	96-04-013	208-680B	PREP	96-06-084	220-56-28500G	REP-E	96-06-052
208-620-140	RECOD	96-04-013	208-680B-010	RECOD	96-05-018	220-56-28500H	NEW-E	96-08-063
208-620-150	NEW	96-04-013	208-680B-020	RECOD	96-05-018	220-56-310	AMD-C	96-05-005
208-620-160	RECOD	96-04-013	208-680B-030	RECOD	96-05-018	220-56-325	AMD	96-05-004
208-620-170	RECOD	96-04-013	208-680B-050	RECOD	96-05-018	220-56-326	NEW	96-05-004
208-620-180	NEW	96-04-013	208-680B-070	RECOD	96-05-018	220-56-330	AMD-C	96-05-005
208-620-190	RECOD	96-04-013	208-680B-080	RECOD	96-05-018	220-56-350	AMD-C	96-05-005
208-620-200	NEW	96-04-013	208-680B-090	RECOD	96-05-018	220-56-35000J	REP-E	96-08-046
208-620-210	RECOD	96-04-013	208-680C	PREP	96-06-084	220-56-35000K	NEW-E	96-08-046
208-620-220	NEW	96-04-013	208-680C-020	RECOD	96-05-018	220-56-36000Q	NEW-E	96-07-051
208-630-005	RECOD	96-03-059	208-680C-030	RECOD	96-05-018	220-56-36000Q	REP-E	96-07-051
208-630-010	RECOD	96-03-059	208-680C-040	RECOD	96-05-018	220-56-372	AMD	96-05-004
208-630-015	RECOD	96-03-059	208-680C-050	RECOD	96-05-018	220-56-380	AMD-C	96-05-005
208-630-020	RECOD	96-03-059	208-680D	PREP	96-06-084	220-56-38000D	REP-E	96-08-046
208-630-025	RECOD	96-03-059	208-680D-010	RECOD	96-05-018	220-56-38000E	NEW-E	96-08-046
208-630-030	RECOD	96-03-059	208-680D-020	RECOD	96-05-018	220-57-130	AMD-C	96-05-005
208-630-035	RECOD	96-03-059	208-680D-030	RECOD	96-05-018	220-57-135	AMD-C	96-05-005
208-630-040	RECOD	96-03-059	208-680D-040	RECOD	96-05-018	220-57-137	AMD-C	96-05-005
208-630-050	RECOD	96-03-059	208-680D-050	RECOD	96-05-018	220-57-140	AMD-C	96-05-005
208-630-060	RECOD	96-03-059	208-680D-060	RECOD	96-05-018	220-57-155	AMD-C	96-05-005
208-630-065	RECOD	96-03-059	208-680D-070	RECOD	96-05-018	220-57-160	AMD-C	96-05-005
208-630-068	RECOD	96-03-059	208-680D-080	RECOD	96-05-018	220-57-16000D	NEW-E	96-06-051
208-630-070	RECOD	96-03-059	208-680E	PREP	96-06-084	220-57-170	AMD-C	96-05-005
208-630-075	RECOD	96-03-059	208-680E-011	RECOD	96-05-018	220-57-175	AMD-C	96-05-005
208-630-080	RECOD	96-03-059	208-680F	PREP	96-06-084	220-57-17500D	NEW-E	96-08-045
208-630-085	RECOD	96-03-059	208-680F-010	RECOD	96-05-018	220-57-187	NEW-C	96-05-005
208-630-090	RECOD	96-03-059	208-680F-020	RECOD	96-05-018	220-57-190	AMD-C	96-05-005
208-630-095	RECOD	96-03-059	208-680F-040	RECOD	96-05-018	220-57-200	AMD-C	96-05-005
208-630-100	RECOD	96-03-059	208-680F-050	RECOD	96-05-018	220-57-205	AMD-C	96-05-005
208-660-010	RECOD	96-04-028	208-680F-060	RECOD	96-05-018	220-57-210	AMD-C	96-05-005
208-660-020	RECOD	96-04-028	208-680F-070	RECOD	96-05-018	220-57-215	AMD-C	96-05-005
208-660-030	RECOD	96-04-028	220-32-05100S	NEW-E	96-04-039	220-57-220	AMD-C	96-05-005
208-660-035	RECOD	96-04-028	220-32-05100S	REP-E	96-04-039	220-57-230	AMD-C	96-05-005
208-660-040	RECOD	96-04-028	220-32-05700S	NEW-E	96-08-064	220-57-235	AMD-C	96-05-005
208-660-042	RECOD	96-04-028	220-32-05700S	REP-E	96-08-064	220-57-240	AMD-C	96-05-005
208-660-045	RECOD	96-04-028	220-33-01000D	NEW-E	96-05-055	220-57-250	AMD-C	96-05-005
208-660-050	RECOD	96-04-028	220-33-01000D	REP-E	96-05-055	220-57-260	AMD-C	96-05-005
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208-660-070	RECOD	96-04-028	220-33-04000B	REP-E	96-04-026	220-57-270	AMD-C	96-05-005
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208-660-08005	RECOD	96-04-028	220-44-050	AMD-P	96-03-154	220-57-285	AMD-C	96-05-005
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208-660-08015	RECOD	96-04-028	220-52-04600M	NEW-E	96-03-055	220-57-300	AMD-C	96-05-005
208-660-08020	RECOD	96-04-028	220-52-04600N	NEW-E	96-06-006	220-57-310	AMD-C	96-05-005
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208-660-08030	RECOD	96-04-028	220-52-07300D	NEW-E	96-03-014	220-57-31500B	NEW-E	96-08-045
208-660-08035	RECOD	96-04-028	220-52-07300D	REP-E	96-03-014	220-57-319	AMD-C	96-05-005
208-660-08040	RECOD	96-04-028	220-52-07300E	NEW-E	96-04-038	220-57-31900K	NEW-E	96-08-045
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208-660-090	RECOD	96-04-028	220-52-07300F	NEW-E	96-05-019	220-57-340	AMD-C	96-05-005
208-660-09005	RECOD	96-04-028	220-52-07300F	REP-E	96-05-019	220-57-345	AMD-C	96-05-005
208-660-09010	RECOD	96-04-028	220-52-07300F	REP-E	96-05-033	220-57-350	AMD-C	96-05-005
208-660-09015	RECOD	96-04-028	220-52-07300G	NEW-E	96-05-033	220-57-370	AMD-C	96-05-005
208-660-09020	RECOD	96-04-028	220-52-07300G	REP-E	96-05-033	220-57-385	AMD-C	96-05-005
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208-660-110	RECOD	96-04-028	220-52-07300H	REP-E	96-06-005	220-57-415	AMD-C	96-05-005
208-660-120	RECOD	96-04-028	220-55-005	AMD	96-05-004	220-57-425	AMD-C	96-05-005
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220-57-51500L	NEW-E	96-08-045	230-04-064	AMD	96-07-075	232-12-829	REP-E	96-03-083
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222-10-040	NEW-C	96-05-090	230-12-020	AMD-P	96-04-085	232-28-02270	AMD	96-04-027
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222-10-041	NEW-C	96-05-090	230-12-076	NEW-P	96-03-077	232-28-02290	AMD	96-04-027
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222-16-010	AMD-C	96-04-076	230-20-050	AMD-P	96-03-079	232-28-209	REP	96-04-027
222-16-010	AMD-C	96-05-090	230-20-050	AMD	96-07-078	232-28-21201	REP	96-04-027
222-16-075	NEW-W	96-03-067	230-20-052	NEW-P	96-03-079	232-28-215	REP	96-04-027
222-16-080	AMD-E	96-03-009	230-20-052	NEW	96-07-078	232-28-216	REP	96-04-027
222-16-080	AMD-C	96-04-076	230-20-055	AMD-P	96-03-080	232-28-225	REP	96-04-027
222-16-080	AMD-C	96-05-090	230-20-055	AMD	96-07-076	232-28-240	AMD	96-04-027
222-16-085	NEW-C	96-04-076	230-20-064	AMD-P	96-03-077	232-28-241	AMD	96-04-027
222-16-085	NEW-C	96-05-090	230-20-064	AMD	96-05-011	232-28-241	AMD-P	96-06-068
222-16-086	NEW-C	96-04-076	230-20-064	AMD	96-07-075	232-28-242	AMD	96-04-027
222-16-086	NEW-C	96-05-090	230-20-101	AMD-P	96-07-072	232-28-246	AMD	96-04-027
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222-16-100	NEW-C	96-05-090	230-20-103	AMD	96-07-078	232-28-249	AMD	96-04-027
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222-21-030	NEW-W	96-03-067	230-20-106	NEW-P	96-07-072	232-28-252	AMD-P	96-06-071
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222-30-050	AMD-E	96-03-009	230-20-230	AMD-P	96-03-079	232-28-260	NEW	96-04-027
222-30-050	AMD-C	96-04-076	230-20-230	AMD	96-07-078	232-28-261	NEW-P	96-06-075
222-30-050	AMD-C	96-05-090	230-20-240	AMD-P	96-07-072	232-28-262	NEW-P	96-06-076
222-30-060	AMD-E	96-03-009	230-20-241	AMD-P	96-07-072	232-28-404	REP	96-04-027
222-30-060	AMD-C	96-04-076	230-20-242	AMD-P	96-07-072	232-28-407	REP	96-04-027
222-30-060	AMD-C	96-05-090	230-20-246	AMD-P	96-07-072	232-28-419	REP-P	96-06-077
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222-30-065	NEW-C	96-04-076	230-20-325	AMD	96-07-077	232-28-60102	REP	96-04-027
222-30-065	NEW-C	96-05-090	230-20-335	AMD-P	96-03-076	232-28-604	REP	96-04-027
222-30-070	AMD-E	96-03-009	230-20-335	AMD	96-07-077	232-28-60415	REP	96-04-027
222-30-070	AMD-C	96-04-076	230-20-510	NEW-P	96-03-080	232-28-605	REP	96-04-027
222-30-070	AMD-C	96-05-090	230-20-510	NEW	96-07-076	232-28-60508	REP	96-04-027
222-30-075	NEW-E	96-03-009	230-25-040	AMD-P	96-03-076	232-28-61610	REP	96-04-027
222-30-075	NEW-W	96-03-067	230-25-040	AMD	96-07-077	232-28-619	AMD-C	96-05-044
222-30-100	AMD-E	96-03-009	230-25-220	AMD-P	96-03-076	232-28-61900K	NEW-E	96-03-053
222-30-100	AMD-C	96-04-076	230-25-220	AMD	96-07-077	232-28-61900K	REP-E	96-03-053
222-30-100	AMD-C	96-05-090	230-25-330	AMD-P	96-05-042	232-28-61900L	NEW-E	96-03-054
222-38-020	AMD-E	96-03-009	230-40-010	AMD-P	96-07-073	232-28-61900L	REP-E	96-03-054
222-38-020	AMD-W	96-03-067	230-40-030	AMD-P	96-03-081	232-28-61900M	NEW-E	96-04-043
222-38-030	AMD-E	96-03-009	230-40-055	AMD-P	96-03-080	232-28-61900M	REP-E	96-04-043
222-38-030	AMD-W	96-03-067	230-46-100	AMD-P	96-07-073	232-28-61900P	NEW-E	96-06-007
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230-02-137	NEW	96-07-075	230-50-562	NEW-P	96-03-078	232-28-812	REP	96-04-027
230-02-162	NEW-P	96-03-077	232-12-001	AMD-C	96-05-044	245-02-040	PREP	96-04-059
230-02-162	NEW	96-07-075	232-12-01701	NEW-P	96-06-063	245-02-040	AMD-P	96-08-090
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230-02-278	AMD	96-07-075	232-12-026	NEW-P	96-06-062	246-11	PREP	96-06-048
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246-100-218	NEW-P	96-04-077	246-918-095	AMD	96-03-073	246-920-200	REP	96-03-073
246-100-218	NEW	96-08-028	246-918-110	AMD	96-03-073	246-920-210	REP	96-03-073
246-254-053	AMD-P	96-07-103	246-918-120	AMD	96-03-073	246-920-220	REP	96-03-073
246-254-070	AMD-P	96-07-103	246-918-130	AMD	96-03-073	246-920-230	REP	96-03-073
246-254-080	AMD-P	96-07-103	246-918-140	AMD	96-03-073	246-920-240	REP	96-03-073
246-254-090	AMD-P	96-07-103	246-918-170	AMD	96-03-073	246-920-250	REP	96-03-073
246-254-100	AMD-P	96-07-103	246-918-180	AMD	96-03-073	246-920-260	REP	96-03-073
246-310	PREP	96-05-059	246-918-250	AMD	96-03-073	246-920-270	REP	96-03-073
246-318	PREP	96-07-011	246-918-260	AMD	96-03-073	246-920-280	REP	96-03-073
246-430-030	AMD-P	96-04-081	246-918-310	AMD	96-03-073	246-920-290	REP	96-03-073
246-810-990	AMD	96-08-069	246-918-990	AMD	96-03-073	246-920-300	REP	96-03-073
246-838-010	PREP-W	96-06-028	246-919-010	NEW	96-03-073	246-920-310	REP	96-03-073
246-838-130	PREP-W	96-06-028	246-919-020	NEW	96-03-073	246-920-320	REP	96-03-073
246-839-120	PREP-W	96-06-028	246-919-030	NEW	96-03-073	246-920-330	REP	96-03-073
246-840-910	NEW	96-05-060	246-919-100	NEW	96-03-073	246-920-340	REP	96-03-073
246-840-920	NEW	96-05-060	246-919-110	NEW	96-03-073	246-920-350	REP	96-03-073
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246-840-940	NEW	96-05-060	246-919-130	NEW	96-03-073	246-920-370	REP	96-03-073
246-840-950	NEW	96-05-060	246-919-140	NEW	96-03-073	246-920-380	REP	96-03-073
246-840-960	NEW	96-05-060	246-919-150	NEW	96-03-073	246-920-390	REP	96-03-073
246-840-970	NEW	96-05-060	246-919-200	NEW	96-03-073	246-920-400	REP	96-03-073
246-840-980	NEW	96-05-060	246-919-210	NEW	96-03-073	246-920-410	REP	96-03-073
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246-885-030	NEW	96-07-012	246-919-320	NEW	96-03-073	246-920-480	REP	96-03-073
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246-915-030	AMD-P	96-08-068	246-919-340	NEW	96-03-073	246-920-500	REP	96-03-073
246-917-020	REP	96-03-073	246-919-350	NEW	96-03-073	246-920-510	REP	96-03-073
246-917-025	REP	96-03-073	246-919-355	NEW	96-03-073	246-920-520	REP	96-03-073
246-917-026	REP	96-03-073	246-919-360	NEW	96-03-073	246-920-530	REP	96-03-073
246-917-030	REP	96-03-073	246-919-365	NEW	96-03-073	246-920-540	REP	96-03-073
246-917-040	REP	96-03-073	246-919-370	NEW	96-03-073	246-920-550	REP	96-03-073
246-917-050	REP	96-03-073	246-919-380	NEW	96-03-073	246-920-560	REP	96-03-073
246-917-060	REP	96-03-073	246-919-390	NEW	96-03-073	246-920-570	REP	96-03-073
246-917-070	REP	96-03-073	246-919-395	NEW	96-03-073	246-920-580	REP	96-03-073
246-917-080	REP	96-03-073	246-919-400	NEW	96-03-073	246-920-590	REP	96-03-073
246-917-090	REP	96-03-073	246-919-410	NEW	96-03-073	246-920-600	REP	96-03-073
246-917-100	REP	96-03-073	246-919-420	NEW	96-03-073	246-920-610	REP	96-03-073
246-917-110	REP	96-03-073	246-919-430	NEW	96-03-073	246-920-620	REP	96-03-073
246-917-120	REP	96-03-073	246-919-440	NEW	96-03-073	246-920-630	REP	96-03-073
246-917-121	REP	96-03-073	246-919-450	NEW	96-03-073	246-920-640	REP	96-03-073
246-917-125	REP	96-03-073	246-919-460	NEW	96-03-073	246-920-650	REP	96-03-073
246-917-126	REP	96-03-073	246-919-470	NEW	96-03-073	246-920-660	REP	96-03-073
246-917-130	REP	96-03-073	246-919-480	NEW	96-03-073	246-920-670	REP	96-03-073
246-917-135	REP	96-03-073	246-919-500	NEW	96-03-073	246-920-680	REP	96-03-073
246-917-140	REP	96-03-073	246-919-510	NEW	96-03-073	246-920-690	REP	96-03-073
246-917-150	REP	96-03-073	246-919-600	NEW	96-03-073	246-920-710	REP	96-03-073
246-917-160	REP	96-03-073	246-919-610	NEW	96-03-073	246-920-720	REP	96-03-073
246-917-170	REP	96-03-073	246-919-620	NEW	96-03-073	246-920-730	REP	96-03-073
246-917-180	REP	96-03-073	246-919-700	NEW	96-03-073	246-920-740	REP	96-03-073
246-917-190	REP	96-03-073	246-919-710	NEW	96-03-073	246-920-750	REP	96-03-073
246-917-200	REP	96-03-073	246-919-720	NEW	96-03-073	246-920-760	REP	96-03-073
246-917-210	REP	96-03-073	246-919-730	NEW	96-03-073	246-920-770	REP	96-03-073
246-917-220	REP	96-03-073	246-919-740	NEW	96-03-073	246-920-780	REP	96-03-073
246-917-300	REP	96-03-073	246-919-750	NEW	96-03-073	246-920-890	REP	96-03-073
246-917-990	REP	96-03-073	246-919-760	NEW	96-03-073	246-924-080	AMD-P	96-02-086
246-918	AMD	96-03-073	246-919-770	NEW	96-03-073	246-924-080	AMD	96-08-007
246-918-005	AMD	96-03-073	246-919-990	NEW	96-03-073	246-924-250	AMD-P	96-02-086
246-918-006	AMD	96-03-073	246-920-020	REP	96-03-073	246-924-250	AMD	96-08-007
246-918-007	AMD	96-03-073	246-920-030	REP	96-03-073	246-924-470	AMD-P	96-02-086
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246-918-009	AMD	96-03-073	246-920-120	REP	96-03-073	246-924-500	NEW-P	96-02-086
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246-976-076	PREP	96-06-049	260-48-830	NEW-P	96-04-066	275-26-077	NEW-P	96-07-090
246-976-077	PREP	96-06-049	260-48-840	NEW-P	96-04-066	284-02-010	AMD-P	96-04-087
246-976-140	PREP	96-06-049	260-48-850	NEW-P	96-04-066	284-02-020	AMD-P	96-04-087
246-976-165	NEW	96-03-052	260-48-860	NEW-P	96-04-066	284-02-030	AMD-P	96-04-087
246-976-181	PREP	96-06-049	260-48-870	NEW-P	96-04-066	284-02-040	AMD-P	96-04-087
250-20-021	AMD	96-04-019	260-48-890	NEW-P	96-04-066	284-02-050	AMD-P	96-04-087
250-20-021	PREP	96-07-096	260-48-900	NEW-P	96-04-066	284-02-060	AMD-P	96-04-087
250-65	PREP	96-07-095	260-48-910	NEW-P	96-04-066	284-02-070	AMD-P	96-04-087
251-04-050	AMD-P	96-08-088	260-48-920	NEW-P	96-04-066	284-02-080	AMD-P	96-04-087
251-06-020	AMD-P	96-08-088	260-60	PREP	96-03-145	284-02-100	AMD-P	96-04-087
251-12-099	AMD-P	96-04-053	260-70-010	REP-P	96-04-067	284-07	AMD-C	96-08-017
251-12-099	AMD-C	96-07-091	260-70-021	REP-P	96-04-067	284-07-050	AMD-P	96-05-091
251-12-100	AMD-P	96-04-053	260-70-025	REP-P	96-04-067	284-07-070	AMD-P	96-05-091
251-12-100	AMD-C	96-07-091	260-70-026	REP-P	96-04-067	284-10-140	NEW-C	96-03-033
251-12-101	REP-P	96-04-053	260-70-027	REP-P	96-04-067	284-10-140	NEW-C	96-03-075
251-12-101	REP-C	96-07-091	260-70-028	REP-P	96-04-067	284-10-140	NEW	96-04-060
251-12-102	AMD-P	96-04-053	260-70-029	REP-P	96-04-067	284-44-140	AMD-P	96-07-081
251-12-102	AMD-C	96-07-091	260-70-031	REP-P	96-04-067	284-44-345	REP-P	96-05-091
251-12-104	NEW-P	96-04-053	260-70-032	REP-P	96-04-067	284-44-345	REP-C	96-08-017
251-12-104	NEW-C	96-07-091	260-70-040	REP-P	96-04-067	284-46-025	NEW-P	96-07-081
251-12-105	NEW-P	96-04-053	260-70-050	REP-P	96-04-067	284-46-060	REP-P	96-05-091
251-12-105	NEW-C	96-07-091	260-70-060	REP-P	96-04-067	284-46-060	REP-C	96-08-017
251-12-106	NEW-P	96-04-053	260-70-070	REP-P	96-04-067	284-54-170	NEW-W	96-04-018
251-12-106	NEW-C	96-07-091	260-70-080	REP-P	96-04-067	284-58-030	AMD-P	96-07-081
251-12-180	AMD-P	96-04-053	260-70-090	REP-P	96-04-067	284-58-250	AMD-P	96-07-081
251-12-180	AMD-C	96-07-091	260-70-100	REP-P	96-04-067	284-66	AMD-C	96-08-016
251-12-232	AMD-P	96-04-053	260-70-110	REP-P	96-04-067	284-66-020	AMD-P	96-04-086
251-12-232	AMD-C	96-07-091	260-70-120	REP-P	96-04-067	284-66-063	AMD-P	96-04-086
251-14-110	AMD-P	96-04-053	260-70-130	REP-P	96-04-067	284-66-077	AMD-P	96-04-086
251-14-110	AMD-C	96-07-091	260-70-140	REP-P	96-04-067	284-66-110	AMD-P	96-04-086
251-14-130	NEW-P	96-04-053	260-70-150	REP-P	96-04-067	284-66-120	AMD-P	96-04-086
251-14-130	NEW-C	96-07-091	260-70-160	REP-P	96-04-067	284-66-130	AMD-P	96-04-086
251-17-010	AMD	96-02-072	260-70-170	REP-P	96-04-067	284-66-135	NEW-P	96-04-086
251-17-150	AMD-P	96-08-086	260-70-180	REP-P	96-04-067	284-66-142	AMD-P	96-04-086
251-17-170	AMD	96-02-072	260-70-190	REP-P	96-04-067	284-66-203	AMD-P	96-04-086
251-19-105	REP-W	96-02-069	260-70-200	REP-P	96-04-067	286-04-010	AMD-P	96-04-054
251-19-105	AMD-P	96-02-071	260-70-210	REP-P	96-04-067	286-04-010	AMD	96-08-044
251-19-105	AMD	96-05-026	260-70-220	REP-P	96-04-067	286-04-030	AMD-P	96-04-054
251-22-116	AMD-P	96-08-081	260-70-230	REP-P	96-04-067	286-04-030	AMD	96-08-044
251-22-167	AMD-P	96-08-081	260-70-240	REP-P	96-04-067	286-04-060	AMD-P	96-04-054
251-22-195	AMD-P	96-08-081	260-70-250	REP-P	96-04-067	286-04-060	AMD	96-08-044
251-22-197	REP-P	96-08-081	260-70-260	REP-P	96-04-067	286-04-070	AMD-P	96-04-054
251-22-200	AMD-P	96-08-081	260-70-270	REP-P	96-04-067	286-04-070	AMD	96-08-044
251-22-250	AMD-P	96-08-084	260-70-280	REP-P	96-04-067	286-04-080	AMD-P	96-04-054
251-22-270	AMD-W	96-02-069	260-70-290	REP-P	96-04-067	286-04-080	AMD	96-08-044
251-22-270	AMD-P	96-08-084	260-70-300	REP-P	96-04-067	286-04-090	AMD-P	96-04-054
251-22-280	AMD-P	96-08-084	260-70-500	NEW-P	96-04-067	286-04-090	AMD	96-08-044
251-22-290	AMD-P	96-08-084	260-70-510	NEW-P	96-04-067	286-13-010	AMD-P	96-04-054
260-12	PREP	96-03-142	260-70-520	NEW-P	96-04-067	286-13-010	AMD	96-08-044
260-20	PREP	96-03-143	260-70-530	NEW-P	96-04-067	286-13-020	AMD-P	96-04-054
260-24	PREP	96-06-086	260-70-540	NEW-P	96-04-067	286-13-020	AMD	96-08-044
260-34	PREP	96-03-144	260-70-550	NEW-P	96-04-067	286-13-030	AMD-P	96-04-054
260-48-500	NEW-P	96-04-066	260-70-560	NEW-P	96-04-067	286-13-030	AMD	96-08-044
260-48-510	NEW-P	96-04-066	260-70-570	NEW-P	96-04-067	286-13-040	AMD-P	96-04-054
260-48-520	NEW-P	96-04-066	260-70-580	NEW-P	96-04-067	286-13-040	AMD	96-08-044
260-48-530	NEW-P	96-04-066	260-70-590	NEW-P	96-04-067	286-13-045	NEW-P	96-04-054
260-48-540	NEW-P	96-04-066	260-70-600	NEW-P	96-04-067	286-13-045	NEW	96-08-044
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260-48-560	NEW-P	96-04-066	260-70-620	NEW-P	96-04-067	286-13-060	AMD	96-08-044
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260-48-600	NEW-P	96-04-066	260-70-660	NEW-P	96-04-067	286-13-080	AMD	96-08-044
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260-48-650	NEW-P	96-04-066	260-70-710	NEW-P	96-04-067	286-13-110	AMD-P	96-04-054
260-48-660	NEW-P	96-04-066	260-70-720	NEW-P	96-04-067	286-13-110	AMD	96-08-044
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260-48-810	NEW-P	96-04-066	275-26-074	NEW-P	96-07-090	286-26-010	AMD-P	96-04-054
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296-17-556	REP-P	96-05-064	296-17-59205	NEW-P	96-05-065	296-17-695	AMD-P	96-05-064
296-17-556	REP-P	96-05-065	296-17-594	AMD-P	96-05-064	296-17-695	AMD-P	96-05-065
296-17-561	AMD-P	96-05-064	296-17-594	AMD-P	96-05-065	296-17-699	AMD-P	96-05-064
296-17-561	AMD-P	96-05-065	296-17-599	AMD-P	96-05-064	296-17-699	AMD-P	96-05-065
296-17-56101	AMD-P	96-05-064	296-17-599	AMD-P	96-05-065	296-17-700	AMD-P	96-05-064
296-17-56101	AMD-P	96-05-065	296-17-604	AMD-P	96-05-064	296-17-700	AMD-P	96-05-065
296-17-562	AMD-P	96-05-064	296-17-604	AMD-P	96-05-065	296-17-701	AMD-P	96-05-064
296-17-562	AMD-P	96-05-065	296-17-605	REP-P	96-05-064	296-17-701	AMD-P	96-05-065
296-17-563	AMD-P	96-05-064	296-17-605	REP-P	96-05-065	296-17-703	AMD-P	96-05-064
296-17-563	AMD-P	96-05-065	296-17-606	AMD-P	96-05-064	296-17-703	AMD-P	96-05-065
296-17-564	AMD-P	96-05-064	296-17-606	AMD-P	96-05-065	296-17-704	AMD-P	96-05-064
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296-17-568	AMD-P	96-05-065	296-17-644	AMD-P	96-05-064	296-17-711	AMD-P	96-05-065
296-17-56901	AMD-P	96-05-064	296-17-644	AMD-P	96-05-065	296-17-712	AMD-P	96-05-064
296-17-56901	AMD-P	96-05-065	296-17-645	AMD-P	96-05-064	296-17-712	AMD-P	96-05-065
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296-17-57001	AMD-P	96-05-065	296-17-646	AMD-P	96-05-064	296-17-717	AMD-P	96-05-065
296-17-57003	AMD-P	96-05-064	296-17-646	AMD-P	96-05-065	296-17-719	AMD-P	96-05-064
296-17-57003	AMD-P	96-05-065	296-17-649	AMD-P	96-05-064	296-17-719	AMD-P	96-05-065
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296-17-571	AMD-P	96-05-065	296-17-64901	AMD-P	96-05-064	296-17-723	AMD-P	96-05-065
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296-17-572	AMD-P	96-05-065	296-17-64902	AMD-P	96-05-064	296-17-727	AMD-P	96-05-065
296-17-573	AMD-P	96-05-064	296-17-64902	AMD-P	96-05-065	296-17-741	AMD-P	96-05-064
296-17-573	AMD-P	96-05-065	296-17-64903	AMD-P	96-05-064	296-17-741	AMD-P	96-05-065
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296-17-57603	AMD-P	96-05-064	296-17-64999	NEW-P	96-05-064	296-17-747	AMD-P	96-05-065
296-17-579	REP-P	96-05-064	296-17-64999	NEW-P	96-05-065	296-17-753	AMD-P	96-05-064
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296-17-580	AMD-P	96-05-065	296-17-654	AMD-P	96-05-064	296-17-756	AMD-P	96-05-065
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296-17-59201	AMD-P	96-05-065	296-17-693	AMD-P	96-05-064			
296-17-59202	AMD-P	96-05-064	296-17-693	AMD-P	96-05-065			
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296-23-180	AMD-P	96-05-066	296-305-035	AMD-C	96-03-026	304-25-060	REP	96-04-045
296-23-185	AMD-P	96-05-066	296-305-040	AMD-C	96-03-026	304-25-110	REP	96-04-045
296-23-220	AMD-P	96-05-066	296-305-04001	NEW-C	96-03-026	304-25-120	REP	96-04-045
296-23-230	AMD-P	96-05-066	296-305-045	AMD-C	96-03-026	304-25-510	REP	96-04-045
296-23A-400	AMD-P	96-05-066	296-305-04501	NEW-C	96-03-026	304-25-520	REP	96-04-045
296-24-084	AMD-P	96-03-024	296-305-04503	NEW-C	96-03-026	304-25-530	REP	96-04-045
296-24-092	AMD-P	96-03-024	296-305-04505	NEW-C	96-03-026	304-25-540	REP	96-04-045
296-24-23533	AMD-P	96-03-024	296-305-04507	NEW-C	96-03-026	304-25-550	REP	96-04-045
296-27	PREP	96-06-033	296-305-04509	NEW-C	96-03-026	304-25-555	REP	96-04-045
296-45	PREP	96-05-075	296-305-04511	NEW-C	96-03-026	304-25-560	REP	96-04-045
296-54	PREP	96-05-075	296-305-05001	NEW-C	96-03-026	304-25-570	REP	96-04-045
296-62-07306	AMD-P	96-03-024	296-305-05003	NEW-C	96-03-026	304-25-580	REP	96-04-045
296-62-07342	AMD-P	96-03-024	296-305-05005	NEW-C	96-03-026	304-25-590	REP	96-04-045
296-62-07445	AMD-P	96-03-024	296-305-05007	NEW-C	96-03-026	308-10-010	AMD	96-05-036
296-62-07515	PREP	96-05-077	296-305-05009	NEW-C	96-03-026	308-10-020	AMD	96-05-036
296-62-07521	AMD-P	96-03-024	296-305-05011	NEW-C	96-03-026	308-10-025	AMD	96-05-036
296-62-07533	AMD-P	96-03-024	296-305-05013	NEW-C	96-03-026	308-10-030	AMD	96-05-036
296-62-07550	AMD-P	96-03-024	296-305-05501	NEW-C	96-03-026	308-10-040	AMD	96-05-036
296-62-07668	AMD-P	96-03-024	296-305-05503	NEW-C	96-03-026	308-10-045	AMD	96-05-036
296-62-07705	AMD-E	96-08-072	296-305-060	AMD-C	96-03-026	308-10-067	AMD	96-05-036
296-62-07739	AMD-P	96-03-024	296-305-06001	AMD-C	96-03-026	308-13-005	AMD-P	96-04-009
296-65-003	AMD	96-05-056	296-305-06003	AMD-C	96-03-026	308-13-005	AMD-C	96-04-040
296-65-005	AMD	96-05-056	296-305-06005	AMD-C	96-03-026	308-13-015	AMD-P	96-04-009
296-65-007	AMD	96-05-056	296-305-06007	AMD-C	96-03-026	308-13-015	AMD-C	96-04-040
296-65-010	AMD	96-05-056	296-305-06009	AMD-C	96-03-026	308-13-024	AMD-P	96-04-009
296-65-012	AMD	96-05-056	296-305-06011	AMD-C	96-03-026	308-13-024	AMD-C	96-04-040
296-65-015	AMD	96-05-056	296-305-063	AMD-C	96-03-026	308-13-050	AMD-P	96-04-009
296-65-020	AMD	96-05-056	296-305-064	AMD-C	96-03-026	308-13-050	AMD-C	96-04-040
296-65-030	AMD	96-05-056	296-305-065	AMD-C	96-03-026	308-13-110	REP-P	96-04-009
296-65-050	AMD	96-05-056	296-305-06501	AMD-C	96-03-026	308-13-110	REP-C	96-04-040
296-116-185	PREP	96-05-054	296-305-06503	AMD-C	96-03-026	308-13-150	PREP	96-04-007
296-116-300	PREP	96-04-052	296-305-06505	AMD-C	96-03-026	308-13-150	AMD-P	96-08-005
296-116-300	AMD-P	96-08-067	296-305-06507	AMD-C	96-03-026	308-56A-030	AMD	96-04-004
296-150A	PREP	96-06-032	296-305-06509	AMD-C	96-03-026	308-56A-090	AMD	96-03-047
296-155	PREP	96-05-078	296-305-06511	AMD-C	96-03-026	308-56A-210	AMD	96-03-047
296-155	PREP	96-05-079	296-305-06513	AMD-C	96-03-026	308-93-010	AMD-P	96-07-030
296-305-001	AMD-C	96-03-026	296-305-06515	AMD-C	96-03-026	308-93-050	AMD-P	96-07-030
296-305-003	AMD-C	96-03-026	296-305-06517	AMD-C	96-03-026	308-93-070	AMD	96-04-004
296-305-005	AMD-C	96-03-026	296-305-06519	NEW-C	96-03-026	308-93-088	AMD	96-03-046
296-305-007	AMD-C	96-03-026	296-305-070	AMD-C	96-03-026	308-93-440	AMD	96-03-046
296-305-010	AMD-C	96-03-026	296-305-07001	AMD-C	96-03-026	308-93-670	AMD	96-03-046
296-305-01001	NEW-C	96-03-026	296-305-07003	AMD-C	96-03-026	308-93-700	NEW-P	96-07-030
296-305-01002	NEW-C	96-03-026	296-305-07005	AMD-C	96-03-026	308-93-710	NEW-P	96-07-030
296-305-01003	NEW-C	96-03-026	296-305-07007	AMD-C	96-03-026	308-93-720	NEW-P	96-07-030
296-305-01005	NEW-C	96-03-026	296-305-07009	AMD-C	96-03-026	308-93-730	NEW-P	96-07-030
296-305-01007	NEW-C	96-03-026	296-305-07011	NEW-C	96-03-026	308-93-740	NEW-P	96-07-030
296-305-01009	NEW-C	96-03-026	296-305-07013	NEW-C	96-03-026	308-93-750	NEW-P	96-07-030
296-305-015	AMD-C	96-03-026	296-305-07015	NEW-C	96-03-026	308-93-760	NEW-P	96-07-030
296-305-01501	NEW-C	96-03-026	296-305-07017	NEW-C	96-03-026	308-93-770	NEW-P	96-07-030
296-305-01503	NEW-C	96-03-026	296-305-07019	NEW-C	96-03-026	308-94-030	AMD	96-04-004
296-305-01505	NEW-C	96-03-026	296-305-075	AMD-C	96-03-026	308-96A-035	AMD	96-04-004
296-305-01507	NEW-C	96-03-026	296-305-080	AMD-C	96-03-026	308-128A	PREP	96-06-084
296-305-01509	NEW-C	96-03-026	296-305-08000	NEW-C	96-03-026	308-128A-010	DECOD	96-05-018
296-305-01511	NEW-C	96-03-026	296-305-085	AMD-C	96-03-026	308-128A-020	DECOD	96-05-018
296-305-01513	NEW-C	96-03-026	296-305-090	AMD-C	96-03-026	308-128A-030	DECOD	96-05-018
296-305-01515	NEW-C	96-03-026	296-305-095	AMD-C	96-03-026	308-128A-040	DECOD	96-05-018
296-305-01517	NEW-C	96-03-026	296-305-100	AMD-C	96-03-026	308-128B	PREP	96-06-084
296-305-017	AMD-C	96-03-026	296-305-105	AMD-C	96-03-026	308-128B-010	DECOD	96-05-018
296-305-020	AMD-C	96-03-026	296-305-110	AMD-C	96-03-026	308-128B-020	DECOD	96-05-018
296-305-02001	NEW-C	96-03-026	296-305-115	AMD-C	96-03-026	308-128B-030	DECOD	96-05-018
296-305-02003	NEW-C	96-03-026	296-306	PREP	96-06-034	308-128B-050	DECOD	96-05-018
296-305-02005	NEW-C	96-03-026	296-306	PREP	96-06-078	308-128B-070	DECOD	96-05-018
296-305-02007	NEW-C	96-03-026	304-12-010	REP	96-04-045	308-128B-080	DECOD	96-05-018
296-305-02009	NEW-C	96-03-026	304-12-020	REP	96-04-045	308-128B-090	DECOD	96-05-018
296-305-02011	NEW-C	96-03-026	304-12-025	REP	96-04-045	308-128C	PREP	96-06-084
296-305-02013	NEW-C	96-03-026	304-12-145	AMD	96-04-045	308-128C-020	DECOD	96-05-018
296-305-02015	NEW-C	96-03-026	304-12-290	AMD	96-04-045	308-128C-030	DECOD	96-05-018
296-305-02017	NEW-C	96-03-026	304-12-350	REP	96-04-045	308-128C-040	DECOD	96-05-018
296-305-02019	NEW-C	96-03-026	304-25-010	REP	96-04-045	308-128C-050	DECOD	96-05-018
296-305-025	AMD-C	96-03-026	304-25-020	REP	96-04-045	308-128D	PREP	96-06-084
296-305-02501	NEW-C	96-03-026	304-25-030	REP	96-04-045	308-128D-010	DECOD	96-05-018

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308-128D-030	DECOD	96-05-018	315-11A-164	PREP	96-08-071	356-15-030	AMD-P	96-08-082
308-128D-040	DECOD	96-05-018	315-11A-165	NEW-P	96-03-157	356-15-050	AMD	96-02-073
308-128D-050	DECOD	96-05-018	315-11A-165	NEW	96-07-015	356-15-060	AMD-P	96-02-070
308-128D-060	DECOD	96-05-018	315-11A-166	NEW-P	96-03-157	356-15-060	AMD-C	96-07-092
308-128D-070	DECOD	96-05-018	315-11A-166	NEW	96-07-015	356-15-070	AMD	96-02-073
308-128D-080	DECOD	96-05-018	315-11A-167	NEW-P	96-03-157	356-15-090	AMD	96-02-073
308-128E	PREP	96-06-084	315-11A-167	NEW	96-07-015	356-15-110	AMD	96-02-073
308-128E-011	DECOD	96-05-018	315-11A-168	NEW-P	96-07-104	356-18-060	AMD-P	96-08-082
308-128F	PREP	96-06-084	315-11A-169	NEW-P	96-07-104	356-18-080	AMD-P	96-08-082
308-128F-010	DECOD	96-05-018	315-11A-170	NEW-P	96-07-104	356-18-110	AMD-P	96-08-082
308-128F-020	DECOD	96-05-018	315-11A-171	NEW-P	96-07-104	356-18-112	AMD-W	96-02-069
308-128F-040	DECOD	96-08-057	315-11A-172	NEW-P	96-07-104	356-18-112	AMD-P	96-08-083
308-128F-050	DECOD	96-05-018	315-11A-173	NEW-P	96-07-104	356-18-116	AMD	96-02-073
308-128F-060	DECOD	96-05-018	315-34	PREP	96-08-004	356-18-140	AMD-P	96-08-082
308-128F-070	DECOD	96-05-018	317-21-020	AMD	96-03-070	356-18-145	AMD-P	96-08-082
308-129-010	NEW-W	96-08-057	317-21-030	AMD	96-03-070	356-18-150	AMD-P	96-08-082
308-129-020	NEW-W	96-08-057	317-21-120	AMD	96-03-070	356-22-220	AMD-P	96-08-085
308-129-030	NEW-W	96-08-057	317-21-200	AMD	96-03-070	356-30-025	REP-W	96-02-069
308-129-100	NEW-W	96-08-057	317-21-205	AMD	96-03-070	356-30-050	AMD	96-02-073
308-129-110	NEW-W	96-08-057	317-21-210	AMD	96-03-070	356-30-065	AMD-W	96-02-069
308-129-120	NEW-W	96-08-057	317-21-215	AMD	96-03-070	356-30-067	AMD-W	96-02-069
308-129-130	NEW-W	96-08-057	317-21-235	AMD	96-03-070	356-30-230	AMD	96-02-073
308-129-200	NEW-W	96-08-057	317-21-245	AMD	96-03-070	356-30-315	AMD	96-02-073
308-129-210	NEW-W	96-08-057	317-21-265	AMD	96-03-070	356-30-330	AMD	96-02-073
308-129-220	NEW-W	96-08-057	317-21-320	AMD	96-03-070	356-37-020	AMD-P	96-04-052A
308-129-230	NEW-W	96-08-057	317-21-345	AMD	96-03-070	356-37-020	AMD	96-07-093
308-129-240	NEW-W	96-08-057	317-21-500	AMD	96-03-070	356-37-030	AMD-P	96-04-052A
308-129-300	NEW-W	96-08-057	317-21-530	AMD	96-03-070	356-37-030	AMD	96-07-093
308-129-310	NEW-W	96-08-057	317-21-540	AMD	96-03-070	356-37-040	AMD-P	96-04-052A
314-12-020	AMD	96-03-004	317-30-010	REP-P	96-03-071	356-37-040	AMD	96-07-093
314-12-025	AMD	96-03-004	317-30-020	REP-P	96-03-071	356-37-050	AMD-P	96-04-052A
314-12-035	AMD	96-03-004	317-30-030	REP-P	96-03-071	356-37-050	AMD	96-07-093
314-12-070	AMD	96-03-004	317-30-040	REP-P	96-03-071	356-37-100	AMD-P	96-04-052A
314-12-080	AMD	96-03-004	317-30-050	REP-P	96-03-071	356-37-100	AMD	96-07-093
314-14-010	NEW	96-03-074	317-30-060	REP-P	96-03-071	356-37-160	NEW-P	96-04-052A
314-14-020	NEW	96-03-074	317-30-070	REP-P	96-03-071	356-37-160	NEW	96-07-093
314-14-030	NEW	96-03-074	317-30-080	REP-P	96-03-071	356-37-170	NEW-P	96-04-052A
314-14-040	NEW	96-03-074	317-30-090	REP-P	96-03-071	356-37-170	NEW	96-07-093
314-14-050	NEW	96-03-074	317-30-100	REP-P	96-03-071	356-42-020	AMD-P	96-06-059
314-14-060	NEW	96-03-074	317-30-110	REP-P	96-03-071	356-42-055	AMD-P	96-04-052A
314-14-070	NEW	96-03-074	317-30-120	REP-P	96-03-071	356-42-055	AMD	96-07-093
314-14-080	NEW	96-03-074	317-30-130	REP-P	96-03-071	356-46-080	AMD	96-02-073
314-14-090	NEW	96-03-074	317-30-140	REP-P	96-03-071	356-56-115	AMD-P	96-08-089
314-14-100	NEW	96-03-074	317-30-150	REP-P	96-03-071	365-185-010	NEW-E	96-03-045
314-14-110	NEW	96-03-074	317-30-900	REP-P	96-03-071	365-185-010	NEW	96-04-046
314-14-120	NEW	96-03-074	317-31-010	NEW-P	96-03-071	365-185-020	NEW-E	96-03-045
314-14-130	NEW	96-03-074	317-31-020	NEW-P	96-03-071	365-185-020	NEW	96-04-046
314-14-140	NEW	96-03-074	317-31-030	NEW-P	96-03-071	365-185-030	NEW-E	96-03-045
314-14-150	NEW	96-03-074	317-31-100	NEW-P	96-03-071	365-185-030	NEW	96-04-046
314-14-160	NEW	96-03-074	317-31-110	NEW-P	96-03-071	365-185-040	NEW-E	96-03-045
314-16-196	AMD	96-03-005	317-31-120	NEW-P	96-03-071	365-185-040	NEW	96-04-046
314-20-100	AMD-P	96-07-101	317-31-130	NEW-P	96-03-071	365-185-050	NEW-E	96-03-045
314-24-190	AMD-P	96-07-101	317-31-140	NEW-P	96-03-071	365-185-050	NEW	96-04-046
314-24-220	AMD-P	96-07-100	317-31-200	NEW-P	96-03-071	365-185-060	NEW-E	96-03-045
314-70-010	AMD	96-03-004	317-31-210	NEW-P	96-03-071	365-185-060	NEW	96-04-046
314-70-030	AMD	96-03-004	317-31-220	NEW-P	96-03-071	374-60-030	AMD	96-04-005
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315-10-050	PREP	96-03-156	317-31-240	NEW-P	96-03-071	388-11-010	REP-P	96-06-039
315-10-050	REP-P	96-07-104	317-31-250	NEW-P	96-03-071	388-11-011	AMD-P	96-06-039
315-11A	PREP	96-08-004	317-31-300	NEW-P	96-03-071	388-11-015	AMD-P	96-06-039
315-11A-157	NEW-W	96-03-038	317-31-310	NEW-P	96-03-071	388-11-030	REP-P	96-06-039
315-11A-157	NEW-P	96-03-157	317-31-900	NEW-P	96-03-071	388-11-032	REP-P	96-06-039
315-11A-157	NEW	96-07-015	317-50-999	NEW-E	96-08-002	388-11-035	REP-P	96-06-039
315-11A-158	NEW	96-03-039	326-30-041	PREP	96-07-089	388-11-040	REP-P	96-06-039
315-11A-159	NEW	96-03-039	326-40-030	PREP	96-07-088	388-11-045	AMD-P	96-06-039
315-11A-160	NEW	96-03-039	332-24-221	AMD-P	96-08-027	388-11-048	AMD-P	96-06-039
315-11A-161	NEW	96-03-039	332-24-720	AMD	96-03-003	388-11-055	REP-P	96-06-039
315-11A-162	NEW-P	96-03-157	356-05-171	REP-P	96-08-082	388-11-060	REP-P	96-06-039
315-11A-162	NEW	96-07-015	356-05-415	AMD-W	96-02-069	388-11-065	AMD-P	96-06-039
315-11A-163	NEW-P	96-03-157	356-06-080	AMD-P	96-08-087	388-11-120	AMD-P	96-06-039
315-11A-163	NEW	96-07-015	356-10-020	AMD-P	96-08-087	388-11-140	AMD-P	96-06-039
315-11A-164	NEW-P	96-03-157	356-14-240	AMD	96-02-073	388-11-150	AMD-P	96-06-039



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388-11-215	AMD-P	96-06-039	388-73-803	NEW-P	96-06-051	388-76-535	NEW-P	96-06-040
388-11-220	AMD-P	96-06-039	388-73-803	NEW-E	96-07-079	388-76-540	NEW-P	96-06-040
388-11-280	NEW-P	96-06-039	388-73-805	NEW-P	96-06-051	388-76-545	NEW-P	96-06-040
388-11-285	NEW-P	96-06-039	388-73-805	NEW-E	96-07-079	388-76-550	NEW-P	96-06-040
388-11-290	NEW-P	96-06-039	388-73-815	AMD-P	96-06-051	388-76-555	NEW-P	96-06-040
388-11-295	NEW-P	96-06-039	388-73-815	AMD-E	96-07-079	388-76-560	NEW-P	96-06-040
388-11-300	NEW-P	96-06-039	388-73-821	NEW-P	96-06-051	388-76-565	NEW-P	96-06-040
388-11-305	NEW-P	96-06-039	388-73-821	NEW-E	96-07-079	388-76-570	NEW-P	96-06-040
388-11-310	NEW-P	96-06-039	388-73-822	NEW-P	96-06-051	388-76-575	NEW-P	96-06-040
388-11-315	NEW-P	96-06-039	388-73-822	NEW-E	96-07-079	388-76-580	NEW-P	96-06-040
388-11-400	NEW-P	96-06-039	388-73-823	NEW-P	96-06-051	388-76-585	NEW-P	96-06-040
388-11-405	NEW-P	96-06-039	388-73-823	NEW-E	96-07-079	388-76-590	NEW-P	96-06-040
388-11-410	NEW-P	96-06-039	388-73-825	NEW-P	96-06-051	388-76-595	NEW-P	96-06-040
388-11-415	NEW-P	96-06-039	388-73-825	NEW-E	96-07-079	388-76-600	NEW-P	96-06-040
388-11-420	NEW-P	96-06-039	388-76-010	REP-P	96-06-040	388-76-605	NEW-P	96-06-040
388-11-425	NEW-P	96-06-039	388-76-020	REP-P	96-06-040	388-76-610	NEW-P	96-06-040
388-11-430	NEW-P	96-06-039	388-76-030	REP-P	96-06-040	388-76-615	NEW-P	96-06-040
388-15	PREP	96-06-009	388-76-040	REP-P	96-06-040	388-76-620	NEW-P	96-06-040
388-15-145	AMD-P	96-06-014	388-76-045	REP-P	96-06-040	388-76-625	NEW-P	96-06-040
388-15-900	REP-P	96-04-084	388-76-050	REP-P	96-06-040	388-76-630	NEW-P	96-06-040
388-15-905	REP-P	96-04-084	388-76-060	REP-P	96-06-040	388-76-635	NEW-P	96-06-040
388-15-910	REP-P	96-04-084	388-76-070	REP-P	96-06-040	388-76-640	NEW-P	96-06-040
388-15-915	REP-P	96-04-084	388-76-080	REP-P	96-06-040	388-76-645	NEW-P	96-06-040
388-15-920	REP-P	96-04-084	388-76-085	REP-P	96-06-040	388-76-650	NEW-P	96-06-040
388-15-925	REP-P	96-04-084	388-76-087	REP-P	96-06-040	388-76-655	NEW-P	96-06-040
388-15-935	REP-P	96-04-084	388-76-090	REP-P	96-06-040	388-76-660	NEW-P	96-06-040
388-15-940	REP-P	96-04-084	388-76-095	REP-P	96-06-040	388-76-665	NEW-P	96-06-040
388-15-945	REP-P	96-04-084	388-76-100	REP-P	96-06-040	388-76-670	NEW-P	96-06-040
388-15-950	REP-P	96-04-084	388-76-110	REP-P	96-06-040	388-76-675	NEW-P	96-06-040
388-15-955	REP-P	96-04-084	388-76-130	REP-P	96-06-040	388-76-680	NEW-P	96-06-040
388-49-020	AMD-P	96-03-013	388-76-140	REP-P	96-06-040	388-76-685	NEW-P	96-06-040
388-49-020	AMD	96-06-031	388-76-155	REP-P	96-06-040	388-76-690	NEW-P	96-06-040
388-49-160	PREP	96-07-094	388-76-160	REP-P	96-06-040	388-76-695	NEW-P	96-06-040
388-49-330	AMD-P	96-04-036	388-76-170	REP-P	96-06-040	388-76-700	NEW-P	96-06-040
388-49-330	AMD	96-07-053	388-76-180	REP-P	96-06-040	388-76-705	NEW-P	96-06-040
388-49-410	AMD-P	96-04-008	388-76-185	REP-P	96-06-040	388-76-710	NEW-P	96-06-040
388-49-410	AMD	96-07-022	388-76-190	REP-P	96-06-040	388-76-715	NEW-P	96-06-040
388-49-500	AMD-P	96-03-097	388-76-200	REP-P	96-06-040	388-76-720	NEW-P	96-06-040
388-49-500	AMD	96-06-046	388-76-220	REP-P	96-06-040	388-76-725	NEW-P	96-06-040
388-49-670	AMD-P	96-03-095	388-76-240	REP-P	96-06-040	388-76-730	NEW-P	96-06-040
388-49-670	AMD	96-06-042	388-76-250	REP-P	96-06-040	388-76-735	NEW-P	96-06-040
388-55-006	NEW	96-05-009	388-76-260	REP-P	96-06-040	388-76-740	NEW-P	96-06-040
388-55-008	NEW	96-05-009	388-76-280	REP-P	96-06-040	388-76-745	NEW-P	96-06-040
388-55-010	AMD	96-05-009	388-76-290	REP-P	96-06-040	388-76-750	NEW-P	96-06-040
388-55-020	AMD	96-05-009	388-76-300	REP-P	96-06-040	388-76-755	NEW-P	96-06-040
388-55-024	NEW	96-05-009	388-76-310	REP-P	96-06-040	388-76-760	NEW-P	96-06-040
388-55-027	NEW	96-05-009	388-76-320	REP-P	96-06-040	388-76-765	NEW-P	96-06-040
388-55-030	AMD	96-05-009	388-76-325	REP-P	96-06-040	388-76-770	NEW-P	96-06-040
388-55-040	AMD	96-05-009	388-76-330	REP-P	96-06-040	388-76-775	NEW-P	96-06-040
388-55-050	NEW	96-05-009	388-76-340	REP-P	96-06-040	388-76-780	NEW-P	96-06-040
388-55-060	NEW	96-05-009	388-76-350	REP-P	96-06-040	388-76-785	NEW-P	96-06-040
388-73-012	AMD-P	96-06-051	388-76-360	REP-P	96-06-040	388-76-790	NEW-P	96-06-040
388-73-012	AMD-E	96-07-079	388-76-370	REP-P	96-06-040	388-76-795	NEW-P	96-06-040
388-73-014	AMD-P	96-06-051	388-76-380	REP-P	96-06-040	388-86	PREP	96-07-042
388-73-014	AMD-E	96-07-079	388-76-390	REP-P	96-06-040	388-86	PREP	96-07-043
388-73-01950	AMD-P	96-06-051	388-76-400	REP-P	96-06-040	388-86	PREP	96-07-044
388-73-01950	AMD-E	96-07-079	388-76-405	REP-P	96-06-040	388-86	PREP	96-07-045
388-73-020	AMD-P	96-06-051	388-76-410	REP-P	96-06-040	388-87	PREP	96-07-042
388-73-020	AMD-E	96-07-079	388-76-420	REP-P	96-06-040	388-87	PREP	96-07-043
388-73-030	AMD-C	96-03-105	388-76-430	REP-P	96-06-040	388-87	PREP	96-07-044
388-73-030	AMD-S	96-05-061	388-76-435	REP-P	96-06-040	388-87	PREP	96-07-045
388-73-030	RESCIND	96-05-067	388-76-440	REP-P	96-06-040	388-87-020	PREP	96-08-091
388-73-030	AMD-E	96-05-068	388-76-450	REP-P	96-06-040	388-96	PREP	96-07-024
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388-73-036	AMD-E	96-05-068	388-76-465	REP-P	96-06-040	388-110-010	NEW-P	96-04-084
388-73-048	AMD-P	96-06-051	388-76-467	REP-P	96-06-040	388-110-020	NEW-P	96-04-084
388-73-048	AMD-E	96-07-079	388-76-470	REP-P	96-06-040	388-110-030	NEW-P	96-04-084
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388-73-054	AMD-E	96-07-079	388-76-480	REP-P	96-06-040	388-110-050	NEW-P	96-04-084
388-73-606	AMD-P	96-06-051	388-76-490	REP-P	96-06-040	388-110-060	NEW-P	96-04-084
388-73-606	AMD-E	96-07-079	388-76-500	REP-P	96-06-040	388-110-070	NEW-P	96-04-084
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388-110-220	NEW-P	96-04-084	388-215-1600	AMD-P	96-03-099	390-13-010	AMD	96-05-001
388-110-230	NEW-P	96-04-084	388-215-1600	AMD	96-06-045	390-16-034	AMD	96-05-001
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388-110-260	NEW-P	96-04-084	388-218-1510	AMD	96-03-040	390-16-055	AMD	96-05-001
388-110-270	NEW-P	96-04-084	388-219-3000	AMD-P	96-07-014	390-16-190	NEW	96-04-020
388-110-280	NEW-P	96-04-084	388-235-5050	PREP	96-08-041A	390-16-310	AMD	96-05-001
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388-150-090	AMD-S	96-05-061	388-245-2020	AMD	96-07-025	390-16-314	NEW-P	96-05-073
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388-150-090	AMD-E	96-05-068	388-250-1700	AMD-P	96-07-008	390-17-030	AMD	96-05-001
388-151-090	AMD-C	96-03-105	388-270-1125	PREP	96-06-008	390-17-050	REP-P	96-05-073
388-151-090	AMD-S	96-05-061	388-290-135	AMD-P	96-06-026	390-17-052	REP-P	96-05-073
388-151-090	RESCIND	96-05-067	388-330-010	AMD-C	96-03-105	390-17-060	AMD	96-05-001
388-151-090	AMD-E	96-05-068	388-330-010	AMD-S	96-05-061	390-17-065	AMD	96-05-001
388-155-060	AMD-P	96-07-010	388-330-010	RESCIND	96-05-067	390-17-310	AMD	96-05-001
388-155-070	AMD-P	96-07-010	388-330-010	AMD-E	96-05-068	390-17-315	AMD	96-05-001
388-155-090	AMD-C	96-03-105	388-330-035	NEW-C	96-03-105	390-17-320	AMD	96-05-001
388-155-090	AMD-S	96-05-061	388-330-035	NEW-S	96-05-061	390-20-052	AMD	96-05-001
388-155-090	RESCIND	96-05-067	388-330-035	RESCIND	96-05-067	390-24-010	AMD-S	96-05-074
388-155-090	AMD-E	96-05-068	388-330-035	NEW-E	96-05-068	390-24-020	AMD-S	96-05-074
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388-155-605	NEW-P	96-07-010	388-501-0130	AMD	96-06-041	391-08-001	AMD	96-07-105
388-155-610	NEW-P	96-07-010	388-503-0310	PREP	96-04-025	391-08-030	AMD-P	96-03-135
388-155-620	NEW-P	96-07-010	388-505-0540	PREP	96-08-091	391-08-030	AMD	96-07-105
388-155-630	NEW-P	96-07-010	388-507-0710	AMD-P	96-06-010	391-08-040	AMD-P	96-03-135
388-155-640	NEW-P	96-07-010	388-507-0710	AMD-E	96-08-036	391-08-040	AMD	96-07-105
388-155-650	NEW-P	96-07-010	388-507-0740	AMD-P	96-04-037	391-08-120	AMD-P	96-03-135
388-155-660	NEW-P	96-07-010	388-507-0740	AMD	96-07-023	391-08-120	AMD	96-07-105
388-155-670	NEW-P	96-07-010	388-508-0805	PREP	96-08-019	391-08-180	AMD-P	96-03-135
388-155-680	NEW-P	96-07-010	388-508-0805	AMD-E	96-08-021	391-08-180	AMD	96-07-105
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388-160-050	PREP	96-05-057	388-509-0920	AMD-E	96-08-021	391-08-650	NEW	96-07-105
388-160-080	PREP	96-05-057	388-509-0960	AMD-E	96-08-021	391-08-670	NEW-P	96-03-135
388-160-090	AMD-C	96-03-105	388-511-1140	AMD	96-05-010	391-08-670	NEW	96-07-105
388-160-090	AMD-S	96-05-061	388-513-1315	AMD-P	96-08-037	391-08-820	AMD-P	96-03-135
388-160-090	RESCIND	96-05-067	388-513-1320	AMD-P	96-08-037	391-08-820	AMD	96-07-105
388-160-090	AMD-E	96-05-068	388-513-1350	AMD-P	96-06-010	391-25-001	AMD-P	96-03-135
388-160-120	AMD-S	96-05-061	388-513-1350	AMD-E	96-08-020	391-25-001	AMD	96-07-105
388-160-120	AMD-E	96-05-068	388-513-1360	PREP	96-04-055	391-25-011	NEW-P	96-03-135
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388-160-460	PREP	96-05-057	388-513-1380	AMD-P	96-06-010	391-25-030	AMD-P	96-03-135
388-160-480	PREP	96-05-057	388-513-1380	AMD-E	96-08-020	391-25-030	AMD	96-07-105
388-160-490	PREP	96-05-057	388-515-1505	PREP	96-03-098	391-25-050	AMD-P	96-03-135
388-160-500	PREP	96-05-057	388-517-1720	PREP	96-08-019	391-25-050	AMD	96-07-105
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388-200-1300	PREP	96-07-041	388-517-1740	PREP	96-08-019	391-25-070	AMD	96-07-105
388-200-1350	PREP	96-07-041	388-517-1740	AMD-E	96-08-021	391-25-090	AMD-P	96-03-135
388-201-200	AMD-P	96-04-034	388-517-1760	PREP	96-08-019	391-25-090	AMD	96-07-105
388-201-200	AMD	96-07-021	388-517-1760	AMD-E	96-08-021	391-25-110	AMD-P	96-03-135
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388-201-300	AMD	96-07-021	388-518-1820	AMD	96-07-023	391-25-130	AMD-P	96-03-135
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388-201-400	AMD	96-07-021	388-519-1910	PREP	96-04-056	391-25-140	AMD-P	96-03-135
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391-25-350	AMD-P	96-03-135	391-55-205	AMD	96-07-105	392-109-040	AMD	96-08-001
391-25-350	AMD	96-07-105	391-55-210	AMD-P	96-03-135	392-109-047	AMD-P	96-04-033
391-25-370	AMD-P	96-03-135	391-55-210	AMD	96-07-105	392-109-047	AMD	96-08-001
391-25-370	AMD	96-07-105	391-55-215	AMD-P	96-03-135	392-109-058	AMD-P	96-04-033
391-25-391	AMD-P	96-03-135	391-55-215	AMD	96-07-105	392-109-058	AMD	96-08-001
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391-25-410	AMD-P	96-03-135	391-55-220	AMD	96-07-105	392-109-065	AMD	96-08-001
391-25-410	AMD	96-07-105	391-55-225	AMD-P	96-03-135	392-109-070	AMD-P	96-04-033
391-25-430	AMD-P	96-03-135	391-55-225	AMD	96-07-105	392-109-070	AMD	96-08-001
391-25-430	AMD	96-07-105	391-55-230	AMD-P	96-03-135	392-109-072	AMD-P	96-04-033
391-25-470	AMD-P	96-03-135	391-55-230	AMD	96-07-105	392-109-072	AMD	96-08-001
391-25-470	AMD	96-07-105	391-55-235	AMD-P	96-03-135	392-109-072	AMD	96-08-001
391-25-490	AMD-P	96-03-135	391-55-235	AMD	96-07-105	392-109-085	AMD-P	96-04-033
391-25-490	AMD	96-07-105	391-55-235	AMD	96-07-105	392-109-085	AMD	96-08-001
391-25-510	AMD-P	96-03-135	391-55-240	AMD-P	96-03-135	392-109-085	AMD	96-08-001
391-25-510	AMD	96-07-105	391-55-240	AMD	96-07-105	392-109-090	AMD-P	96-04-033
391-25-550	AMD-P	96-03-135	391-55-245	AMD-P	96-03-135	392-109-090	AMD	96-08-001
391-25-550	AMD	96-07-105	391-55-245	AMD	96-07-105	392-109-090	AMD	96-08-001
391-25-590	AMD-P	96-03-135	391-55-255	AMD-P	96-03-135	392-109-100	AMD-P	96-04-033
391-25-590	AMD	96-07-105	391-55-255	AMD	96-07-105	392-109-100	AMD	96-08-001
391-25-590	AMD	96-07-105	391-55-260	REP-P	96-03-135	392-109-105	AMD-P	96-04-033
391-35-001	AMD-P	96-03-135	391-55-260	REP	96-07-105	392-109-105	AMD	96-08-001
391-35-001	AMD	96-07-105	391-55-260	REP	96-07-105	392-109-120	AMD-P	96-04-033
391-35-010	AMD-P	96-03-135	391-55-315	AMD-P	96-03-135	392-109-120	AMD	96-08-001
391-35-010	AMD	96-07-105	391-55-315	AMD	96-07-105	392-109-120	AMD	96-08-001
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391-35-020	AMD	96-07-105	391-55-345	AMD	96-07-105	392-121-435	NEW	96-03-001
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391-35-030	AMD	96-07-105	391-55-360	REP	96-07-105	392-122-105	AMD	96-03-002
391-35-050	AMD-P	96-03-135	391-55-400	REP-P	96-03-135	392-122-106	AMD	96-03-002
391-35-050	AMD	96-07-105	391-55-400	REP	96-07-105	392-122-107	AMD	96-03-002
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391-35-080	AMD	96-07-105	391-55-410	REP	96-07-105	392-122-120	AMD	96-03-002
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391-35-110	AMD	96-07-105	391-55-415	REP	96-07-105	392-122-131	AMD	96-03-002
391-35-170	AMD-P	96-03-135	391-55-420	REP-P	96-03-135	392-122-132	AMD	96-03-002
391-35-170	AMD	96-07-105	391-55-420	REP	96-07-105	392-122-135	AMD	96-03-002
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391-45-030	AMD	96-07-105	391-55-440	REP	96-07-105	392-122-710	AMD	96-03-002
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391-45-130	AMD	96-07-105	391-55-455	REP	96-07-105	392-123-079	AMD-P	96-05-031
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	MISC	96-03-057	Nursing home administrators, board of meetings	PERM	96-05-060
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<b>GREEN RIVER COMMUNITY COLLEGE</b>			over-the-counter drugs imprints	PERM	96-02-008
Meetings	MISC	96-03-008		PERM	96-02-006
<b>HARDWOODS COMMISSION</b>			professional responsibilities	PROP	96-03-134
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Basic health plan eligibility	PROP	96-01-107		PREP	96-03-160
	EMER	96-03-104	Psychology, examining board of continuing education examination	<b>PROP</b>	<b>96-08-068</b>
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			apprenticeship agreements	EMER	96-03-092
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			platforms	PROP	96-03-024
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			fall protection	PREP	96-05-079
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Compensation	PROP	<b>96-08-088</b>	Meetings	PERM	96-01-103
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	PROP	<b>96-08-082</b>	Education, state board of (See also EDUCATION, STATE BOARD OF)		
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<b>PIERCE COLLEGE</b>			Agricultural burning	PROP	96-02-019
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